

Date: 6/29/2023

Valuation of Securities (E) Task Force

Thursday, July 13, 2023

2:00 p.m. - 3:00 p.m. ET / 1:00 p.m. - 2:00 p.m. CT / 12:00 p.m. - 1:00 p.m. MT / 11:00 a.m. - 12:00 p.m. PT

ROLL CALL

Member	Representative	State
Doug Ommen, Chair	Carrie Mears	Iowa
Eric Dunning, Vice Chair	Lindsay Crawford	Nebraska
Mark Fowler	Sheila Travis	Alabama
Lori K. Wing-Heier	Jeffrey Bethel	Alaska
Ricardo Lara	Laura Clements	California
Andrew N. Mais	Ken Cotrone	Connecticut
Michael Yaworsky	Carolyn Morgan	Florida
Dean L. Cameron	Eric Fletcher	Idaho
Dana Popish Severinghaus	Vincent Tsang	Illinois
Vicki Schmidt	Tish Becker	Kansas
James J. Donelon	Stewart Guerin	Louisiana
Kathleen A. Birrane	Matt Kozak	Maryland
Gary D. Anderson	John Turchi	Massachusetts
Grace Arnold	Fred Andersen	Minnesota
Chlora Lindley-Myers	Debbie Doggett	Missouri
Marlene Caride	John Sirovetz	New Jersey
Adrienne A. Harris	James Everett	New York
Jon Godfread	Matt Fischer	North Dakota
Glen Mulready	Diane Carter	Oklahoma
Michael Humphreys	Diana Sherman	Pennsylvania
Carter Lawrence	Trey Hancock	Tennessee
Cassie Brown	Amy Garcia	Texas
Jon Pike	Jake Garn	Utah
Scott A. White	Doug Stolte	Virginia
Mike Kreidler	Tim Hays	Washington
Nathan Houdek	Amy Malm	Wisconsin

NAIC Support Staff: Charles Therriault/Marc Perlman

AGENDA

Discuss and Consider for Adoption:

1. Proposed P&P Manual Amendment to Clarify the meaning of Repurchase Agreement in the Derivatives Transaction Definition for Funds in Part Three Attachment A
(Doc. ID: 2023.006-01)
-Carrie Mears (IA), Charles A. Therriault (NAIC), and Marc Perlman (NAIC)

Receive Comments:

2. Proposed P&P Manual Amendment to Update the Definition of an NAIC Designation Attachment B,
(Doc. ID: 2022-012.05, 2022-012.06, 2022-012.06 b, 2022-012.07, B-1 – B - 11)

Hear Staff Report:

3. Updates on the Proposed CLO Modeling Methodology and Ad-hoc Working Group
—Eric Kolchinsky (NAIC)
4. Any other matters

SVO



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Clarify the meaning of Repurchase Agreement in the Derivatives Transaction Definition for Funds in Part Three of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*

DATE: April 28, 2023

Summary: In 2021 the Task Force adopted amendments to the NAIC Fund Lists section of the Purposes and Procedures Manual of the NAIC Investment Analysis Office (the “Purposes and Procedures Manual”) to provide greater clarity and predictability regarding the acceptable use of derivatives in funds and permit funds greater flexibility in their use of derivatives while maintaining limits on funds’ use of leverage. The SVO now proposes a new amendment to clarify which side of a repurchase agreement constitutes a derivative transaction for purposes of the section.

The definition “Derivatives Transaction” in the Purposes and Procedures Manual was modeled after the SEC definition in Rule 18f-4 under the Investment Company Act of 1940. The Purposes and Procedures Manual definition reads:

Derivatives Transaction – means: (1) any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument (“*derivatives instrument*”), under which a fund is or may be required to make any payment or delivery of cash or other assets during the life of the instrument or at maturity or early termination, whether as margin or settlement payment or otherwise; (2) any short sale borrowing; and (3) *any reverse repurchase agreement or similar financing transaction* [Italics added for emphasis].

One purpose of the original amendment was to limit the use of leverage by funds and, therefore, “Derivative Transactions” encompasses instruments pursuant to which a fund may be required to make a future payment of cash or other assets. Likewise, the inclusion of “reverse repurchase agreements” was intended to capture arrangements by which the fund would owe a future cash payment to the counterparty.



According to the SEC definition in the Rule 18f-4 adopting release, “In a reverse repurchase agreement, a fund transfers a security to another party in return for a percentage of the value of the security. At an agreed-upon future date, the fund repurchases the transferred security by paying an amount equal to the proceeds of the initial sale transaction plus interest.” However, according to SSAP No. 103R - Transfers and Servicing of Financial Assets and Extinguishments of Liabilities, “Reverse repurchase agreements are defined as agreements under which a reporting entity purchases securities and simultaneously agrees to resell the same or substantially the same securities at a stated price on a specified date.” The SSAP No. 103R reverse repurchase agreement definition is the opposite of the SEC definition. According to SSAP No. 103, “Repurchase agreements are defined as agreements under which a reporting entity sells securities and simultaneously agrees to repurchase the same or substantially the same securities at a stated price on a specified date.” The SAPP No. 103R definition of repurchase agreement matches the SEC definition of reverse repurchase agreement, in which the fund is obligated to make a repurchase payment at a later date.

Recommendation: To maintain consistency between the Purposes and Procedures Manual and SSAP No. 103R and eliminate any misconception that a fund cannot be the purchaser of securities/lender of cash, the SVO proposes the following changes to the NAIC Fund Lists section of the Purposes and Procedures Manual. The proposed text changes to P&P Manual are shown below with additions in red underline, deletions in ~~red strikethrough~~ as it would appear in the 2023 P&P Manual format.



PART THREE
SVO PROCEDURES AND METHODOLOGY FOR PRODUCTION
OF NAIC DESIGNATIONS



NAIC FUND LISTS

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REQUIRED DOCUMENTATION, ANALYTICAL PROCEDURES AND ELIGIBILITY CRITERIA

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Definitions

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293. **Derivatives Transaction** – means: (1) any swap, security-based swap, futures contract, forward contract, option, any combination of the foregoing, or any similar instrument (“derivatives instrument”), under which a fund is or may be required to make any payment or delivery of cash or other assets during the life of the instrument or at maturity or early termination, whether as margin or settlement payment or otherwise; (2) any short sale borrowing; and (3) any ~~reverse~~ repurchase agreement under which the fund sells securities and simultaneously agrees to repurchase the same or substantially the same securities at a stated price on a specified date, or similar financing transaction, irrespective of accounting treatment.

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/03-Funds Rep Derivatives/2023-006-01 PP Manual Amend - Funds_Repos.docx

SVO



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Proposed Amendment to Update the Definition of an NAIC Designation in the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual)

DATE: April 26, 2023

Summary – NAIC Designations are currently explained and defined in both Parts One and Two of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (the “P&P Manual”). The SVO proposes both consolidating these explanations and definitions in Part One only and clarifying the meaning of an NAIC Designation including their use, purpose and risk addressed.

When the new format for the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) was adopted on November 16, 2018 and published in the new format on April 7, 2019, several changes were made in an attempt to simplify the P&P Manual. It has since become apparent that some of those changes have led to the interpretation that there are two meanings of an NAIC Designation: one meaning, found in Part One, applicable to all securities, whether assigned NAIC Designations pursuant to the Filing Exemption process or by the Securities Valuation Office (“SVO”) and a second meaning, found in Part Two, applicable only to securities assigned NAIC Designations by the SVO. It is the SVO staff’s belief that there is only one definition of an NAIC Designation and that it is applicable however the NAIC Designation is assigned. To that end, the revisions proposed in this amendment have consolidated the instructions that define an NAIC Designation to make a single uniform definition and includes updates to the definition to address questions and concerns raised about the purpose of NAIC Designations versus credit rating provider ratings.

Additionally, the SVO recommends consolidating the current “NAIC Designation Subscript S” section in Part Two into the revised NAIC Designation section in Part One because the application of a Subscript S to an NAIC Designation for other non-payment risks signifies a change in the meaning of the NAIC Designation and is a policy of the Task Force.

Recommendation – The majority of the amendment involves moving text from Part Two, the Operational and Administrative Instructions Applicable to the SVO, into Part One, the Policies of the NAIC Valuation of Securities (E) Task Force. Additionally, the amendment would add clarifying language to the newly

combined explanation and definition of NAIC Designations. A clean version of the amendment has also been included to simplify the review, with the new text also clearly highlighted.

Proposed Amendment - The proposed text changes to the P&P Manual are shown below with additions in red font color and deletions in red strikethrough, as it would appear in the 2022 P&P Manual format. Editing notes have been added with [] to explain section moves. New text is highlighted in yellow.

(VERSION WITH CHANGES DISPLAYED AND ADDITIONS HIGHLIGHTED)

**PART ONE
POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE**

POLICIES PERTAINING TO SVO AND SSG OPERATIONS

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~~NAIC Designations~~

[Editing note: moved from Part One, paras. 37-39 to the new "NAIC Designations" section within Part One]

~~37. The SVO's analysis of credit risk (hereafter defined), is expressed as an opinion of credit quality by assignment of an NAIC Designation that is notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations as defined in this Manual describe a credit quality risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk except when accompanied by the NAIC Designation subscript, described below.~~

- ~~▪ Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.~~
- ~~▪ Credit risk is assessed by analyzing the information and documentation provided to the SVO by the reporting insurance company and its advisors. The SVO does not audit the information submitted and assumes the information to be timely, accurate and reliable.~~
- ~~▪ The ability of an insurance company to realize payment on a financial obligation can be affected by factors not related to credit risk or by the manner in which the repayment promise has been structured.~~
- ~~▪ NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk.~~
- ~~▪ An NAIC Designation must be interpreted by the NAIC member in context of the NAIC Financial Regulation Standards and Accreditation Program, other characteristics of the investment, and the specific financial and regulatory status of the insurance company.~~

~~38. The result of the SVO's credit analysis, expressed as an opinion of credit quality by assignment of an NAIC Designation shall be further expanded into NAIC Designation Categories as, and for the purposes, discussed in this Manual.~~

~~**NOTE:** See "Production of NAIC Designations" in Part Two.~~

Other Non-Payment Risk in Securities

~~39. The result of the SVO's analysis of securities for other non-payment risk is expressed by the assignment of an NAIC Designation Subscript S and the application of the notching procedures described below.~~

~~NOTE: See "NAIC Designation Subscript S" and "SVO Notching Guidelines" in Part Two.~~

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NAIC DESIGNATIONS

NAIC DESIGNATIONS

Definitions Use and Purposes of NAIC Designations

88. **NAIC Designations** are proprietary symbols of the NAIC. The SVO, the SSG and, under certain circumstances, insurers, produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations identify a category, ~~or band of credit risk,~~ or gradations of credit quality ~~and credit risk~~ identified by the **NAIC 1** through **NAIC 6** symbols, except when accompanied by the NAIC Designation Subscript S, denoting Other Non-Payment Risks, further discussed and defined in this Manual.

[Editing note: Moved from Part Two, para. 18]

89. **NAIC Designations** reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default.

90. **NAIC Designations** are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law *[Editing note: Moved from Part Two, para. 18]* and must be interpreted by the NAIC member in context of the NAIC Financial Regulation Standards and Accreditation Program, other characteristics of the investment, and the specific financial and regulatory status of the insurance company. *[Editing note: Moved from Part One, para. 37]* ~~NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual. *[Editing note: Deleted from Part Two, para. 18]*~~

91. **NAIC Designations** must also be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) and other NAIC guidance. For example, in many cases the NAIC Designation serves as the basis for determining the appropriate risk-based capital charge for a given security.

92. ~~NAIC Designation~~ — Means any one of the gradations of credit quality and credit risk identified by the ~~NAIC 1 through NAIC 6~~ symbols further discussed and defined in this Manual and may reflect notching pursuant to one or both of the notching procedures discussed in this Manual. ~~NAIC Designations are proprietary symbols of the NAIC to be used by the SVO and SSG or under certain circumstances by an insurer to denote a category or band of credit risk.~~

[Editing note: Originally in Part One, para. 88]

NAIC DESIGNATIONS — RISKS ADDRESSED BY NAIC DESIGNATIONS
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[Editing note: moved from Part One, para. 37]

93. The ~~NAIC's SVO's~~ analysis of credit risk (hereafter defined), is expressed as an opinion of credit quality by assignment of an NAIC Designation ~~and Designation Category~~ that ~~is~~ ~~may be~~ notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations ~~and Designation Categories~~, as defined in this Manual, describe a credit quality-risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk, ~~described below~~, except when accompanied by the NAIC Designation S~~ubscript~~ S, denoting Other Non-Payment Risks ~~described below~~.

- Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.
- Credit risk is assessed by analyzing the information and documentation provided to the SVO by the reporting insurance company and its advisors. The SVO does not audit the information submitted and assumes the information to be timely, accurate and reliable.
- The ability of an insurance company to realize payment on a financial obligation can be affected by factors not related to credit risk or by the manner in which the repayment promise has been structured. ~~NAIC Designations may be adjusted to reflect Other Non-Payment Risks, as described in this manual.~~
- ~~An NAIC Designation shall reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default. It will also reflect consideration to potential "tail risks" (e.g. the probability that a security's payment default will be more than three standard deviations from the mean is greater than what is shown by a normal distribution).~~

- NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk, though these other risks may be reflected in Other Non-Payment Risks, as described in this manual.

NAIC DESIGNATION SUBSCRIPT S (OTHER NON-PAYMENT RISK)

NAIC Designation Subscript S

94. An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process.

[Editing note: Moved from Part One, para. 90]

~~NOTE: See “NAIC Designation Subscript S” in Part Two.~~

Description of Other Non-Payment Risk

95. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.

[Editing note: Moved from Part Two, para. 33]

96. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.

[Editing note: Moved from Part Two, para. 34]

97. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a schedules basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).

[Editing note: Moved from Part Two, para. 35]

98. Using the broad concepts identified above, non-payment risk may be present when:

- A reporting insurance company takes on a participatory risk in the transaction;

Illustration – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.

- The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;

Illustration – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.

Illustration – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity dates (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.

[Editing note: Moved from Part Two, para. 36]

- The governing agreements permit irregular or conditional payments that are incompatible with the notion of an issuer making periodic scheduled payments of interest and repaying principal in full to the insurer on a date certain;

Illustration – A Principal Protected Security, as defined in Part Three of this Manual.

Illustration – A security with no contractual events of payment default.

Illustration - A security with contractual terms that have the potential to result in payment of contractually promised interest and/or return of principal in an amount less than the original investment.

Illustration – A security with an interest payment deferral feature that does not capitalize interest into principal or permits interest deferral for greater than twenty-four months or past legal maturity.

- ~~Agrees to an exposure that has the potential to result in a significant delay in payment of contractually promised interest and/or a return of principal in an amount less than the original investment.~~

[Editing note: Originally in Part Two, para. 37]

Directive to the SVO to Assign the Subscript S Symbol

99. ~~The VOS/TF expressly assigns to the SVO the responsibility for assessing Other Non-Payment Risk and the authority to notch NAIC Designations and assign the Subscript S Symbol, accordingly. It does so in recognition that credit rating providers (CRPs) have no obligation to consider the regulatory assumptions and concerns that are implicit in the NAIC's use of NAIC Designations in its regulatory processes. The VOS/TF may periodically request the SVO report to it on information the SVO gathers from its review of Subscript S securities, including, for example, volume of such securities and the types of other non-payment risks.~~

Meaning of the Subscript S Symbol

100. ~~An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.~~

[Editing note: Moved from Part Two, para. 38]

101. ~~The SVO shall assess securities for other non-payment risk:~~
 - ~~Routinely, for any security or financial product filed with the SVO.~~
 - ~~As part of the analysis of a security or financial product submitted to the SVO under the RTAS – Emerging Investment Vehicle process discussed in of this Manual.~~
 - ~~When requested to do so by any state insurance regulator acting pursuant to this Manual, and:~~
 - ~~When requested by the VOS/TF; or~~
 - ~~In support of any other NAIC group engaged in the analysis of investment risks in new securities.~~

~~**NOTE:** See “NAIC Designation Subscript S” in Part One.~~

[Editing note: Moved from Part Two, para. 39]

Other Non-Payment Risk in Securities

~~96. The result of the SVO's analysis of securities for other non-payment risk is expressed by the assignment of an NAIC Designation Subscript S and the application of the notching procedures described below in this Manual.~~

[Editing note: Originally in Part One, para. 39]

~~**NOTE:** See "NAIC Designation Subscript S" and "SVO Notching Guidelines" in Part Two.~~

APPLICATION OF NAIC DESIGNATIONS

102. **NAIC 1** is assigned to obligations exhibiting the highest quality. Credit risk is at its lowest and the issuer's credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An **NAIC 1** obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 19]

103. **NAIC 2** is assigned to obligations of high quality. Credit risk is low but may increase in the intermediate future and the issuer's credit profile is reasonably stable. This means that for the present, the obligation's protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An **NAIC 2** obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 20]

104. **NAIC 3** is assigned to obligations of medium quality. Credit risk is intermediate and the issuer's credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer's capacity to make timely payments. An **NAIC 3** obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 21]

105. **NAIC 4** is assigned to obligations of low quality. Credit risk is high and the issuer’s credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer’s capacity to make timely payments. An **NAIC 4** obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 22]

106. **NAIC 5** is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer’s credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An **NAIC 5** Designation suggests a very high probability of default. An **NAIC 5** obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 23]

107. **NAIC 6** is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An **NAIC 6** obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program.

[Editing note: Moved from Part Two, para. 24]

NOTE: See ~~“NAIC Designations,”~~ “Prohibition on Use of NAIC Designation in a Covenant” and “Coordination Between the Statutory Accounting Principles Working Group and the Valuation of Securities Task Force” in Part One; ~~“NAIC Designation Categories”~~ below; and “Procedure Applicable to Filing Exempt (FE) Securities and Private Letter (PL) Rating Securities” in Part Three.

APPLICATION OF NAIC DESIGNATION CATEGORIES

108. Upon the determination of an NAIC Designation, the SVO produces NAIC Designation Categories, ~~as described and defined in this Manual.~~

[Editing note: Moved from Part Two, para. 25]

109. **NAIC Designation Category** – Means and refers to 20 more granular delineations of credit risk in the **NAIC 1** through **NAIC 6** credit risk scale used by the VOS/TF to relate credit risk in insurer-owned securities to a risk-based capital factor assigned by the NAIC Capital Adequacy (E) Task Force. Each delineation of credit risk is represented by a letter (a Modifier) which modifies the NAIC Designation grade to indicate a more granular measure of credit risk within the NAIC Designation grade. The more granular delineations of credit risk are distributed as follows: 7 for the **NAIC 1** Designation grade indicated by the letters A through G; 3 delineations each for each of the NAIC Designation grades **NAIC 2**, **NAIC 3**, **NAIC 4** and **NAIC 5** indicated by the letters A, B and C and 1 delineation for NAIC Designation grade **NAIC 6**. The NAIC Designation Category framework is shown in this Manual. All Modifiers roll up into the respective NAIC Designation grade as they are a subset of them.

~~**NOTE:** See “Production of NAIC Designations” in Part Two.~~
[Editing Note: Moved from Part One, para. 89.]

110. **NAIC Designation Categories** are a subset of **NAIC Designations** and are used by the VOS/TF to link the NAIC risk-based-capital (RBC) framework adopted by the NAIC Capital Adequacy (E) Task Force to the VOS/TF’s credit assessment process. The NAIC Capital Adequacy (E) Task Force assigns RBC factors to each NAIC Designation Category as shown below.

NAIC Designation	+	NAIC Designation Modifier	=	NAIC Designation Category
1		A		1.A
1		B		1.B
1		C		1.C
1		D		1.D
1		E		1.E
1		F		1.F
1		G		1.G
2		A		2.A
2		B		2.B
2		C		2.C
3		A		3.A
3		B		3.B
3		C		3.C
4		A		4.A
4		B		4.B
4		C		4.C
5		A		5.A
5		B		5.B

NAIC Designation	+	NAIC Designation Modifier	=	NAIC Designation Category
5		C		5.C
6				6

[Editing note: Moved from Part Two, para. 26]

111. NAIC Designations and Designation Categories may be adjusted in accordance with the notching procedures described in this Manual below so that an NAIC Designation and Designation Category for a given security reflects the position of that specific security in the issuer’s capital structure. NAIC Designations and Designation Categories may also be adjusted by notching to reflect the existence of Other Non-Payment Risks in the specific security in accordance with the procedures described in this Manual associated with NAIC Designations Subscript S.

[Editing note: Moved from Part Two, para. 18]

NAIC DESIGNATIONS RELATED TO SPECIAL REPORTING INSTRUCTION

112. An insurance company that self-assigns a 5GI must attest that securities receiving this designation meet all required qualifications by completing the appropriate general interrogatory in the statutory financial statements. If documentation necessary for the SVO to perform a full credit analysis for a security does not exist or if an NAIC CRP credit rating for an FE or PL security is not available, but the issuer is not current on contractual interest and principal payments, and/or if the insurer does not have an actual expectation of ultimate payment of all contracted interest and principal, the insurance company is required to self-assign this security an NAIC 6*.

[Editing note: Moved from Part Two, para. 27]

113. NAIC 6* is assigned by an insurer to an obligation in lieu of reporting the obligation with appropriate documentation in instances in which appropriate documentation does not exist, but the requirements for an insurance company to assign a 5GI are not met.

[Editing note: Moved from Part Two, para. 28]

114. Securities with NAIC 5GI Designations are deemed to possess the credit characteristics of securities assigned an NAIC 5 Designation. A security assigned an NAIC 5GI Designation incurs the regulatory treatment associated with an NAIC 5 Designation.

[Editing note: Moved from Part Two, para. 29]

115. Securities an insurance company previously assigned as NAIC 5GI are permitted to subsequently receive this designation if the requirements for an NAIC 5GI designation continue to be met.

[Editing note: Moved from Part Two, para. 30]

116. Securities with NAIC 6* Designations are deemed to possess the credit characteristics of securities assigned an NAIC 6 Designation. Therefore, a security assigned an NAIC 6* Designation incurs the regulatory treatment associated with an NAIC 6 Designation.
[Editing note: Moved from Part Two, para. 31]

117. Securities that are residual tranches or interests, as defined in *SSAP 43R – Loan Backed and Structured Securities*, shall be reported on Schedule BA - Other Long-Term Invested Assets, without an NAIC Designation and are ineligible to be assigned an NAIC 5GI or NAIC 6* Designation.
[Editing note: Moved from Part Two, para. 32]

~~**NOTE REGARDING RESIDUAL TRANCHES OR INTERESTS:** For 2021 year-end reporting only, residual tranches or interests previously reported on Schedule D-1: Long-Term Bonds shall be permitted to be reported on Schedule D-1 with an NAIC 6* Designation, however an NAIC 5GI is not permitted.~~

NOTE: The GI after the quality indicator 5 refers to General Interrogatory and distinguishes NAIC 5GI from an NAIC 5 Designation. The asterisk (*) after the quality indicator 6 distinguishes the NAIC 6* Designation from an NAIC 6 Designation.
[Editing note: Moved from Part Two, para. 32]

NAIC General Interrogatory

118. **NAIC 5GI** and NAIC Designation Category **NAIC 5.B GI** is assigned by an insurance company to certain obligations that meet all of the following criteria:

- Documentation necessary to permit a full credit analysis of a security by the SVO does not exist or an NAIC CRP credit rating for an FE or PL security is not available.
- The issuer or obligor is current on all contracted interest and principal payments.
- The insurer has an actual expectation of ultimate payment of all contracted interest and principal.

[Editing note: Moved from Part One, para. 91]

NAIC PLGI

119. Effective July 1, 2018, insurance companies shall be responsible for providing the SVO copies of private rating letters for PL securities, where applicable, until such time as industry representatives and the SVO shall have established reliable procedures for obtaining the necessary information on credit ratings directly from the NAIC CRPs. For PL Securities issued prior to January 1, 2018, if an insurance company cannot provide a copy of the rating letter to the SVO due to confidentiality concerns and the rating is not included in a CRP credit rating feed (or other form of direct delivery from the NAIC CRP), the insurer shall report such securities on such securities' General Interrogatory to be developed for this purpose (i.e., a PLGI security).
[Editing note: Moved from Part One, para. 92]

Monitoring of SVO-Designated Securities

120. The SVO shall monitor, on an ongoing basis through the information provided by insurers as required by the Material Credit Events Filing described in this Manual, improvements and deterioration of credit quality of securities that are not filing exempt.
[Editing note: Moved from Part One, para. 93]

PART TWO
OPERATIONAL AND ADMINISTRATIVE INSTRUCTIONS
APPLICABLE TO THE SVO

~~PRODUCTION OF NAIC DESIGNATIONS [EDITING NOTE: MOVED TO PART ONE “NAIC DESIGNATIONS”.]~~

~~NAIC DESIGNATIONS~~

- ~~18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/IF in this Manual. NAIC Designations identify a category or band of credit risk. NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer’s capital structure. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.~~
- ~~19. **NAIC 1** is assigned to obligations exhibiting the highest quality. Credit risk is at its lowest and the issuer’s credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An **NAIC 1** obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program.~~
- ~~20. **NAIC 2** is assigned to obligations of high quality. Credit risk is low but may increase in the intermediate future and the issuer’s credit profile is reasonably stable. This means that for the present, the obligation’s protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An **NAIC 2** obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.~~
- ~~21. **NAIC 3** is assigned to obligations of medium quality. Credit risk is intermediate and the issuer’s credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer’s capacity to make timely payments. An **NAIC 3** obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.~~

~~22. **NAIC 4** is assigned to obligations of low quality. Credit risk is high and the issuer's credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer's capacity to make timely payments. An **NAIC 4** obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.~~

~~23. **NAIC 5** is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer's credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An **NAIC 5** Designation suggests a very high probability of default. An **NAIC 5** obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.~~

~~24. **NAIC 6** is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An **NAIC 6** obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program.~~

~~**NOTE:** See "NAIC Designations," "Prohibition on Use of NAIC Designation in a Covenant" and "Coordination Between the Statutory Accounting Principles Working Group and the Valuation of Securities Task Force" in Part One; "NAIC Designation Categories" below; and "Procedure Applicable to Filing Exempt (FE) Securities and Private Letter (PL) Rating Securities" in Part Three.~~

NAIC DESIGNATION CATEGORIES

- ~~25. Upon the determination of an NAIC Designation, the SVO produces NAIC Designation Categories, as described and defined in this Manual.~~
- ~~26. NAIC Designation Categories are a subset of NAIC Designations and are used by the VOS/TF to link the NAIC risk-based capital (RBC) framework adopted by the NAIC Capital Adequacy (E) Task Force to the VOS/TF's credit assessment process. The NAIC Capital Adequacy (E) Task Force assigns RBC factors to each NAIC Designation Category as shown below.~~

NAIC Designation	+	NAIC Designation Modifier	=	NAIC Designation Category
1		A		1.A
1		B		1.B
1		C		1.C
1		D		1.D
1		E		1.E
1		F		1.F
1		G		1.G
2		A		2.A
2		B		2.B
2		C		2.C
3		A		3.A
3		B		3.B
3		C		3.C
4		A		4.A
4		B		4.B
4		C		4.C
5		A		5.A
5		B		5.B
5		C		5.C
6				6

~~NAIC DESIGNATIONS RELATED TO SPECIAL REPORTING INSTRUCTION~~

- ~~27. An insurance company that self assigns a 5GI must attest that securities receiving this designation meet all required qualifications by completing the appropriate general interrogatory in the statutory financial statements. If documentation necessary for the SVO to perform a full credit analysis for a security does not exist or if an NAIC CRP credit rating for an FE or PL security is not available, but the issuer is not current on contractual interest and principal payments, and/or if the insurer does not have an actual expectation of ultimate payment of all contracted interest and principal, the insurance company is required to self-assign this security an NAIC 6*.~~
- ~~28. NAIC 6* is assigned by an insurer to an obligation in lieu of reporting the obligation with appropriate documentation in instances in which appropriate documentation does not exist, but the requirements for an insurance company to assign a 5GI are not met.~~
- ~~29. Securities with NAIC 5GI Designations are deemed to possess the credit characteristics of securities assigned an NAIC 5 Designation. A security assigned an NAIC 5GI Designation incurs the regulatory treatment associated with an NAIC 5 Designation.~~
- ~~30. Securities an insurance company previously assigned as NAIC 5GI are permitted to subsequently receive this designation if the requirements for an NAIC 5GI designation continue to be met.~~
- ~~31. Securities with NAIC 6* Designations are deemed to possess the credit characteristics of securities assigned an NAIC 6 Designation. Therefore, a security assigned an NAIC 6* Designation incurs the regulatory treatment associated with an NAIC 6 Designation.~~
- ~~32. Securities that are residual tranches or interests, as defined in SS/AP 43R—Loan Backed and Structured Securities, shall be reported on Schedule BA—Other Long-Term Invested Assets, without an NAIC Designation and are ineligible to be assigned an NAIC 5GI or NAIC 6* Designation.———~~

~~NOTE REGARDING RESIDUAL TRANCHES OR INTERESTS:~~ ~~For 2021 year-end reporting only, residual tranches or interests previously reported on Schedule D-1: Long-Term Bonds shall be permitted to be reported on Schedule D-1 with an NAIC 6* Designation, however an NAIC 5GI is not permitted.~~

~~NOTE:~~ ~~The GI after the quality indicator 5 refers to General Interrogatory and distinguishes NAIC 5GI from an NAIC 5 Designation. The asterisk (*) after the quality indicator 6 distinguishes the NAIC 6* Designation from an NAIC 6 Designation.~~

NAIC DESIGNATION SUBSCRIPT S

Description of Other Non-Payment Risk

- ~~33. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.~~
- ~~34. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.~~
- ~~35. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a scheduled basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).~~
- ~~36. Using the broad concepts identified above, non-payment risk may be present when:~~
- ~~▪ A reporting insurance company takes on a participatory risk in the transaction;~~
Illustration — The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.
 - ~~▪ The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;~~
Illustration — A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.
Illustration — An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity dates (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.

~~37. Agrees to an exposure that has the potential to result in a significant delay in payment of contractually promised interest and/or a return of principal in an amount less than the original investment.~~

Meaning of the Subscript S Symbol

~~38. An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.~~

~~39. The SVO shall assess securities for other non-payment risk:~~

- ~~▪ Routinely, for any security or financial product filed with the SVO.~~
- ~~▪ As part of the analysis of a security or financial product submitted to the SVO under the RTAS—Emerging Investment Vehicle process discussed in of this Manual.~~
- ~~▪ When requested to do so by any state insurance regulator acting pursuant to this Manual, and:~~

~~*When requested by the VOS/TF; or*~~

~~*In support of any other NAIC group engaged in the analysis of investment risks in new securities.*~~

~~**NOTE:** See “NAIC Designation Subscript S” in Part One.~~

**(CLEAN VERSION WITHOUT CHANGES DISPLAYED WITH ADDITIONS
HIGHLIGHTED)**

**PART ONE
POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE**

NAIC DESIGNATIONS

NAIC DESIGNATIONS

Use and Purposes of NAIC Designations

88. **NAIC Designations** are proprietary symbols of the NAIC. The SVO, the SSG and, under certain circumstances, insurers, produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations identify a category, or gradations of credit quality identified by the NAIC 1 through NAIC 6 symbols, except when accompanied by the NAIC Designation Subscript S, denoting Other Non-Payment Risks, further discussed and defined in this Manual.
89. **NAIC Designations** reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default.
90. **NAIC Designations** are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law and must be interpreted by the NAIC member in context of the NAIC Financial Regulation Standards and Accreditation Program, other characteristics of the investment, and the specific financial and regulatory status of the insurance company.
91. **NAIC Designations** must also be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) and other NAIC guidance. For example, in many cases the NAIC Designation serves as the basis for determining the appropriate risk-based capital charge for a given security.

RISKS ADDRESSED BY NAIC DESIGNATIONS

92. The NAIC's SVO's analysis of credit risk (hereafter defined), is expressed as an opinion of credit quality by assignment of an NAIC Designation and Designation Category that is may be notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations and Designation Categories, as defined in this Manual, describe a credit quality-risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk, described below, except when accompanied by the NAIC Designation Subscript S, denoting Other Non-Payment Risks.

- Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.
- Credit risk is assessed by analyzing the information and documentation provided to the SVO by the reporting insurance company and its advisors. The SVO does not audit the information submitted and assumes the information to be timely, accurate and reliable.
- The ability of an insurance company to realize payment on a financial obligation can be affected by factors not related to credit risk or by the manner in which the repayment promise has been structured. **NAIC Designations may be adjusted to reflect Other Non-Payment Risks, as described in this manual.**
- **An NAIC Designation shall reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default. It will also reflect consideration to potential "tail risks" (e.g. the probability that a security's payment default will be more than three standard deviations from the mean is greater than what is shown by a normal distribution).**
- NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk, **though these other risks may be reflected in Other Non-Payment Risks, as described in this manual.**

NAIC DESIGNATION SUBSCRIPT S (OTHER NON-PAYMENT RISK)
--

NAIC Designation Subscript S

93. An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process.

Description of Other Non-Payment Risk

94. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.
95. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.
96. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a scheduled basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).
97. Using the broad concepts identified above, non-payment risk may be present when:
- A reporting insurance company takes on a participatory risk in the transaction;
Illustration – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.
 - The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;
Illustration – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.
Illustration – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity dates (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.

- The governing agreements permit irregular or conditional payments that are incompatible with the notion of an issuer making periodic scheduled payments of interest and repaying principal in full to the insurer on a date certain;

Illustration – A Principal Protected Security, as defined in Part Three of this Manual.

Illustration – A security with no contractual events of payment default.

Illustration - A security with contractual terms that have the potential to result in payment of contractually promised interest and/or return of principal in an amount less than the original investment.

Illustration – A security with an interest payment deferral feature that does not capitalize interest into principal or permits interest deferral for greater than twenty-four months or past legal maturity.

Directive to the SVO to Assign the Subscript S Symbol

98. The VOS/TF expressly assigns to the SVO the responsibility for assessing Other Non-Payment Risk and the authority to notch NAIC Designations and assign the Subscript S Symbol, accordingly. It does so in recognition that credit rating providers (CRPs) have no obligation to consider the regulatory assumptions and concerns that are implicit in the NAIC's use of NAIC Designations in its regulatory processes. The VOS/TF may periodically request the SVO report to it on information the SVO gathers from its review of Subscript S securities, including, for example, volume of such securities and the types of other non-payment risks.

Meaning of the Subscript S Symbol

99. An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.
100. The SVO shall assess securities for other non-payment risk:
 - Routinely, for any security or financial product filed with the SVO.
 - As part of the analysis of a security or financial product submitted to the SVO under the RTAS – Emerging Investment Vehicle process discussed in of this Manual.
 - When requested to do so by any state insurance regulator acting pursuant to this Manual, and:
 - When requested by the VOS/TF; or

- In support of any other NAIC group engaged in the analysis of investment risks in new securities.

APPLICATION OF NAIC DESIGNATIONS

101. **NAIC 1** is assigned to obligations exhibiting the highest quality. Credit risk is at its lowest and the issuer's credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An **NAIC 1** obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program.
102. **NAIC 2** is assigned to obligations of high quality. Credit risk is low but may increase in the intermediate future and the issuer's credit profile is reasonably stable. This means that for the present, the obligation's protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An **NAIC 2** obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.
103. **NAIC 3** is assigned to obligations of medium quality. Credit risk is intermediate and the issuer's credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer's capacity to make timely payments. An **NAIC 3** obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.
104. **NAIC 4** is assigned to obligations of low quality. Credit risk is high and the issuer's credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer's capacity to make timely payments. An **NAIC 4** obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

105. **NAIC 5** is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer's credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An **NAIC 5** Designation suggests a very high probability of default. An **NAIC 5** obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

106. **NAIC 6** is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An **NAIC 6** obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program.

NOTE: See "Prohibition on Use of NAIC Designation in a Covenant" and "Coordination Between the Statutory Accounting Principles Working Group and the Valuation of Securities Task Force" in Part One; and "Procedure Applicable to Filing Exempt (FE) Securities and Private Letter (PL) Rating Securities" in Part Three.

APPLICATION OF NAIC DESIGNATION CATEGORIES

107. Upon the determination of an NAIC Designation, the SVO produces NAIC Designation Categories.

108. **NAIC Designation Category** – Means and refers to 20 more granular delineations of credit risk in the **NAIC 1** through **NAIC 6** credit risk scale used by the VOS/TF to relate credit risk in insurer-owned securities to a risk-based capital factor assigned by the NAIC Capital Adequacy (E) Task Force. Each delineation of credit risk is represented by a letter (a Modifier) which modifies the NAIC Designation grade to indicate a more granular measure of credit risk within the NAIC Designation grade. The more granular delineations of credit risk are distributed as follows: 7 for the **NAIC 1** Designation grade indicated by the letters A through G; 3 delineations each for each of the NAIC Designation grades **NAIC 2**, **NAIC 3**, **NAIC 4** and **NAIC 5** indicated by the letters A, B and C and 1 delineation for NAIC Designation grade **NAIC 6**. The NAIC Designation Category framework is shown in this Manual. All Modifiers roll up into the respective NAIC Designation grade as they are a subset of them.

109. **NAIC Designation Categories** are a subset of **NAIC Designations** and are used by the VOS/TF to link the NAIC risk-based-capital (RBC) framework adopted by the NAIC Capital Adequacy (E) Task Force to the VOS/TF's credit assessment process. The NAIC Capital Adequacy (E) Task Force assigns RBC factors to each NAIC Designation Category as shown below.

NAIC Designation	+	NAIC Designation Modifier	=	NAIC Designation Category
1		A		1.A
1		B		1.B
1		C		1.C
1		D		1.D
1		E		1.E
1		F		1.F
1		G		1.G
2		A		2.A
2		B		2.B
2		C		2.C
3		A		3.A
3		B		3.B
3		C		3.C
4		A		4.A
4		B		4.B
4		C		4.C
5		A		5.A
5		B		5.B
5		C		5.C
6				6

110. NAIC Designations and Designation Categories may be adjusted in accordance with the notching procedures described in this Manual below so that an NAIC Designation and Designation Category for a given security reflects the position of that specific security in the issuer’s capital structure. NAIC Designations and Designation Categories may also be adjusted by notching to reflect the existence of Other Non-Payment Risks in the specific security in accordance with the procedures described in this Manual associated with NAIC Designations Subscript S.

NAIC DESIGNATIONS RELATED TO SPECIAL REPORTING INSTRUCTION

111. An insurance company that self-assigns a 5GI must attest that securities receiving this designation meet all required qualifications by completing the appropriate general interrogatory in the statutory financial statements. If documentation necessary for the SVO to perform a full credit analysis for a security does not exist or if an NAIC CRP credit rating for an FE or PL security is not available, but the issuer is not current on contractual interest and principal payments, and/or if the insurer does not have an actual expectation of ultimate payment of all contracted interest and principal, the insurance company is required to self-assign this security an NAIC 6*.

112. NAIC 6* is assigned by an insurer to an obligation in lieu of reporting the obligation with appropriate documentation in instances in which appropriate documentation does not exist, but the requirements for an insurance company to assign a 5GI are not met.
113. Securities with NAIC 5GI Designations are deemed to possess the credit characteristics of securities assigned an NAIC 5 Designation. A security assigned an NAIC 5GI Designation incurs the regulatory treatment associated with an NAIC 5 Designation.
114. Securities an insurance company previously assigned as NAIC 5GI are permitted to subsequently receive this designation if the requirements for an NAIC 5GI designation continue to be met.
115. Securities with NAIC 6* Designations are deemed to possess the credit characteristics of securities assigned an NAIC 6 Designation. Therefore, a security assigned an NAIC 6* Designation incurs the regulatory treatment associated with an NAIC 6 Designation.
116. Securities that are residual tranches or interests, as defined in *SSAP 43R – Loan Backed and Structured Securities*, shall be reported on Schedule BA - Other Long-Term Invested Assets, without an NAIC Designation and are ineligible to be assigned an NAIC 5GI or NAIC 6* Designation.

NOTE: The GI after the quality indicator 5 refers to General Interrogatory and distinguishes NAIC 5GI from an NAIC 5 Designation. The asterisk (*) after the quality indicator 6 distinguishes the NAIC 6* Designation from an NAIC 6 Designation.

NAIC General Interrogatory

117. **NAIC 5GI** and NAIC Designation Category **NAIC 5.B GI** is assigned by an insurance company to certain obligations that meet all of the following criteria:
- Documentation necessary to permit a full credit analysis of a security by the SVO does not exist or an NAIC CRP credit rating for an FE or PL security is not available.
 - The issuer or obligor is current on all contracted interest and principal payments.
 - The insurer has an actual expectation of ultimate payment of all contracted interest and principal.

NAIC PLGI

118. Effective July 1, 2018, insurance companies shall be responsible for providing the SVO copies of private rating letters for PL securities, where applicable, until such time as industry representatives and the SVO shall have established reliable procedures for obtaining the necessary information on credit ratings directly from the NAIC CRPs. For PL Securities issued prior to January 1, 2018, if an insurance company cannot provide a copy of the rating letter to the SVO due to confidentiality concerns and the rating is not included in a CRP credit rating feed (or other form of direct delivery from the NAIC CRP), the insurer shall report such securities on such securities' General Interrogatory to be developed for this purpose (i.e., a PLGI security).

Monitoring of SVO-Designated Securities

119. The SVO shall monitor, on an ongoing basis through the information provided by insurers as required by the Material Credit Events Filing described in this Manual, improvements and deterioration of credit quality of securities that are not filing exempt.

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2023-012.05 P&P Updated Def of NAIC Desig v7.docx>



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June 29, 2023

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110 Walnut Street, Suite 1500
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Re: Amendment to the Purposes and Procedures Manual of the NAIC Investment Analysis Office (the "P&P Manual" or "the Manual") to Update the Definition of an NAIC Designation in Parts One and Two of the P&P Manual

Dear Ms. Mears:

The undersigned (ACLI, PPIA, SFA, and NASVA) appreciate the opportunity to comment on the exposure referred to above that was released for comment by the Valuation of Securities Task Force (VOSTF) on May 15, 2023. We generally like to provide constructive comments on VOSTF exposures and provide support wherever possible. However, the undersigned are confused on the intent, scope and potential impact of this exposure, as it relates to the Definition of an NAIC Designation and Subscript S Non-Payment Risk. The commingling of these two issues, without any significant, robust documented rationale or transparency of the potential impact, leaves the undersigned guessing as to the impact and precludes us from providing more targeted comments.

The undersigned are concerned about the proposed expansion in scope of Securities Valuation Office (SVO) responsibilities, without transparency as to the rationale and impact of the specific proposed changes, the specific processes that will be impacted related to the proposed changes, and the issues surrounding the differentiation between individual security risk and portfolio risk. This view is substantiated by the conclusions of an extensive study commissioned by the VOSTF, following a non-transparent SVO initiative related to trust preferred securities. The capital market disruption that followed the trust preferred securities actions resulted in a congressional inquiry, and VOSTF commissioned a study from a subgroup of the Investment Analysis Working Group that among other things:

- Was part of the NAIC's transparency initiative, which was necessary to minimize future problems, and
- Focused on examining individual security risks versus portfolio risks

We support NAIC initiatives to address market innovation but believe transparency is important and historical lessons learned should not be forgotten. The report is included as Attachment A, and we will refer to both transparency and individual security risk throughout this letter.

That study concluded that credit risk is separate and distinct from multiple other identified risks, including event, liquidity, call, extension, deferral, and currency risks. In its Exhibit Three it also describes how these non-credit risks were addressed in the regulatory framework. Among those on the working group expert panel were regulators, NAIC staff and accounting, actuarial and investment professionals. Insurance industry trade associations were not included.

We understand weekly meetings (some day-long) were held beginning in January 2008 and continued at least through May. The final report was submitted in August 2008.

Ultimately, the working group recommended improvements in asset-specific disclosures and a regular reassessment of RBC factors by the Capital Adequacy Task Force (CATF), but the working group did not recommend that the scope of risks assessed as part of an NAIC designations be expanded, because many of the other defined risks were already captured in some way within the C-1 Risk Based Capital (RBC) risk framework and not related to credit risk. The findings of the study were consistent with the current language in Part One, Item 27 of the Practices & Procedures (P&P) Manual that specifically states: "NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk." This exposure seems to be a reversal of prior NAIC policy and recommendations culminating from a very thorough analysis performed by the working group.

Definition of an NAIC Designation

In addition to Subscript S Non-Payment Risk, which we will address later in our letter, the changes to the Definition of an NAIC Designation include several changes that we believe need further and transparent review. These changes include the following:

89. NAIC Designations reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default.

91. NAIC Designations must also be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) and other NAIC guidance. For example, in many cases the NAIC Designation serves as the basis for determining the appropriate risk-based capital charge for a given security.

92. An NAIC Designation shall reflect the likelihood of timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default. It will also reflect consideration to potential "tail risks" (e.g., the probability that a security's payment default will be more than three standard deviations from the mean in greater than what is shown in a normal distribution).

Since the exposure gives no compelling rationale as to why these changes have been made, nor to their potential impact, the undersigned request additional transparency as to their impact.

Included in paragraph 89 is the statement that NAIC Designations "reflect the timely and full payment of principal and scheduled periodic interest, as appropriate, and the probability of principal and interest payment default." The undersigned have often questioned why the SVO's and Structured Securities

Group's (SSG) designation methodology considers only the likelihood of payment default, ignoring expected recovery should a security default in payment (i.e., ignoring loss given default). Industry has spoken with multiple rating agencies, all of whom take into account expected recoveries following payment default for specific types of securities (first mortgage bonds, equipment trust certificates, enhanced equipment trust certificates and speculative grade debt, to name a few) as well as considering where debt resides within an issuer's capital stack. Likewise, bank lending also takes expected recoveries into account, with most banks strongly preferring to lend on a secured basis, recognizing the importance of collateral in reducing the overall risk position of a loan. The undersigned understand that RBC charges were initially developed using a Moody's framework, and Moody's considers expected losses, including loss given default analysis—not just a probability of default framework. The report in Attachment A highlights that Moody's and S&P factor in loss given default and recoveries as well. Therefore, the undersigned would like to understand whether basing NAIC Designations/ratings on likelihood of payment default alone (giving no consideration to potential recoveries) is incongruous with how NAIC RBC charges were developed. We propose that this matter to be formally referred to the Capital Adequacy Task Force. Specifically, CATF should assess whether the proposed language is in-line with how the NAIC's risk-based capital charges were developed, and whether it changes the meaning of an NAIC designation in a way that is incongruous with CATF's intent.

The following is from paragraph 91, *"For example, in many cases the NAIC Designation serves as the basis for determining the appropriate risk-based capital charge for a given security."* While the undersigned believe this phrase is rather innocuous, we believe it is appropriate to formally refer this change to CATF as well. Presumably, an NAIC designation's primary purpose (not just in "many cases") is to serve as the basis for determining the appropriate risk-based capital charge. CATF should ensure that either the reference to SFRS and "Other NAIC guidance" do not change the intent of CATF for risk-based capital and/or whether "Other NAIC guidance" needs to be explicitly and transparently defined so interpretation is not in question.

Similarly, paragraph 92 includes a new concept whereby designations should consider potential "tail risks" (e.g., the probability that a security's payment default will be more than three standard deviations from the mean is greater than what is shown by a normal distribution). This is a new concept for the P&P Manual, and limited context has been provided, leaving industry to wonder how this concept would be applied in practice by NAIC staff.

- 1) Does it mean that NAIC staff would assign a designation, based on expected performance under tail risk outcomes, or that staff would assign a designation based on the most likely outcomes, yet somehow give consideration to tail risk events? If the latter, how would that work?
- 2) If a security is rated by a Credit Rating Provider (CRP), and NAIC staff does not believe that the CRP is giving sufficient consideration to tail risk outcomes (or they disagree on what the relevant tail risk scenarios are) will staff notch that CRP rating for tail risk?
- 3) How does analysis of tail risk differ between structured securities and issuer obligations?
- 4) Is the proposal for tail risk analysis as drafted consistent with how RBC factors were determined?

The addition of tail risk analysis into an NAIC Definition raises several issues that the undersigned feel must be clearly addressed.

The undersigned again propose that this matter be formally referred to CATF, to consider whether this is in line with how the NAIC's risk-based capital charges were developed, whether it changes the meaning of an NAIC designation in a way that is incongruous with CATF's intent, and/or whether it is a departure from definitions provided for agency credit ratings, who make no such references in their definitions. Ultimately, if this concept is adopted, its definition and impact should be very explicitly and transparently documented. Insurers need to understand in practice how tail risk would be evaluated—both for structured securities and for issuer obligations.

Lastly, many references to Subscript S and liquidity have been referred to within the newly proposed Definition of an NAIC Designation. Subscript S warrants a significant and separate section within our letter.

Subscript S Non-Payment Risk

Proposed Change in Scope Regarding Subscript S Authority

The exposure was presented as a technical change intended to simplify the P&P Manual. However, the undersigned believe that combining the NAIC Designation Subscript S definition in Part Two of the P&P Manual with the definition of an NAIC Designation in Part One, as drafted, effectively expands the scope of the SVO's and the SSG's authority. Part Two of the current version of the P&P Manual clearly limits the SVO's ability to assess for Subscript S risks to transactions where the SVO assigns a Designation or where the VOSTF or a regulator request that the SVO assess Subscript S risk for a particular transaction. The undersigned believe that the P&P Manual, as currently constructed, does not allow the SVO to notch ratings assigned by CRPs. This view is further supported by the fact that there are no Blanks administrative symbols in Schedule D for an NAIC Designation that combine both the "FE" and the "S" subscripts. Administrative symbols exist for "FE" and for "S" individually, but not for "FE" and "S" in combination.

The undersigned believe that the exposure could be interpreted as granting the SVO/SSG authority, not only to identify Subscript S risks, but to notch NAIC Designations accordingly—both those assigned directly by the SVO and those assigned by CRPs. The undersigned specifically reference two parts of the exposure that lead us to believe this is the practical outcome:

- 1) The bullet point in Part One, Item 93 was specifically modified to add the italicized phrase highlighted in red: "NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk, *though these other risks may be reflected in Other Non-Payment Risks, as described in this manual.*" The additional reference to Other Non-Payment Risks specifically modifies the scope of an NAIC designation to allow for consideration of such risks.
- 2) Item 99, entitled "Directive to the SVO to Assign the Subscript S Symbol" was added to the Manual as part of the exposure. This provision states that: "*The VOS/TF expressly assigns to the SVO the responsibility for assessing Other Non-Payment Risk and the authority to notch NAIC Designations and assign the Subscript S Symbol, accordingly. It does so in recognition that credit rating providers (CRPs) have no obligation to consider the regulatory assumptions and concerns that are implicit in the NAIC's use of NAIC Designations in its regulatory processes. The VOS/TF may periodically request the SVO report to it on information the SVO gathers from its review of Subscript S securities, including, for example, volume of such securities and the types of other non-payment risks.*" This additional language would effectively delegate authority for assessing Other Non-

Payment Risk to the SVO and allow the SVO to notch CRP ratings for Other Non-Payment Risk if it deems appropriate. This is a departure from past practice.

The result of these two additions could potentially allow the SVO/SSG to notch securities for Other Non-Payment Risks with limited oversight from the VOSTF or from other regulatory bodies. Furthermore, the exposure is unclear under what circumstances, and to what degree, the SVO/SSG could notch securities for Other Non-payment Risks, which raises multiple questions:

- 1) Would notching be applied only to non-filing exempt securities?
- 2) If no, would notching be applied to both privately rated and publicly rated filing exempt securities?
- 3) How would the SVO/SSG identify and assess these risk characteristics for both privately and publicly rated filing exempt securities? For example, would all 40-year bonds (a proposed type of Subscript S security) need to be filed “as if” they were not filing exempt, so the SVO/SSG could assess and notch for Subscript S risk? (If so, this would essentially make these securities non-filing exempt.)
- 4) To what degree might the SVO/SSG notch, and under what circumstances might they choose to do so? Would it be a one-notch impact, a two-notch impact, or more?
- 5) Would the notching methodology be documented in a methodical and transparent way?

We have had multiple conversations with regulators and SVO staff on this issue over the past 12 – 18 months, and we still do not know the answers to the above questions. We have never received straightforward, transparent answers in our discussions, nor is it clear in this latest written exposure. We have yet to understand exactly what the exposure intends to accomplish and why it is necessary.

Fundamental Concerns with Subscript S Proposal

We understand from discussion with both the SVO and Regulators, for example, that interest deferral may not relate to individual security risk but may be information that individual regulators would like to have. For example, individual regulators may want to ensure that such securities are factoring in liquidity risk (e.g., if there is a significant concentration of securities with deferral features) in asset adequacy testing (AAT) for an individual company. Other times, Subscript S may represent non-payment risk as defined, and we will discuss this in more detail below.

For risks that are not individual security risks, but Regulators have a desire/need for further information (e.g., deferral risk for better understanding how utilized in AAT), the appropriate solution would be to bifurcate the Subscript S definition into two categories. Subscript S tags would represent Non-Payment Risk, while a new tag could be created (call it Subscript T, for example) to reflect securities with other portfolio risks, where the SVO does not alter its designation, as it is not an individual credit risk, but where additional disclosure is needed for Regulators at the individual company level. The undersigned are very open to providing more information on portfolio risks such as PIK interest, deferrals, prepayment risk, 40-year maturities, perpetual bonds, etc., and we are willing to work with Regulators and NAIC staff to determine the best way to provide such disclosure. We just do not believe that these risks represent credit risks for which the SVO/SSG should notch securities (or deem the securities non-filing exempt, as the exposure seems to suggest.)

As noted in our previous letter dated September 12, 2022, the undersigned highlight which of the Subscript S risks identified we believe to be individual security risks versus portfolio risks. Please see the

7 illustrations within paragraph 97 of the exposure and the illustrations below that highlight responses from our previous letter. For a more fulsome response see Attachment B to this letter.

#	Illustration	Represents Non-Payment Risk (Y/N?)	Additional Comments
1	Dollar-denominated obligation in non-U.S. currency (with no exchange rate)	Yes	See original response letter for proposed edits to ensure this language is not meant to construe that all foreign denominated bonds (i.e. not a dollar denominated obligation) have non-payment risk.
2	Perpetual debt that can miss payments w/ no requirement to be repaid	Yes	But this is duplicative of both 3a and 5 below, and is better captured in 5 below more holistically.
3a	Perpetual bonds	No	We note the Working Group report in Exhibit 2 states that risk of permanence is not an individual security risk but is an example of extension risk (exhibit 2). A quick query of Bloomberg shows there are approximately \$200 billion of investment grade perpetual bonds, and we would like to understand the rationale for filing these with the SVO for designations.
3b	40+ year maturities	No	But may be important for regulators to understand at a portfolio level where disclosure is desired.
4	Principal Protected Securities	Yes (?)	Note: These are already non-filing exempt and not schedule D bonds. Are these really non-payment risk or just not filing exempt?
5	Bonds without contractual events of payment default	Yes	Recommend additional clarity be provided, as the descriptor is one sentence with nine words. The undersigned are hard-pressed to find any examples of such securities within the capital markets.
6	A security that results in less payment than the original investment.	Yes	Important clarification language should be added so it would not capture bonds issued at a premium--see original response letter
7a	Security with PIK or deferred interest that doesn't capitalize or otherwise accrue	Yes	
7b	Security with PIK or deferred interest than can just be deferred but otherwise capitalizes or accrues.	No	This is portfolio risk. The clear intent of the VOSTF commissioned report was to separate PIK interest and other payment deferral risks from credit risk and the NAIC designation process. This is consistent with the current drafting in the P&P Manual. Further disclosure may be merited for AAT to understand cash flow deferral risks holistically at a portfolio level.

Conclusion

The undersigned understand Regulators' interest in clarifying the definition of what an NAIC Designation represents - and we agree. However, we believe transparency surrounding the meaning and impact of any proposed changes should be afforded to industry and all interested parties. As such, the undersigned request a formal referral to CATF to elicit such an understanding. The undersigned also understand Regulators' interest in Other Non-Payment Risks and portfolio risks, and we are willing to work collaboratively with NAIC staff and regulators to help distinguish between individual security risks vs. portfolio risks. We are very willing to provide additional blanks fields and/or footnotes, if desired by Regulators, to identify these risks and provide sufficient qualitative information to help Regulators understand implications for insurance portfolios (e.g., portfolio risks such as PIK interest, deferrals, prepayment risk, 40-year maturities, perpetual bonds, etc.). However, this is a long running issue, and we still do not have answers to basic questions. We again ask for complete transparency to our questions related to Subscript S.

The undersigned believe the separation of Subscript S between part one and part two of the P&P Manual was deliberate. This makes it all the more important to provide robust and transparent answers to the questions we lay out, so that all parties understand any new authority bestowed to the SVO. For example, if all 40 - year bonds (which we do not believe represent non-payment risk) must now be filed with the SVO for NAIC Designations, then this is a significant change that should be transparent. (These bonds are not currently filed with the SVO.) Ultimately, the undersigned believe this exposure conflates portfolio risks and other non-payment risks with credit risk.

For securities that the undersigned believe truly represent non-payment risk (see table above), we could support those securities being filed with the SVO for a NAIC designation, similar to PPS. For the remaining types of securities listed in the chart above, which the undersigned do not believe represent individual security non-payment risk, but instead represent portfolio risk (e.g., PIK interest, deferral and extension risk, or 40-year bonds, perpetual bonds, etc.), we support disclosure so individual regulators can use as needed (e.g., in assessing if reflected in AAT). This would eliminate the concept of notching altogether – a concept for which there seems to be much confusion. Developing a common understanding of these issues amongst Regulators, the SVO, and all interested parties, needs to happen via a robust and transparent process. The undersigned stand ready to assist in this matter, and we welcome continued dialogue and questions.

Sincerely,



Mike Monahan
ACLI



Tracey Lindsey
NASVA



Michael Bright
SFA



John Petchler
on behalf of PPIA Board of Directors

cc: Charles Therriault, Director, Securities Valuation Office
Eric Kolchinsky, Director, Structured Securities Group

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (“ACLI”) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States. For more information, visit www.acli.com.

The Private Placement Investors Association (“PPIA”) is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 66 member companies and works with regulators, NASVA, the ACLI, the American College of Investment Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace. For more information, visit www.usppia.com.

The National Association of Securities Valuation Analysts (“NASVA”) is an association of insurance company representatives who interact with the NAIC Securities Valuation Office (“SVO”) to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC’s ISIS electronic security filing system, and commenting on year-end processes.

The Structured Finance Association is the leading securitization trade association representing over 370 member companies from all sectors of the securitization market. Our core mission is to support a robust and liquid securitization market and help its members and public policymakers grow credit availability and the real economy in a responsible manner. SFA provides an inclusive forum for securitization professionals to collaborate and, as industry leaders, drive necessary changes, advocate for the securitization community, share best practices and innovative ideas, and offers professional development for industry members through conferences and other programs. For more information, visit www.structuredfinance.org.



Mike Monahan
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June 29, 2023

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners (NAIC)
110 Walnut Street, Suite 1500
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- 2) If no, would notching be applied to both privately rated and publicly rated filing exempt securities?
- 3) How would the SVO/SSG identify and assess these risk characteristics for both privately and publicly rated filing exempt securities? For example, would all 40-year bonds (a proposed type of Subscript S security) need to be filed “as if” they were not filing exempt, so the SVO/SSG could assess and notch for Subscript S risk? (If so, this would essentially make these securities non-filing exempt.)
- 4) To what degree might the SVO/SSG notch, and under what circumstances might they choose to do so? Would it be a one-notch impact, a two-notch impact, or more?
- 5) Would the notching methodology be documented in a methodical and transparent way?

We have had multiple conversations with regulators and SVO staff on this issue over the past 12 – 18 months, and we still do not know the answers to the above questions. We have never received straightforward, transparent answers in our discussions, nor is it clear in this latest written exposure. We have yet to understand exactly what the exposure intends to accomplish and why it is necessary.

Fundamental Concerns with Subscript S Proposal

We understand from discussion with both the SVO and Regulators, for example, that interest deferral may not relate to individual security risk but may be information that individual regulators would like to have. For example, individual regulators may want to ensure that such securities are factoring in liquidity risk (e.g., if there is a significant concentration of securities with deferral features) in asset adequacy testing (AAT) for an individual company. Other times, Subscript S may represent non-payment risk as defined, and we will discuss this in more detail below.

For risks that are not individual security risks, but Regulators have a desire/need for further information (e.g., deferral risk for better understanding how utilized in AAT), the appropriate solution would be to bifurcate the Subscript S definition into two categories. Subscript S tags would represent Non-Payment Risk, while a new tag could be created (call it Subscript T, for example) to reflect securities with other portfolio risks, where the SVO does not alter its designation, as it is not an individual credit risk, but where additional disclosure is needed for Regulators at the individual company level. The undersigned are very open to providing more information on portfolio risks such as PIK interest, deferrals, prepayment risk, 40-year maturities, perpetual bonds, etc., and we are willing to work with Regulators and NAIC staff to determine the best way to provide such disclosure. We just do not believe that these risks represent credit risks for which the SVO/SSG should notch securities (or deem the securities non-filing exempt, as the exposure seems to suggest.)

As noted in our previous letter dated September 12, 2022, the undersigned highlight which of the Subscript S risks identified we believe to be individual security risks versus portfolio risks. Please see the

7 illustrations within paragraph 97 of the exposure and the illustrations below that highlight responses from our previous letter. For a more fulsome response see Attachment B to this letter.

#	Illustration	Represents Non-Payment Risk (Y/N?)	Additional Comments
1	Dollar-denominated obligation in non-U.S. currency (with no exchange rate)	Yes	See original response letter for proposed edits to ensure this language is not meant to construe that all foreign denominated bonds (i.e. not a dollar denominated obligation) have non-payment risk.
2	Perpetual debt that can miss payments w/ no requirement to be repaid	Yes	But this is duplicative of both 3a and 5 below, and is better captured in 5 below more holistically.
3a	Perpetual bonds	No	We note the Working Group report in Exhibit 2 states that risk of permanence is not an individual security risk but is an example of extension risk (exhibit 2). A quick query of Bloomberg shows there are approximately \$200 billion of investment grade perpetual bonds, and we would like to understand the rationale for filing these with the SVO for designations.
3b	40+ year maturities	No	But may be important for regulators to understand at a portfolio level where disclosure is desired.
4	Principal Protected Securities	Yes (?)	Note: These are already non-filing exempt and not schedule D bonds. Are these really non-payment risk or just not filing exempt?
5	Bonds without contractual events of payment default	Yes	Recommend additional clarity be provided, as the descriptor is one sentence with nine words. The undersigned are hard-pressed to find any examples of such securities within the capital markets.
6	A security that results in less payment than the original investment.	Yes	Important clarification language should be added so it would not capture bonds issued at a premium--see original response letter
7a	Security with PIK or deferred interest that doesn't capitalize or otherwise accrue	Yes	
7b	Security with PIK or deferred interest than can just be deferred but otherwise capitalizes or accrues.	No	This is portfolio risk. The clear intent of the VOSTF commissioned report was to separate PIK interest and other payment deferral risks from credit risk and the NAIC designation process. This is consistent with the current drafting in the P&P Manual. Further disclosure may be merited for AAT to understand cash flow deferral risks holistically at a portfolio level.

Conclusion

The undersigned understand Regulators' interest in clarifying the definition of what an NAIC Designation represents - and we agree. However, we believe transparency surrounding the meaning and impact of any proposed changes should be afforded to industry and all interested parties. As such, the undersigned request a formal referral to CATF to elicit such an understanding. The undersigned also understand Regulators' interest in Other Non-Payment Risks and portfolio risks, and we are willing to work collaboratively with NAIC staff and regulators to help distinguish between individual security risks vs. portfolio risks. We are very willing to provide additional blanks fields and/or footnotes, if desired by Regulators, to identify these risks and provide sufficient qualitative information to help Regulators understand implications for insurance portfolios (e.g., portfolio risks such as PIK interest, deferrals, prepayment risk, 40-year maturities, perpetual bonds, etc.). However, this is a long running issue, and we still do not have answers to basic questions. We again ask for complete transparency to our questions related to Subscript S.

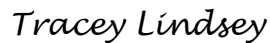
The undersigned believe the separation of Subscript S between part one and part two of the P&P Manual was deliberate. This makes it all the more important to provide robust and transparent answers to the questions we lay out, so that all parties understand any new authority bestowed to the SVO. For example, if all 40 - year bonds (which we do not believe represent non-payment risk) must now be filed with the SVO for NAIC Designations, then this is a significant change that should be transparent. (These bonds are not currently filed with the SVO.) Ultimately, the undersigned believe this exposure conflates portfolio risks and other non-payment risks with credit risk.

For securities that the undersigned believe truly represent non-payment risk (see table above), we could support those securities being filed with the SVO for a NAIC designation, similar to PPS. For the remaining types of securities listed in the chart above, which the undersigned do not believe represent individual security non-payment risk, but instead represent portfolio risk (e.g., PIK interest, deferral and extension risk, or 40-year bonds, perpetual bonds, etc.), we support disclosure so individual regulators can use as needed (e.g., in assessing if reflected in AAT). This would eliminate the concept of notching altogether – a concept for which there seems to be much confusion. Developing a common understanding of these issues amongst Regulators, the SVO, and all interested parties, needs to happen via a robust and transparent process. The undersigned stand ready to assist in this matter, and we welcome continued dialogue and questions.

Sincerely,



Mike Monahan
ACLI



Tracey Lindsey
NASVA



Michael Bright
SFA



John Petchler
on behalf of PPIA Board of Directors

cc: Charles Therriault, Director, Securities Valuation Office
Eric Kolchinsky, Director, Structured Securities Group

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The American Council of Life Insurers (“ACLI”) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States. For more information, visit www.acli.com.

The Private Placement Investors Association (“PPIA”) is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 66 member companies and works with regulators, NASVA, the ACLI, the American College of Investment Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace. For more information, visit www.usppia.com.

The National Association of Securities Valuation Analysts (“NASVA”) is an association of insurance company representatives who interact with the NAIC Securities Valuation Office (“SVO”) to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC’s ISIS electronic security filing system, and commenting on year-end processes.

The Structured Finance Association is the leading securitization trade association representing over 370 member companies from all sectors of the securitization market. Our core mission is to support a robust and liquid securitization market and help its members and public policymakers grow credit availability and the real economy in a responsible manner. SFA provides an inclusive forum for securitization professionals to collaborate and, as industry leaders, drive necessary changes, advocate for the securitization community, share best practices and innovative ideas, and offers professional development for industry members through conferences and other programs. For more information, visit www.structuredfinance.org.



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Attachment -1
Report of the Risk Subgroup of the IAWG

Memorandum

To: Invested Asset Working Group
From: Risk Subgroup of the Invested Asset Working Group
Date: August 26, 2008
Subject: Review of Investment Risks

This is the report of the Risk Subgroup of the NAIC Invested Asset Working Group (IAWG). The Subgroup was formed to evaluate all investment risks to determine which risks are individual security risks for fixed income securities and to review how those individual security risks are handled in the current NAIC regulatory framework.

The need to undertake the review of investment risks stemmed from the events that followed the hybrid security decisions taken by the NAIC in 2006. The issues were finally resolved by the adoption of the American Academy of Actuaries (AAA) report by the NAIC earlier this year. A full review of all possible investment risks by the IAWG, as part of the NAIC's transparency initiative, was necessary to minimize future problems.

To the extent that the Subgroup observed deficiencies, it would recommend improvements to the IAWG. There were no boundaries on the risks that could be considered as part of the deliberations. The Subgroup consisted of the following regulators and industry representatives:

Max McGee, Prudential, Chair of the Risk Subgroup
Chris Anderson, Anderson Insights
Bob Carcano, NAIC Securities Valuation Office (SVO)
Kevin Fry, Illinois Department of Insurance
Wally Givler, Northwestern Mutual
Trond Odegaard, Allstate
Matti Peltonen, New York Insurance Department
Ruth Sayasith, MetLife
Elaine Weiche, Connecticut Department of Insurance

Aside from the subgroup members listed above, significant input was also provided by Allen Elstein (Connecticut), Jeff Evans (SVO) and Jim Everett (New York).

Although a member of the Subgroup may be associated with a particular company or insurance department, his or her participation in the Subgroup was as an individual, in a professional capacity, rather than representing their company or state. The subgroup was composed of participants with various specialties including: regulatory, financial/capital markets, risk management, actuarial and accounting/reporting.

Risk Subgroup Process

The Subgroup began its work in late January 2008 and conducted weekly conference calls to discuss issues regarding investment risks. The calls did include other regulators from the states represented on the Subgroup, NAIC staff and the SVO. However, the Subgroup members made all decisions regarding the content of the report. All conference calls were documented and the Subgroup members approved minutes of the calls. There was a full and complete discussion of the issues during those calls.



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The focus of the Subgroup was fixed income securities only. We began the process by developing a list of all potential investment risks. Our initial list included approximately twenty risks and it swelled to almost thirty as we worked through the process. We used a very deliberate process to discuss each risk on our list. We focused on risks associated with individual securities and not portfolio risks although we did discuss portfolio risks during our deliberations.

We first discussed and arrived at a definition for each risk. Based on that definition, we determined whether a particular risk was an individual security risk. Some risks were discussed and disposed of quickly. Other risks took several calls to reach a conclusion. Ultimately, each risk discussed ended up on one of two lists (Individual Security Risk or Not an Individual Security Risk).

Any discussion of fixed income investment risks should include a discussion of interest rate risk as that risk can fundamentally alter the return of a fixed income instrument. Although interest rate risk was determined not to be an individual security risk but rather a systematic risk, we did discuss it in some detail.

Whenever possible, we considered existing definitions for the risks identified rather than creating new definitions. The definitions may have been changed slightly to reflect the insurance context. The sources used were the NAIC and the Federal Reserve System Joint subgroup on Financial Issues from June 2003 and textbooks such as The Handbook of Fixed Income Securities by Frank Fabozzi.

Discussion of Investment Risks

The Subgroup reviewed twenty-eight potential individual security risks, and through a full and detailed discussion, determined that eight of these risks were present in fixed income securities. The eight risks are credit, event, liquidity, call, extension, deferral, currency and leverage. After discussing all of the risks identified, the Subgroup agreed that there were no material additional individual security risks related to fixed income securities. We also discussed Financial Innovation, which is covered in more detail in Exhibit 4.

There are four additional attachments to this report which supplement our written report. Exhibit 1 provides a summary of the risks that were determined to be individual security risks along with a definition for each risk. Exhibit 2 is a listing of the balance of the risks covered as part of our deliberations, which were determined not to be individual security risks. Exhibit 3 is a grid that describes how each of the eight risks determined to be individual security risks are addressed in the current regulatory framework and recommendations to further improve the regulatory process. Exhibit 4 is Jeff Evans' report on how the ratings of rating agencies reflect loss and recovery given defaults as part of the ratings process.

Credit Risk

Credit risk is the risk of non-performance of contractual payment obligations on bonds, cash equivalents and other invested assets with the characteristics of fixed income instruments. As part of our discussions, we covered the history and development of C-1 (Asset Risk) in the RBC formula and how that relates to credit risk.

The American Academy of Actuaries (AAA) performed a review of default history in the early 1990's in order to develop the AVR and C-1 factors. The AAA utilized the Moody's default statistics as part of that review to classify securities into six rating categories. The study resulted in recommendations on the factors regardless of cause for default.

We also discussed whether the definition should be modified, as it does not explicitly state that there is a risk of downgrades of debt instruments which could lead to greatly reduced market values well before scheduled maturity dates or defaults. It was observed that the C-1 factors contemplated defaults (using a ten-year horizon) and that as an asset is downgraded RBC factors will increase and marking-to-market may even be required. Still, this does not address whether the possibility of downgrades should be stated explicitly in the definition. Ultimately, the Subgroup concluded that the present definition was adequate, however, following the concept that adverse developments for the investor with respect to any risk factor should be



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expected to result in market price declines for the asset and as such credit risk was not materially different from other risks identified in this regard.

Our conclusion is that C-1 covers the risk of default and is synonymous with credit risk. Credit risk is an individual security risk. Defaults are cyclical and the factors used in C-1 should be reviewed by the NAIC on a periodic basis. We did determine that default experience is reflected in ratings provided by the rating agencies.

We recommend that the Capital Adequacy Task Force review the default studies periodically (at least once every five years or more frequently as circumstances dictate) to determine whether material changes have occurred. Based on that review, a more in-depth study of default experience may be warranted.

Deferral Risk

Deferral risk is the risk of the issuer's right to delay payments of interest or dividends (temporarily or indefinitely) on certain instruments. It was noted that the impact of deferral is already explicitly incorporated in rating agency credit ratings and is also covered as an element of C-1. Deferral risk is required to be disclosed in the bond characteristics codes in Schedule D.

Event Risk

Event risk is the risk of regulatory changes or other external actions or occurrences that are significant and unanticipated, and which impact the value of a security. It includes governmental actions that limit payments from borrowers that are otherwise willing and able to fulfill their obligations. Some examples of event risk are corporate restructuring, takeovers or changes in tax or accounting treatment of an investment as well as natural disasters. Actual or potential corporate restructurings and takeovers, in particular, may have an adverse impact on the holders of fixed-income securities in a number of ways. In general, the impact of an event can be immediate or gradual over time.

Event risk is not a risk that is included in the credit ratings of individual hybrid and other securities, according to papers by the SVO and Standard & Poor's. This is because it is generally believed that it is impossible to factor in predictions of surprise events, such as corporate restructurings and major changes to accounting or regulation, into the ratings of individual securities. Because the factors for AVR and RBC C-1 are intended to set levels for entire portfolios of securities, the impact of defaults caused by unexpected events is actually included in AVR and RBC, even though individual ratings do not reflect event risk. This is because the historical studies that formed the basis for AVR and RBC looked at the occurrences and consequences of all defaults regardless of cause, so if an unexpected event caused a default then that event was included in the calibration of C-1. This is consistent with the understanding that all factors that cause defaults are contemplated by AVR and C-1, and factors that do not cause defaults (such as foreign currency risk) are not included in AVR or C-1 risk factors.

Liquidity Risk

Liquidity risk is defined as the risk that an investor will not be able to buy or sell an asset into the market with the expected bid/ask spread, anticipated price continuity or sufficient depth, thus causing price realization or execution that is unfavorable or nonexistent. The Subgroup agreed that liquidity is both a portfolio level risk as well as an individual security risk. Liquidity risk could also change over time based on the occurrence of certain events that could make the security less liquid.

Liquidity risk is addressed in the Examiners Handbook as part of the risk-focused examination approach. The Subgroup believes that liquidity risk is a significant risk and recommends, at a minimum that, the NAIC Financial Analysis Handbook be reviewed and potentially strengthened to better address portfolio liquidity risk.



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Call Risk

Call risk is the risk that an issuer may elect to retire an asset, in whole or in part, when the investor would have preferred that the asset remain outstanding. Call risk and extension risk are closely related.

Call risk is currently addressed for life insurers through asset liability management, statutory cash flow testing and RBC C-3 Phase I. Call risk is required to be disclosed in the bond characteristics in Schedule D for all insurers but the details of the call provisions for a security are not readily available to state insurance regulators. Provisions should be made for facilitating access by regulators to the specific call features, possibly by including them in the SVO database project.

Extension risk

Extension risk is the risk that an issuer may elect not to retire an asset, in whole or in part, prior to its maturity date when the investor might have anticipated and might have preferred early retirement.

Extension risk is currently addressed for life insurers through asset liability management, statutory cash flow testing and RBC C-3 Phase I. Extension risk is required to be disclosed in the bond characteristics in Schedule D for all insurers. Provisions should be made for facilitating access by regulators to the specific extension features, possibly by including them in the SVO database project.

We also discussed how mortgage-backed securities are impacted by call and extension risk. In the case of mortgage-backed securities, the cash flow depends on the timing of principal repayments made by the borrowers in the pool of mortgages that serve as collateral for the security. Prepayment risk is the risk that borrowers will prepay all or part of their mortgage sooner than anticipated. Extension risk is the risk that prepayments will be slower than anticipated.

Currency Risk

Currency risk is the risk that a nondollar-denominated bond (i.e., a bond whose payments occur in a foreign currency) has uncertain U.S. dollar cash flows. The dollar cash flows are dependent on the foreign exchange rate at the time the payments are received.

Payments linked to foreign exchange rates are required to be disclosed in the bond characteristics codes in Schedule D. The Subgroup believes that currency risk is adequately disclosed in the annual statement, but recommends that the IAWG review the disclosures for potential enhancement.

Leverage Risk

Leverage risk is the risk associated with increasing the volatility of periodic payments. Using leverage, principal repayment terms also may be structured to increase their uncertainty, which increases credit risk. Security specific leverage is generally accomplished through structuring periodic payments according to formulae.

Rating agencies consider the risk of credit leveraging when assigning a rating to a security or a tranche of a structured security. Therefore, the risk of credit leveraging would be captured through the C1 (Credit Risk) component of the life RBC formula. In the situation where periodic payments (e.g. interest payments) may be leveraged, modeling of the security in C-3 Phase I of the life RBC formula would capture the impact of leveraging of periodic payments of the security in the Asset-Liability mismatch risk.

Leverage risk is required to be disclosed in the bond characteristics codes in Schedule D which identifies when the insurer can vary the amount of periodic payments.



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Other Considerations

- We also discussed the Bond Characteristics (Schedule, D Part 1, Column 5) and their development during the implementation of Provisional Exemption to enhance disclosure. Realizing that credit ratings referred only to default risk (and its costs), IAWG members sought a mechanism to flag risks other than credit risks. Disclosure of these risks (call, foreign currency *etc.*) for each individual asset was considered at the time to be an enhancement to the explicit reliance on ratings based solely on credit as the basis for AVR and C-1. The IAWG should consider expanding the Bond Characteristic codes to enhance disclosure and transparency.
- It was pointed out during our discussions that we need to be thinking about the cumulative effect of a specific risk across a number of asset classes. It could be more significant than just an individual security.
- There were also seventeen additional risks that were considered as part of our discussions. Those risks are outlined in Exhibit 2. The discussion on most of those risks was very short since the Subgroup members quickly agreed that they were not individual security risks. In some instances, the risks were already embodied in the eight risks that were deemed to be individual security risks. In many instances, we agreed that they represented legitimate risks but were not individual security risks. The details on the risks deemed not to be individual security risks are documented in Exhibit 2 (further details are contained in the minutes from the meetings which are included in the Appendix).
- We had an interesting discussion on conversion risk. If a security has a mandatory conversion provision, it is treated in RBC as if it had already converted so the risk is addressed from a solvency supervision standpoint. If the conversion is not mandatory, there is no incremental risk because the conversion is at the investor's option. We concluded that conversion risk does not warrant further attention at this time but this should be documented in our work product.

Recommendations

The Risk Subgroup recommends:

- The Capital Adequacy Task Force should review the default studies periodically (at least every five years or more frequently if circumstances dictate) to determine whether material changes have occurred. Based on that review, a more in-depth review may be warranted.
- The NAIC Financial Analysis Handbook should be reviewed and potentially strengthened to better address portfolio liquidity risk.
- The IAWG should consider expanding the current database project by the SVO, or other alternatives to address regulators concerns about additional data on call and extension characteristics of specific securities.
- The VOS Task Force should consider expanding the Bond Characteristics codes to incorporate additional needs of regulators to identify attributes of securities.
- The Subgroup believes that currency risk is adequately disclosed in the annual statement, but recommends that the IAWG review the disclosures for potential enhancement.



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Exhibit 1

Individual Security Risks

Credit risk is the risk of non-performance of contractual payment obligations on bonds, cash equivalents and other invested assets with the characteristics of fixed income instruments.

Event risk is the risk of regulatory changes or other external occurrences that are significant, unanticipated and external, which impact the value of a security.¹

Liquidity risk is the risk that an investor will not be able to buy or sell an asset into the market with the expected bid/ask spread, anticipated price continuity or sufficient depth; thus causing price realization or execution that is unfavorable or nonexistent.

Call risk is the risk that an issuer may elect to retire an asset, in whole or in part, when the investor would have preferred that the asset remain outstanding.²

Extension risk is the risk that an issuer may elect not to retire an asset, in whole or in part, prior to its maturity date when the investor might have anticipated and might have preferred early retirement.

Deferral risk is the risk of the issuer's right to delay payments of interest or dividends (temporarily or indefinitely) on certain instruments.

Currency risk is the risk that a nondollar-denominated bond (i.e., a bond whose payments occur in a foreign currency) has uncertain U.S. dollar cash flows. The dollar cash flows are dependent on the foreign exchange-rate at the time the payments are received.

Leverage risk is the risk associated with increasing the volatility of periodic payments. Using leverage, principal repayment terms may be also structured to increase their uncertainty, which increases credit risk. Security specific leverage is generally accomplished through structuring periodic payments according to formulae.³

¹ Includes governmental actions that limit payments from borrowers that are otherwise willing and able to fulfill their obligations.

² In the case of mortgage-backed securities, the cash flow depends on the timing of principal payments made by the borrowers in the pool of mortgages that serve as collateral for the security. Prepayment risk is the risk that borrowers will repay all or part of their mortgage sooner than anticipated. Extension risk is the risk that prepayments will be slower than anticipated.

³ As an example of leverage risk under this definition, Inverse Floating Rate instruments may be used to lever the risk and returns of periodic payments (e.g., interest payments). Other instruments, such as Collateralized Debt Obligations, or CDOs, can be used to lever credit risk (as defined herein) and the effect of this leverage is reflected in rating agency ratings, NAIC Designations and C-1 factors.



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Exhibit 2

Risks Not Considered as Individual Security Risks

Conversion risk of a mandatory convertible security is not an individual security risk.

Systemic or systematic risk is not an individual security risk because it relates to classes of securities, securities markets or even broader market place.

Reinvestment risk is not an individual security risk but is considered a portfolio risk.

Refinancing risk is not an individual security risk and is already covered in call and extension risk.

Prepayment risk is part of call and extension risk.

Political risk is not an individual security risk and is already considered as part of event risk.

Sovereign risk is not an individual security risk and is already considered as part of event risk.

Recovery risk is not an individual security risk since it already covered in credit risk. This was confirmed in discussions with rating agencies and by reviewing their documentation.(See Exhibit 5)

Risk of permanence is not an individual security risk but is an example of extension risk.

Option risk is already addressed in other risks (call, extension and leverage).

Market risk is not an individual security risk since it is the sum of all the other individual security risks which have already been identified.

Reinsurer risk.

Counterparty risk.

Lack of accountability risk.

Yield-Curve (Maturity) risk.

Inflation risk.

Market manipulation risk.

Security Specific Investment Risks and the Insurance Regulatory Framework

EXHIBIT 3

Risk	Manner in which addressed in the 2008 regulatory framework	Recommendations
Credit	Covered through C-1	Capital Adequacy Task Force should review the default studies periodically (at minimum every five years) to determine whether material changes have occurred. It is important to note that the default studies by their nature are backward-looking and need to incorporate low probability/high severity events (such as a depression). These studies should be reviewed periodically since financial innovation may impact future experience.
Event	Covered through C-1 in the aggregate if it results in default in other cases not addressed since it is unanticipated. The balance of the risk is addressed in C-4 for life insurers.	None
Liquidity	Important at the portfolio level and how it impacts the insurance company. Not explicitly addressed in current structure for RBC or reporting. Companies use varied internal calculations to monitor liquidity. Risk-focused exam can be a platform for examining and assessing company liquidity practices	NAIC Financial Analysis Handbook needs to be reviewed and potentially strengthened to address liquidity risk.
Call	Covered through ALM and C-3 Phase I for life insurers only. Covered through statutory cash flow testing for life insurers. Required to be disclosed in the bond characteristics codes in Schedule D.	Provisions should be made for facilitating access by regulators to the specific call features, possibly by including them in the SVO database project.
Extension	Covered through ALM and C-3 Phase I for life insurers only. Covered through statutory cash flow testing for life insurers. Required to be disclosed in the bond characteristics codes in Schedule D.	Provisions should be made for facilitating access by regulators to the specific extension features, possibly by including them in the SVO database project.
Deferral	Covered through C-1, see reports from AAA and Hybrid RBC Working Group. It is noted that NRSROs rate for significant deferral risk. Required to be disclosed in the bond characteristics codes in Schedule D.	None
Currency	Payments linked to foreign exchanges rates are required to be disclosed in the bond characteristics codes in Schedule D.	The Subgroup believes that currency risk is adequately disclosed in the annual statement, but recommends that the IAWG review the disclosures for potential enhancement.
Leverage	Required to be disclosed in the bond characteristic codes in Schedule D and identifies where the issuer can vary the amount of periodic payments. The risk of credit leveraging is addressed in C-1. The leveraging of interest rate risk is addressed in C-3 Phase I of the life RBC formula.	None



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Exhibit 4

Financial Innovation

The members of the Subgroup considered the risks related to financial innovation (a/k/a financial engineering, financial structuring), including modeling risk, information risk, and complexity risk. Fixed income investments subject to such risks include, but are not limited to: callable/escrowable municipal bonds, municipal inverse floaters, auction rate securities (ARS), mortgage backed securities (including pass-throughs, CMOs, IOs/POs and other MBS variants), asset backed securities, and cash market and funded synthetic collateralized debt/loan obligations (CDOs/CLOs). Any security that is not a straightforward non-callable bond would be subject to some degree of the risks attendant to financial innovation. However, a true statement for the general category may not be true (in a practical sense at least) for an individual security in that category. For example, a cash market AAA CDO tranche would arguably have less risk under almost all conceivable circumstances than the underlying pool of collateral, financial engineering notwithstanding. Further, a true statement for the general category may not be true for an individual security when considered in an asset portfolio context – for example, MBS IOs (which may be used as a tool to reduce portfolio duration – arguably reducing interest rate risk). These examples begin to illustrate the challenge of a one-size-fits-all approach, or a security specific approach, to characterizing financial innovation risk.

As evidenced by the instruments listed above, financial innovation is not a new market phenomenon. Relative to non-callable fixed income instruments, financially engineered instruments generally require more sophisticated analysis (including modeling) and more information to properly characterize their expected cash flows, the risks associated with timely (either premature or belated) and complete receipt of these cash flows, and as events have recently unfolded, in some cases, their liquidity. The members of the sub-group were in general agreement that financial engineering risk is, at least conceptually, security specific. For instance, the risks presented by student loan ARS are completely different from the risks presented by funded synthetic corporate CDOs, and derive from the respective nature of the underlying collateral and the structure of the instruments. Analysis of the risk, therefore, naturally requires an understanding of the specific characteristics of the instrument in question. However, comprehensive characterization of the risks generally extends beyond instrument specifics, and for many instruments includes an underlying interest rate simulator/generator (generally monte carlo or lattice based, depending on the particulars of the instrument). Interest rate simulators are at the heart of many fixed income instrument risk analyses, and their implementation involves as much judgment and skill as the modeling of the specific instruments. In some cases, the nature of the instrument requires modeling of default correlations – a non-security specific (more accurately a cross security) parameter. These realities complicate a myopic focus on the security specific aspects of the risk in question.

There was considerable debate within the sub-group regarding whether financial innovation represents an individual security risk or an operational risk. However, there was agreement that it is a legitimate concern and should be addressed within the regulatory framework. The sub-group felt that it is less important that financial innovation be characterized as an individual security risk, than it is for regulators to have a process to identify securities that are so affected, so that they can engage companies in further dialogue about how they manage the risks often attendant to these securities.

Summarizing the preceding, the general sense of the sub-group is that 1) the risks presented by financial innovation represent a legitimate concern worthy of regulatory attention, 2) while aspects of the risk are security specific, a security specific approach to addressing such risk is incomplete and otherwise problematic, and 3) a more appropriate approach to handling financial innovation risk is to regard it as a subset of operational/management risk, and to improve the regulatory review of management processes and expertise. Further, the sub-group recommends that the IAWG consider ways to make improved security information more readily available for regulator use, perhaps through the Bond Characteristics column of Schedule D.

Securities Valuation Office

Exhibit 5

Recovery Ratings and Loss Given Default Assessments

How Standard & Poor's and Moody's Incorporate Recovery and Losses Following Default in Their Ratings Processes

Prepared by:

Jeffrey L. Evans, CFA
NAIC SVO
IAWG subgroup on Risks
07/24/2008

Both of the two largest NRSROs incorporate recovery analysis (S&P) or loss given default assessments (Moody's) in their below investment grade corporate ratings. Essentially, in their efforts to incorporate recovery in default, both rating agencies notch lower (usually) or higher (less frequently) from the baseline probability of default rating. Thus, the issue rating as published is a blend of the strict probability of default, combined with recovery of the investment in the event of a default.

The notching is based on the agencies' assessments of what proportion of the face value of the obligation a debt holder is likely to receive on their investment should the issuer default on its obligations. These assessments are influenced by three main factors: 1) the quality of the collateral of the issuer overall; 2) by the relative size of the claim relative to the collateral; and 3) the order of priority of claim in the capital structure that each issue represents. An issue backed by substantial collateral, that is higher in priority, will be notched higher; while one backed with little or no collateral, that it lower in priority, will be notched lower

Conceptually, this means that between two issues with the same rating (say "B+/B1" rated senior subordinated bonds of ABC and XYZ); one (XYZ) might actually be more likely than the other (ABC) to default. In default, however, expected recovery on XYZ would be higher than ABC.

The methodologies by which the two rating agencies arrive at their conclusions are very different in process, if not so greatly different in outcome. For a discussion on the agencies' respective methodologies, see S&P "Corporate Ratings Criteria 2008", available at:

<http://www2.standardandpoors.com/portal/site/sp/en/us/page.article/2,1,1,4,1204836634695.html>¹

"Probability of Default Ratings and Loss Given Default Assessments for Non-Financial Speculative-Grade Corporate Obligors in the United States and Canada" is available at:

<http://www.moody.com/cust/content/loadcontent.aspx?source=staticcontent/free%20pages/LGD/lgdadpage.htm>²

What follows is an examination of the hypothetical case above, following the steps that end with identical ratings, but with different probabilities of default and corresponding different levels of expected recovery.

For the two issuers, ABC and XYZ, to have identical issue ratings but with different probabilities of default, they must have different baseline or enterprise level ratings. In S&P's nomenclature, this is called a Corporate Rating, or an Issuer Rating.

¹ Free registration is required. Once logged in, click "Research and Knowledge/Criteria & Methodologies/Ratings – Corporates.

² Free registration is required. Once logged in, this report is listed under "Reports" dated August 23, 2006.



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Moody's calls it their Corporate Family Rating. In the case of ABC, imagine that it has an Issuer rating of "BB+" from S&P and a Corporate Family Rating of "Ba1" from Moody's. XYZ, on the other hand, has an S&P issuer rating of "B" and a corporate family rating from Moody's of "B2." In this case ABC and XYZ baseline or enterprise level ratings are four notches apart, with ABC rated higher. It is interesting to note that using Moody's published historical default statistics, a "B2" rated bond has a nearly 36% likelihood of defaulting over 10 years, while for a "Ba1" rated bond the likelihood of default over 10 years is just over 10%.

Let us assume that ABC is a company that has relatively little collateral for bondholders to claim in the event of a default. ABC could be a services company that is rated on the basis of its cash flow. Let us further assume that there is a substantial amount of debt on ABC's balance sheet that is senior to the issue in question. Should ABC default, what little collateral there is would be claimed by the senior debt holders, leaving nothing for the issue we are looking at. In this case, both S&P and Moody's might notch ABC's senior subordinated debt *lower* by two steps, to "BB-/Ba3."

With the other issuer, assume that XYZ, although lower rated, has good collateral for the bondholders. Perhaps it is a company with more leverage, or a weaker competitive position, but one that has valuable and marketable assets for collateral. XYZ might be an independent oil producer with proven oil reserves in its portfolio, reserves that would fetch a good price from another buyer. Let us further assume that XYZ has very little debt on its balance sheet that is senior to the issue in question. Were XYZ to default, the senior subordinated investors could expect to receive the full face value of their investment, because the collateral coverage is so strong. In this case, both agencies might notch XYZ's senior subordinated debt *higher* by two steps, to "BB-/Ba3."



Mike Monahan

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September 12, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners
110 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to the P&P Manual to Update the Definition of Other Non-Payment Risk Assigned a Subscript "S"

Dear Ms. Mears,

The undersigned (ACLI, PPiA, NASVA) appreciate the opportunity to comment on the exposure, referred to above, that was released for comment by the Valuation of Securities Task Force (VOSTF) at the NAIC Summer National Meeting.

The undersigned are also appreciative that the Securities Valuation Office (SVO) was willing to work with industry to try and gain a mutual understanding of non-payment risk to the new additions and existing language being proposed, including with PPNs, and significant progress was made. However, we are still concerned with various aspects of the proposal.

Relevant Background Information

The proposal references at least three parts (parts one, two and three) of the P&P Manual. The proposal itself proposes changes to part two but defers proposed changes to part three. Our

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

PPiA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPiA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office ("SVO") to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC's ISIS electronic security filing system, and commenting on year-end processes.

comments reflect the assumption that the de facto second phase of this proposal would be to make subscript S securities non-filing exempt. This is an important assumption that is reflected in our comments.

Further, our comments reflect the fact that the P&P Manual at times can be very difficult to navigate due to its complexity and often conflicting guidance. For example, this was illustrated by the second item, of the July 28, 2022 summer national meeting agenda, where the SVO itself highlighted several conflicting statements in relation to clarifying its role in relation to Interpreting Accounting and Reporting. This proposal was ultimately adopted with the support of industry. Our comments here attempt to simplify and avoid unproductive debate on potentially conflicting or ambiguous language in the P&P Manual.

In simple terms, we understand Subscript S to mean any security that has non-payment risk in addition to the credit risk of the issuer. We believe this provides a more readily available foundation rather than trying to include the many references and inferences within the P&P Manual that may be confusing or contradictory.

More specifically, we note that the P&P Manual (paragraph 37) notes that an NAIC designation reflects credit risk does but does not measure prepayment, extension, or liquidity risk. Paragraph 37 is the foundational language in the P&P Manual describing what an NAIC Designation measures.

Eight Proposed Illustrations of Subscript S Non-Payment Risk

Our approach is to offer perspective on each of the eight illustrations being proposed and address where we believe there is (or isn't) non-payment risk that should ultimately cause a security to no longer be filing exempt and/or where the language is ambiguous or unclear.

Illustration 1 – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield currency sufficient to buy a defined principal amount of U.S. dollars. ~~The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.~~

Non-payment risk – We agree that this illustration highlights a security that has non-payment risk. This describes a dollar denominated bond whereby the payment at maturity, is denominated in US dollars, whereby repayment may not be repaid in full because it depends upon an exchange rate.

However, we suggest the highlighted (i.e., shown with a strike through) language be removed for clarity purposes – i.e., so as to ensure that language is not meant to construe that all foreign denominated bonds (i.e., not a dollar denominated obligation) have non-payment risk. Foreign denominated bonds are funded in a foreign currency with the expectation that both interest and principal will be received in the same foreign currency. Further, the majority of such insurance company investments are hedged for foreign currency risk. Therefore, any notching by the SVO would be inappropriate.

Illustration 2 – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.

Non-payment risk – We agree that this illustration represents a security that has non-payment risk. Essentially, by allowing a perpetual security that can miss scheduled interest or dividend payments that are not required to be paid on a subsequent date, such a security could be construed as permanent equity-like capital and would not meet the requirement of a bond for NAIC purposes.

Illustration 3 – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity date (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.

No Non-Payment Risk – This illustration appears to address two distinct items:

1 - Perpetual Bonds – Perpetual bonds have contractual terms that require perpetual interest payments (e.g., a perpetuity). There is no risk beyond credit risk that needs to be assessed. The accounting for perpetual bonds is being determined by SAPWG. Where accounted for as bonds, they are required to be reported at fair value. Further, if the credit quality is affected, such credit deterioration is reflected in risk-based capital in two different ways – a lower credit rating and lower risk-based capital due a lower value through fair value accounting.

2 – Bonds with maturities equal or exceeding 40 years – 40-year bonds are quite common, including from household names (e.g., Apple and Microsoft, etc.), for which insurance companies invest. These are used, in part, to match insurance company liabilities with expected payments that are 40 years or even greater. Just recently Union Pacific Corporation issued a 50-year bond. Moreover, many insurance companies have invested in 100-year bonds from prominent universities (e.g., Yale, MIT, Tufts University, California Institute of Technology, etc.). There is no risk, other than credit risk, associated with these bonds. Notching such investments by the SVO, with no deterioration in credit risk, would potentially disincentivize insurance companies from prudent investment decisions.

Illustration 4 – A Principal Protected Security, as defined in Part Three of this Manual.

Non-Payment Risk – As illustrated in Part Three of the P&P Manual.

Illustration 5 – A security with no contractual events of payment default.

Non-Payment Risk – A security that has no contractual events of payment default (i.e., no repercussion due to a missed payment) has non-payment risk beyond the credit of the issuer.

Illustration 6 – A security with contractual terms that have the potential to result in payment of contractually promised interest and/or return of principal in an amount less than the original investment amount of contractually promised interest and/or principal.

Non-Payment Risk – A security that has contractual terms that have the potential to result in payment of contractually promised interest and/or return of principal in an amount less than the original amount contracted for, have risk of non-payment beyond the credit risk of the issuer. However, to ensure there is appropriate clarity, we suggest the proposed changes shown above

(e.g., proposed changes shown with strike-through and underline) to ensure the written language would not inappropriately or unintentionally capture any security issued at a premium.

Illustration 7 – A security with deferred principal payment features that are at the option of the issuer, not including grace periods of up to 30 calendar days.

No Non-Payment Risk – A security where the issuer has the right to defer principal payment (analogous but opposite to call risk) does not have additional repayment risk beyond the credit risk of the issuer (as long as the bond accrues interest during the extension period).

Many securities have the ability to defer principal payments for a year, or even longer, and can be advantageous in a securitization because it can prevent distributions in kind to an insurer. This is advantageous because the insurer does not want distributions in kind, and also wants the issuer (a loan in an over-collateralized securitization) to have operating flexibility for the best exit strategy to best maximize returns. While it may represent some degree of liquidity risk, liquidity risk is not part of an NAIC designation, and the SVO is not suited to assess the overall liquidity risk of an insurer.

Such features can also actually reduce liquidity risk by preventing distributions in kind. It may also lower credit risk, by giving the borrowing company in the securitization the needed operating flexibility to maximize returns. Extension risk is also not part of an NAIC designation. If liquidity risk and extension risk are of concern to regulators, this is best served by requiring a disclosure on schedule D where such securities can be viewed in aggregate and in the context of the whole host of other information needed to assess the liquidity risk or extension risk related to any specific insurer. Any individual security (or group of securities) may potentially create liquidity risk for one company, but not another, depending upon their products, investments holdings, etc. so notching NAIC Designations, while beyond the purview of the SVO for liquidity risk, would also be inappropriate. If it would be of value for regulators to understand the extent a company holds securities with “extension risk” in the context of liquidity risk, disclosure on Schedule D may be a more appropriate solution.

Illustration 8 – A security with interest payment deferral feature that does not capitalize interest into principal (or does not require deferred interest to accrue at a compound rate) or permits interest deferral, that is not capitalized or compounded, for greater than twelve months or past legal maturity.

Non-payment risk – Many securities have deferral of interest features that get capitalized (payment-in-kind or PIK securities) that have the advantages as described in our response to Illustration 7 but also in situations where the securitization is in the “ramp up phase” (i.e., in the process of investing in the underlying investments) and may have temporary “liquidity issues”. This is viewed as a favorable feature by insurance company investors as it actually decreases overall liquidity risk. In this instance, or where interest is deferred and compounded, insurers are more concerned about being made whole and this is factored in when making the investment. This example addresses situations where the interest is not capitalized, and we agree that this presents non-payment risk beyond that of credit risk. For the sake of clarity, we therefore proposed adding the language highlighted (underlined).

However, some have expressed concern that the proposed language was intended to not imply what our proposed change would suggest – i.e., any deferral of interest, even if capitalized, for greater than 12 months presents non-payment risk. If so, we do not agree as this appears to be addressing liquidity risk which is not part of an NAIC Designation. A counter-intuitive,

inappropriate and unintended result would be that this scopes in zero coupon corporate bonds, and even zero-coupon US Treasuries, which capitalize interest deferrals through the life of the bond.

Any individual security (or group of securities) may potentially create liquidity risk for one company, but not another, depending upon their products, investments holdings, etc. so notching NAIC Designations, while beyond the purview of the SVO for liquidity risk, would also be inappropriate. If it would be of value for regulators to understand the extent a company holds securities with "PIK" features, in the context of liquidity risk, disclosure on Schedule D may be a more appropriate solution.

Other Practical Issues

Requiring securities, that do not have non-payment risk, to be filed by the SVO for a designation (i.e., they would not be filing exempt) would also present the following two practical issues.

For the securities highlighted above with no non-payment risk, this would require the filing of these securities with the SVO with all the requisite documentation required for such a filing. In addition to the cost, such information may not be available to the investor as it was not contemplated at the time of investment.

Also, certain securities highlighted above with no non-payment risk (e.g., 40 year or greater maturity, PIK interest, extension risk) are of a nature that cannot be designated by the SVO (e.g., certain ABS) or are already designated by the SVO (e.g., CMBS/RMBS).

In conclusion, it is very important that any language related to Subscript S, with the expectation that such securities will eventually need to be filed with the SVO, be very clearly articulated and truly represent non-payment risk. Further, if regulators would benefit from better understanding the extent to which insurers hold securities with risks (e.g., liquidity risk, extension risk, or long maturities, etc.) which do not reflect non-payment risk, we believe disclosure of these risks on Schedule D would better assist regulators assessing such risks holistically. As Schedule D reporting is currently being revamped by SAPWG, the timing for such a solution is perfect.

We stand ready to assist regulators and staff with regards to this proposal. If you have any questions in the interim, please do not hesitate to contact us.

Sincerely,



Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey
Tracey Lindsey
NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Director

Attachment B - 2
Valuation of Securities (E) Task Force
7/13/23



June 29, 2023

Ms. Carrie Mears
Chair, Valuation of Securities (E) Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Via email: ctherriault@naic.org and dgenaorosado@naic.org

RE: Proposed P&P Manual Amendment to Update the Definition of an NAIC Designation

Dear Ms. Mears:

We appreciate the opportunity to comment on the above-mentioned amendment. As we stated in our June 9, 2023 letter to the Risk-Based Capital Investment Risk and Evaluation Working Group, we are concerned that the NAIC has commenced systemic changes to the regulatory capital framework without first having conducted the necessary comprehensive analysis to ensure consistency across asset classes and risks. Consumers are facing a retirement income crisis with fewer available options. Opaque regulatory capital tools, such as the revisions to the SVO's Subscript S authority, will damage insurers' abilities to invest with transparency and capital certainty. Eventually, this will unnecessarily impede insurers' ability to offer products that address the retirement income crisis. We respectfully submit that the NAIC membership should first consider and address the following broader questions that are relevant to the regulatory capital framework for life insurers:

- (1) What is the specific problem that needs to be solved by this and related proposals?
- (2) What are the relationships among regulators, credit rating providers (CRPs), the SVO/SSG, and insurers regarding NAIC Designations and determination of credit risk and what methods are used?
- (3) Have NAIC members fully considered the legal and regulatory ramifications in assigning to the SVO powers that are a combination of both regulatory and CRP in nature?
- (4) What governance is present to ensure a consistent calibration given the multiple proposals across asset classes, NAIC Designations, and charges?
- (5) Does this and related proposals further the NAIC's stated 2023 priority of reducing the protection gap for an already underserved American consumer base?
- (6) Have the NAIC members, through an open and transparent fiscal and governance process, fully considered the resource and budgetary needs associated with empowering the SVO to take on this and related responsibilities?

With regard to this particular technical initiative, the SVO has proposed revisions to Subscript S by (i) expanding the scope of securities to which Subscript S applies and (ii) expanding the SVO's ability to notch designations. The SVO justifies the proposal on the basis that "credit rating providers (CRPs) have no obligation to consider the regulatory assumptions and concerns that are implicit in the NAIC's use of NAIC Designations in its regulatory processes." The amendment proposes to capture non-payment risks not designed to be included within the C-1 Framework, such as volatility/interest rate risk, prepayment, extension, and/or liquidity risk.

We can understand the logic for creating a tool to address regulatory considerations related to certain repayment features. However, we observe the following critical and unresolved issues:

- It is unclear (i) which CRP methods are deemed to be unfit for designations and (ii) what regulatory assumptions are not currently being considered by the CRPs. No data, analysis or examples have been advanced in support of the assertion that the CRPs' ratings do not appropriately consider "other non-payment" risks.
- No framework exists to consider how risk from these features might be compared to other features or methods, or to other pressing market risks not currently being studied, such as commercial real estate equity and the decreasing quality of corporate bonds over time.
- References to NAIC Designations not capturing volatility/interest rate risk, prepayment, extension, and/or liquidity risk, which are purposefully not otherwise included in C-1, suggest that the SVO proposes to capture such risks by means of notching under Subscript S.
- While the proposal references the use of NAIC Designations in RBC charges, there is no acknowledgment of other parts of the regulatory framework, such as reserving, suggesting a lack of consideration for implications to the overall regulatory framework.

When considering these concerns, the proposal should be compared against other potential effective means to address the SVO's purported regulatory concerns, such as a review of STAT and RBC frameworks and assessing possible limitations that may arise under STAT or RBC in relation to NAIC Designations based on CRPs' existing models. Eventually, with significantly increased CRP assessment and transparency, regulators should consider potential minimum standards for CRPs in lieu of or before individual security notching. A holistic framework setting forth such minimum standards for CRPs would permit state insurance regulators to challenge CRP practices not meeting regulatory assumptions and concerns, while also providing transparency to CRPs and the industry with respect to such assumptions and eliminating potentially duplicative regulatory tools (such as this Subscript S authority and the proposed SVO general authority to challenge CRP ratings).

Liquidity Risk as a Factor in Determining NAIC Designations

NAIC Designations have never been intended to measure liquidity risk. We single out liquidity as a clear example of an "other non-payment" risk that is currently and deliberately addressed through other mechanisms that apply to insurers, including asset adequacy analysis and liquidity

stress testing. This separation allows the treatment of liquidity to vary across insurers' business models that have liabilities with varying liquidity needs (e.g., Property and Casualty vs Life). Including liquidity risk within NAIC Designations will inevitably lead to framework inconsistency and disrupt the intentional relationships between C-1 RBC and other parts of the regulatory framework. The Task Force should not adopt revisions to the P&P Manual that would include these risks in NAIC Designations without first consulting with other relevant NAIC committees and working groups.¹

Scope of the Proposal

The proposed authority appears to apply to a range of structured securities, as well as high-yield corporate and certain other assets. In contrast, the Task Force's prior work on principal protected securities was more narrowly executed and excluded many types of structured securities. We do not dispute the regulatory need to gain a better understanding of these features. However, we believe that any expansion of the SVO's authority should be done in a transparent way that enunciates the specific issues, is narrowly tailored, and provides a list or specific definition of securities to which the new authority would apply. Proposing a significant change in the SVO's authority without sufficient information may cause chilling effects in the market, resulting in lost price transparency and income, ultimately impacting policyholder benefits. We strongly suggest that future proposals should precisely specify the scope of the proposal and a detailed explanation of the rationale for adding each relevant asset class and type of security to the scope.

Notching

Given the concerns outlined above, we do not believe that the expansion of SVO's authority to notch NAIC Designations is currently appropriate. We believe that significant study should be conducted by the Task Force before considering granting any new notching authority to the SVO.

* * * * *

We appreciate the opportunity to comment on this proposal.

Sincerely,



Doug Niemann
Executive Vice President and Chief Risk Officer

¹ We believe revisions such as Subscript S should be discussed within the NAIC Capital Adequacy (E) Task Force, Macropprudential (E) Working Group, Life Actuarial (A) Task Force, and Statutory Accounting Principles (E) Working Group.



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June 29, 2023

The Valuation of Securities Task Force
National Association of Insurance Commissioners
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Re: Comments, Staff Proposal: Amendment to Update the Definition of an NAIC Designation in the Purposes and Procedures Manual of the NAIC Investment Analysis Office (“The Manual”)

Dear Ms. Mears and Task Force Members,

What is conspicuously missing from the staff proposal is a clear and concise definition of NAIC Designations. This could be presented in a single paragraph or at most on one page. Decision-makers could benefit more from this than from seeing detailed implementation language.

Beginning with such a clear statement would be a sound practice for a number of reasons. The VOS/TF members themselves could evaluate a succinct proposal and decide if there is consensus among themselves about the definition. Then it could reach out to other affected parties, particularly the Capital Adequacy Task Force, to seek broader agreement or they could ask for a similar draft definition from them. When there is general agreement as to definitions then it would be time to direct staff to propose implementation language, such as modifications to manuals, and these drafts would then be examined to determine whether they conform to the agreed definition.

Having discussions, and agreement, on fundamentals at the outset, before drafting implementing documents, would be a sound decision-making practice.

The Need for Designations

The core function of the IAO is to produce risk factors, or Designations, for individual fixed income securities which meet the needs of its key constituent, the Capital Adequacy Task Force, which specifies and administers Risk-Based Capital calculation methods. The VOS/TF has additional functions, to be sure, but to fulfill its own central charge it must direct the IAO in its work as those staff members determine risk metrics on a security-by-security basis that meet the specific requirements for calculating RBC.

Because the CA/TF is responsible for making its own determination concerning what risk elements will be considered in deriving C-1 and R-1 RBC factors it is important to include it in the process at an early stage of deliberations. The VOS/TF has initiated this process so it is underway. The goal should be for the VOS/TF and the CA/TF, as well as others, to arrive at shared understandings of the risks reflected in Designations so they can all fulfill their individual charges.

Comments on the Staff Proposal Itself:

In addition to the foregoing, here are two specific comments, with recommendations, concerning the current version of this concept at the VOS/TF:

Development of the VOS/TF's Own Draft Definition

As the VOS/TF considers what risks to include in its proposal for a definition it should take into account existing work done to specify the individual risks of securities, of which credit is just one discrete element. A comprehensive report by the NAIC identified the eight risks to insurer of individual investments.*

This study is the result of considerable effort. While it or may not need to be updated, it is reasonable to expect that same amount of care and effort should be taken before modifying it as was taken in its development itself.

Once there is consensus as to a definition at the VOS/TF level as to a specific definition of Designations then it will be possible to reconcile that with proposals from other NAIC entities.

Evaluating the Full Range of Asset Risk Measures

Beyond just determining NAIC Designations, the IAO continues to serve as a window to the markets so the VOS/TF and insurance regulators can gain an enhanced awareness of developments therein. It can do this by continuing to consider how to develop statistics and risk measures for both individual assets and portfolios to fulfil its various charges. In this process it should work closely with regulators, particularly examiners, to assure that the tools it develops will be useful to them in their work. It should also balance the benefits it expects from this work with the costs of developing and maintaining them. Finally, it should not conflate these efforts with the completely separate charge discussed above of assuring that the IAO deliver the risk measures of individual assets to the specifications set by the Capital Adequacy Task Force for the computation of RBC.

Recommendation: Continue research and development work concerning investment risks

Enhancing the Usefulness of the S Subscript

As presently conceived the S subscript is intended to communicate “other non-payment risks”. This subscript can potentially be useful, but it needs to be updated to reflect current developments. Credit risk is defined in Part One, ¶37, as “the relative financial capability of an obligor to make the payments contractually promised to a lender” and this is consistent with the findings of the IAWG subgroup. So if “credit risk” is the risk of non-payment how can there be “other non-payment risks” and what could they be? There are two logical possibilities.

The first reason for “non-payment” could be that the investor mistakenly believes that the borrower has made promises when, in fact, it has not. One example of this could be found in principal protected notes. These are actually debt-equity hybrid securities containing elements of each asset type. The only “bond-like” promise is for the return of principal at maturity. PPN investors need to understand that there are no representations of what their returns will be beyond the return of principal. These and many other security types have been addressed in “the bond project” and the results will be reflected in updated accounting guidance. In short, as in the example of PPNs, other assets not providing specific promises of returns will be denied bond status. Accordingly, there is no need to flag these with an S suffix as having “other non-

* Report of the Risk Subgroup of the Invested Asset Working Group (reporting to the VOSTF) August 6, 2008, Attachment two A-9, Minutes of the Valuation of Securities (E) Task Force, 12/06/2008 (submitted to you previously)

payment risks” because in those instances there is not an actual creditor relationship -- they are not eligible to be treated as bonds.

The other possible way there could be a risk of non-payment is that the rating/designation is simply wrong. By its very definition, credit risk is the risk of non-fulfillment of a *promise* to make certain payments. To be accurate and useful ratings/designations must take into account all significant reasons why promises by borrowers might not be kept. This is the very essence of credit ratings. Analysts, their supervisors and credit committees are accountable for taking into consideration relevant factors that could reasonably have adverse effects on a bond not delivering the promises set forth in its agreement with investors. Assuming rating agencies are performing properly then here, too, there is no role for the S subscript. If it is determined that rating agencies are not performing properly then corrective action must be taken.

So where and how can the subscript be useful to regulators? Here is one example. If in a specific case the S Suffix were used to denote limited liquidity of an asset then regulators could look at the totals of assets with limited liquidity and compare that to the liability posture of an insurer. This could be extremely helpful.

The S suffix doesn't presently indicate any specific reason for its assignment. Accordingly, regulators looking at statements with assets with S suffixes have no idea for the reason for the “S”. It could be for liquidity but it could also be for any other number of reasons. This needs to be remedied.

Recommendation: Coordinate with the IAO to learn from regulators themselves which risk elements are of interest and concern to them, in addition to credit risk which is already the essence of a Designation. These other-than-credit risks would then each need to be assigned unique means of identification available to regulators in order for them to be useful.

Summary:

The most important point in this letter is that there is a need for relevant parties to agree on a short concise definition of NAIC Designations and this is primarily the responsibility of the CA/TF.

New risk metrics if justified and using the S suffix to specifically identify risks other than credit risk, would bring greater clarity and insights to insurance regulators. This would have the greatest potential if regulators themselves were actively engaged in developing these enhanced tools.



Copies: For the VOS/TF: Charles Therriault and Denise Genao-Rosado
Thomas Botsko, Chair, Capital Adequacy (E) Task Force
Philip Barlow, Chair, Risk-Based Capital Investment Risk and Evaluation (E) Working Group
Dale Bruggeman, Chair, Statutory Accounting Principles (E) Working Group



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau
Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

RE: Clarify the Definition of an NAIC Designation in Parts One and Two of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*

DATE: September 30, 2022

Summary: As noted in Part One of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual)*, NAIC Designations and NAIC Designation Categories serve many purposes. NAIC Designations and other Securities Valuation Office (SVO) and Structured Security group (SSG) (collectively, the Investment Analysis Office (IAO)) products are standards identified in the NAIC Policy Statement and Financial Regulation Standards (SFRS) that states, as participants in the Accreditation Program administered by the Financial Regulation Standards and Accreditation (F) Committee, have incorporated into law. Part A of the SFRS identifies laws and regulations deemed necessary to financial solvency regulation, which includes, directly or indirectly, the analytical products of the IAO. These standards include the following:

- Standard 5 requires that insurer-owned securities be assessed in accordance with the standards promulgated by the NAIC IAO.
- Standard 2 refers to the NAIC Risk-Based Capital (RBC) for Insurers Model Act (#312) which assigns RBC factors for securities based on their credit risk as quantified by NAIC Designations.
- Standard 3 refers to the NAIC Accounting Practices and Procedures Manual, which uses NAIC Designations produced by the SVO and/or Price Grids produced by the SSG for statutory accounting purposes including to identify the valuation rules that apply to an investment.
- Standard 8 refers to state investment regulations which often incorporate NAIC model law provisions that relate asset allocations to credit quality or credit risk quantified by NAIC Designations.

- Standard 10 refers to the NAIC Credit for Reinsurance Model Law (#785), which refers to insurer-owned securities compiled by the SVO and identified on the List of Investment Securities, and in a separate provision, letters of credits issued by the banks and non-bank financial institutions whose name is placed on the NAIC List of Qualified U.S. Financial Institutions administered by the SVO, as eligible for use as collateral in reinsurance transactions.

These standards have been included in this memorandum to highlight the many ways in which NAIC Designations are used within NAIC guidance for different purposes. These varied uses in regulatory guidance also highlight why NAIC Designations differ from Credit Rating Provider (CRP) ratings. The current definition of an NAIC Designation in the P&P Manual does not clearly associate its use for these purposes and standards. The attached amendment proposes changes in Part One and Part Two of the P&P Manual to clearly articulate that the assignment of an NAIC Designation to a security considers and/or reflects the following:

- The likelihood of timely payment of principal and/or interest, as appropriate.
- The probability of default.
- The appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.
- Statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law.

Recommendation: The SVO recommends adoption of this proposed amendment updating the definition of an NAIC Designation in the P&P Manual to clearly link its use in the NAIC Policy Statement and Financial Regulation Standards (SFRS). The proposed text changes to P&P Manual are shown below with additions in red underline, deletions in ~~red strikethrough~~ as it would appear in the 2022 P&P Manual format.

**PART ONE:
POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE**

ABOUT THIS MANUAL

...

Expression of NAIC Standards in State Law and Regulatory Processes

6. NAIC Designations and other SVO and SSG products are standards identified in the NAIC Policy Statement and Financial Regulation Standards (SFRS) that have been incorporated into state law by the States as participants in the Accreditation Program administered by the Financial Regulation Standards and Accreditation (F) Committee. Information about the F Committee and the Accreditation Program can be accessed here: www.naic.org/cmte_f.htm.
7. Part A of the SFRS identifies laws and regulations deemed necessary to financial solvency regulation. Analytical products of the SVO and SSG [sometimes collectively called the Investment Analysis Office (IAO)] are directly or indirectly incorporated into SFRS Part A standards.
 - Standard 5 requires that insurer-owned securities be assessed in accordance with the standards promulgated by the NAIC IAO.
 - Standard 2 refers to the NAIC Risk-Based Capital (RBC) for Insurers Model Act (#312) which assigns RBC factors for securities based on their credit risk as quantified by NAIC Designations.
 - Standard 3 refers to the NAIC Accounting Practices and Procedures Manual, which uses NAIC Designations produced by the SVO and/or Price Grids produced by the SSG for statutory accounting purposes including to identify the valuation rules that apply to an investment.
 - Standard 8 refers to state investment regulations which often incorporate NAIC model law provisions that relate asset allocations to credit quality or credit risk quantified by NAIC Designations.
 - Standard 10 refers to the NAIC Credit for Reinsurance Model Law (#785), which refers to insurer-owned securities compiled by the SVO and identified on the List of Investment Securities, and in a separate provision, letters of credits issued by the banks and non-bank financial institutions whose name is placed on the NAIC List of Qualified U.S. Financial Institutions administered by the SVO, as eligible for use as collateral in reinsurance transactions.

8. NAIC Designations and other analytical products of the SVO and SSG are produced solely for the benefit of NAIC members in their capacity as state insurance department officials for use in the NAIC Financial Regulation Standards and Accreditation Program as described above. To ensure NAIC members have a central source from which to obtain information about insurer-owned securities (including their NAIC Designations) the VOS/TF has identified the AVS+ Products as the depository for information compiled by the SVO in the SVO List of Investment Securities.

...

NAIC Designations

37. The SVO's analysis of credit risk (hereafter defined), is expressed as an opinion of credit quality by assignment of an NAIC Designation that is notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations as defined in this Manual describe a credit quality-risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk except when accompanied by the NAIC Designation subscript, described below.

- Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.
- Credit risk is assessed by analyzing the information and documentation provided to the SVO by the reporting insurance company and its advisors. The SVO does not audit the information submitted and assumes the information to be timely, accurate and reliable.
- The ability of an insurance company to realize payment on a financial obligation can be affected by factors not related to credit risk or by the manner in which the repayment promise has been structured.
- An NAIC Designation reflects the likelihood of timely payment of principal and interest, as appropriate, and the probability of principal and interest payment default.
- An NAIC Designation reflects the appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.

- An NAIC Designation must be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS).
- NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk.
- An NAIC Designation must be interpreted by the NAIC member in context of the NAIC Financial Regulation Standards and Accreditation Program, other characteristics of the investment, and the specific financial and regulatory status of the insurance company.

...

PART TWO
OPERATIONAL AND ADMINISTRATIVE INSTRUCTIONS
APPLICABLE TO THE SVO

PRODUCTION OF NAIC DESIGNATIONS

NAIC DESIGNATIONS

18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations identify a category or band of credit risk that reflects the likelihood of timely payment of principal and interest, as appropriate, the probability of principal and interest payment default, and the appropriateness and consistency of its use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) including the risk-based capital model factor that will be applied to the security given its level of risk. NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure, the likelihood of timely payment and risk of payment default. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.

...

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2022-012.01 P&P Definition of NAIC Desig.docx>



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December 5, 2022

The Valuation of Securities Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Comments, Staff Proposal: “Clarify the Definition of NAIC Designations in...the *Purposes and Procedures Manual*...”

Dear Ms. Mears and Task Force Members,

This letter supports the concept of clarifying the definition of NAIC Designations. To achieve this the *Purposes and Procedures Manual* needs to be streamlined deleting duplicative language. Markups of the *Manual* with specific recommendations to accomplish this are attached. This letter also recommends approaches for dealing with what have been called “other non-payment risks” and I submit it as an independent consultant and long-time observer of the work of the Valuation of Securities Task Force.

NAIC Designations are Simply Opinions of Credit Risk

The *Manual* defines credit risk in Part One ¶37 as “the relative financial capability of an obligor to make the payments contractually promised to a lender.” I believe this definition is reasonable and comprehensive in that it refers to “payments contractually promised” and nothing else, and this is reflected consistently in many places throughout the *Manual*. The Appendix to this letter shows over two dozen places where Designations are associated with credit risk.

Eliminating Unnecessary Language

The present text effectively defines NAIC Designations in separate three places. Because detailed descriptions for each of the six NAIC Designations appear in Part Two ¶21 – 24 other definitions (in Part One ¶37 and 88-89), are redundant and should be deleted. If additional information is needed to “clarify” the meaning of Designations it could be added to the section where the Designations are explained in detail where readers will naturally seek information about the meaning of Designations.

The *Manual* would also be made more usable by deleting unnecessary language such as Part One ¶6 - 8 which discusses the uses of Designations rather than what they actually are and how the SVO is charged with producing them.

Also in Part One are five bullet points in ¶37 discussing Designations. Rather than adding three more bullets as is proposed I recommend deleting this entire paragraph as each Designation is already discussed in detail in Part Two ¶21 – 24 as noted previously.

“Other Non-Payment Risk”

The references to “other non-payment risk” could be clarified. Given that Designations estimate the probability that a borrower will fulfil its commitments, if there are other reasons for “non-payment” they also need to be addressed explicitly.

Defaults are only one reason a lender may be uncertain about the amount of the payments it will receive. While defaults themselves are incorporated into RBC calculations, lending agreements increasingly contain other optional provisions that could change cash flows. These could be to the advantage, or detriment, of lenders. The question at hand is how to understand and deal with these uncertainties as to amounts due. This is distinctly different from the uncertainty about whether that amount will or will not be paid *i.e.* credit risk.

Possible Approaches

Callable bonds provide a simple an example of where cash flows can be uncertain. For instance, assume a ten-year 5% bond with a five-year call option which means it is subject to early redemption. The five-year call makes it possible that investors may not receive the last five years of interest payments. This uncertainty was well understood by the professionals who developed the RBC formula. It is not problematic, however, because of the standard market convention, then and now, for accounting for callable bonds.

The market convention for callable bonds assumes the lender will receive the worst of all possible outcomes without the default of the borrower. This is known as “yield-to-worst” which “is a measure of the lowest possible yield that can be received on a bond that fully operates within the terms of its contract without defaulting*.” This is why it is possible to ignore the potential adverse impact of the exercise of a call option -- because the worst is already assumed.

Call features are not the only optional provisions that have been incorporated into the contractual promises of bond issues. It is possible to find other provisions embedded into agreements that can increase -- or decrease -- expected payments even though the issuer remains in full compliance with the terms of the borrowing.

Solutions could be found for bonds where there is a lack of certainty concerning the actual dollar amount of cash flows that will be due by using concepts similar to “yield-to-worst”. The accounting and reporting would be relatively simple, “conservative” and most likely effective. It may bring with it some less desirable effects, however, so active discussion and collaboration is necessary. This concept could be implemented by coordinating with the Capital Adequacy Task Force and then SAPWG to develop appropriate reporting procedures.

Another approach would be to treat bonds with embedded options as hybrid securities -- having the characteristics both of debt and non-debt. Unfortunately risk-based capital formulas do not appear to

*<https://www.investopedia.com/terms/y/yieldtoworst.asp#:~:text=Yield%20to%20worst%20is%20a,it%20out%20before%20it%20matures.>

Ms. Mears and Task Force Members

Page Three

5 December, 2022

contemplate such structures presently so in all probability it would require extensive coordination to make this change.

While any possible approach certainly should be discussed at this Task Force along with Capital Adequacy and Statutory Accounting, attempting to layer these risks of option exercise into the existing credit risk structure appears to have relatively little potential. Not only would it be difficult to quantify the added uncertainty by folding these two different risks into Designations but it would also conflate the two and seriously compromise the integrity of Designations. This would make it difficult for them to be used in RBC calculations. Such action should be taken in coordination with the Capital Adequacy Task Force.

Denying that these assets are “bonds” would also be problematic. In fact they are bonds: borrowings with the promise to repay, so they should be classified as such even as work is done to assure reasonable reporting of actual amounts due

Summary

The definition of Designations can be clarified by omitting unnecessary words as shown in the attachment.

Incorporating a “yield to worst” methodology would allow regulators to address the uncertainty in the amount of reported cash flows beyond what is already reflected in measures of credit quality.

A handwritten signature in blue ink, appearing to read "Charles Therriault".

Copies: Charles Therriault and Denise Genao-Rosado

**PART ONE:
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- ~~7. Part A of the SFRS identifies laws and regulations deemed necessary to financial solvency regulation. Analytical products of the SVO and SSG [sometimes collectively called the Investment Analysis Office (IAO)] are directly or indirectly incorporated into SFRS Part A standards.
 - ~~▪ Standard 5 requires that insurer-owned securities be assessed in accordance with the standards promulgated by the NAIC IAO.~~
 - ~~▪ Standard 2 refers to the NAIC Risk-Based Capital (RBC) for ..which assigns RBC factors for securities based on their credit risk as quantified by NAIC Designations.~~
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 - ~~▪ Standard 8 refers to state investment regulations which often incorporate NAIC model law provisions that relate asset allocations to credit quality or credit risk quantified by NAIC Designations.~~
 - ~~▪ Standard 10 refers to the NAIC Credit for Reinsurance Model Law (#785), which refers to insurer-owned securities compiled by the SVO and identified on the List of Investment Securities, and in a separate provision, letters of credits issued by the banks and non-bank financial institutions whose name is placed on the NAIC List of Qualified U.S. Financial Institutions administered by the SVO, as eligible for use as collateral in reinsurance transactions.~~~~

~~8—NAIC Designations and other analytical products of the SVO and SSG are produced solely for the benefit of NAIC members in their capacity as state insurance department officials for use in the NAIC Financial Regulation Standards and Accreditation Program as described above. To ensure NAIC members have a central source from which to obtain information about insurer-owned securities (including their NAIC Designations) the VOS/TF has identified the AVS+ Products as the depository for information compiled by the SVO in the SVO List of Investment Securities~~

NAIC Designations

~~37. The SVO's analysis of credit risk (hereafter defined), is expressed as an opinion of credit quality by assignment of an NAIC Designation that is notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations as defined in this Manual describe a credit quality risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk except when accompanied by the NAIC Designation subscript, described below.~~

- ~~▪ Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.~~
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- ~~▪ An NAIC Designation reflects the appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.~~
- ~~▪ An NAIC Designation must be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS).~~

- ~~NAIC Designations do not measure other risks or factors that may affect repayment, such as volatility/interest rate, prepayment, extension or liquidity risk.~~
- ~~An NAIC Designation must be interpreted by the NAIC member in context of the NAIC Financial Regulation Standards and Accreditation Program, other characteristics of the investment, and the specific financial and regulatory status of the insurance company.~~

Definitions

88. ~~**NAIC Designation**~~— Means any one of the gradations of credit quality and credit risk identified by the ~~NAIC 1 through NAIC 6~~ symbols ~~further discussed and~~ defined in this Manual and may reflect notching pursuant to one or both of the notching procedures discussed in this Manual. ~~NAIC Designations are proprietary symbols of the NAIC to be used by the SVO and SSG or under certain circumstances by an insurer to denote a category or band of credit risk.~~
89. ~~**NAIC Designation Category**~~— Means and refers to 20 more granular delineations of credit risk in the ~~NAIC 1 through NAIC 6~~ credit risk scale used by the VOS/TF to relate credit risk in insurer-owned securities to a risk-based capital factor assigned by the NAIC Capital Adequacy (E) Task Force. Each delineation of credit risk is represented by a letter (a Modifier) which modifies the NAIC Designation grade to indicate a more granular measure of credit risk within the NAIC Designation grade. The more granular delineations of credit risk are distributed as follows: 7 for the ~~NAIC 1~~ Designation grade indicated by the letters A through G; 3 delineations each for each of the NAIC Designation grades ~~NAIC 2, NAIC 3, NAIC 4~~ and ~~NAIC 5~~ indicated by the letters A, B and C and 1 delineation for NAIC Designation grade ~~NAIC 6~~. The NAIC Designation Category framework is shown in this Manual. All Modifiers roll up into the respective NAIC Designation grade as they are a subset of them.

PART TWO
OPERATIONAL AND ADMINISTRATIVE INSTRUCTIONS
APPLICABLE TO THE SVO

PRODUCTION OF NAIC DESIGNATIONS

NAIC DESIGNATIONS

18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations **are measures of the credit risk which is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender.** ~~of individual debt instruments concerning the identify a category or band of credit risk that reflects the likelihood of timely payment of principal and interest, as appropriate, the probability of principal and interest payment default, and the appropriateness and consistency of its use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) including the risk-based capital model factor that will be applied to the security given its level of risk.~~ NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure, ~~the likelihood of timely payment and risk of payment default.~~ NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.
19. **NAIC 1** is assigned to obligations exhibiting the highest quality. Credit risk is at its lowest and the issuer's credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An **NAIC 1** obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program.
20. **NAIC 2** is assigned to obligations of high quality. Credit risk is low but may increase in the intermediate future and the issuer's credit profile is reasonably stable. This means that for the present, the obligation's protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An **NAIC 2** obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.

21. **NAIC 3** is assigned to obligations of medium quality. Credit risk is intermediate and the issuer's credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer's capacity to make timely payments. An **NAIC 3** obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.
22. **NAIC 4** is assigned to obligations of low quality. Credit risk is high and the issuer's credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer's capacity to make timely payments. An **NAIC 4** obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.
23. **NAIC 5** is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer's credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An **NAIC 5** Designation suggests a very high probability of default. An **NAIC 5** obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.
24. **NAIC 6** is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An **NAIC 6** obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program.

APPENDIX

Throughout the P&P Manual there are numerous and consistent descriptions showing that the SVO is charged with assessing credit risk which is defined in Part One, ¶ 37 as “the relative financial capability of an obligor to make the payments contractually promised to a lender.”

Here are over two dozen examples of that:

P1 29 “The NAIC, therefore, rejects the view that insurance company representatives may reasonably rely on **SVO credit assessments**”

P1 32 “This process is distinct from the **SVO's assessment of an investment's credit risk**, which results in a NAIC Designation”

P 1 34 “Because **SVO analytical determinations of credit quality** do not convey opinions, conclusions or informational content relative to statutory accounting status, the SVO may assign an NAIC Designation....”

P1 36 “ The SVO shall conduct the following ongoing operations:
Analysis of credit risk for purposes of assigning an NAIC Designation....”

P1 38 “37. The SVO's analysis of credit risk (**hereafter defined**), is expressed as an opinion of credit quality by assignment of an NAIC Designation that is notched to reflect the position of the specific liability in the issuer's capital structure. Collectively, NAIC Designations as defined in this Manual describe a credit quality-risk gradation range from highest quality (least risk) to lowest quality (greatest risk). NAIC Designations express opinions about credit risk except when accompanied by the NAIC Designation subscript, described below.

- **Credit risk is defined as the relative financial capability of an obligor to make the payments contractually promised to a lender. Credit analysis is performed solely for the purpose of designating the quality of an investment made by an insurance company so that the NAIC member's department of insurance can better identify regulatory treatment.**

P1 38 38. The result of the SVO's credit analysis, expressed as **an opinion of credit quality** by assignment of an NAIC Designation shall be further expanded into NAIC Designation Categories as, and for the purposes, discussed in this Manual

P1 Note Prior to 57 “NOTE: See "Policies Applicable to the Filing Exemption (FE) Process" below; "NAIC Policy on the Use of **Credit Ratings of NRSROs**"

P1 82 “and “**Use of Credit Ratings of NRSROs In NAIC Processes**” and “Definition - Credit Ratings Eligible for Translation to NAIC Designations”

P1 85 “85. NAIC Designation is Capped to Highest NAIC CRP Rating -The SVO shall not assign an NAIC Designation for a security that has a credit rating assigned by an NAIC CRP when the **NAIC Designation would express an opinion of credit** quality higher than that indicated by the rating assigned by the NAIC CRP, except...”

Definitions

88. NAIC Designation - Means any one of the **gradations of credit quality and credit risk** identified by the NAIC 1 through NAIC 6 symbols further discussed and defined in this Manual and may reflect notching pursuant to one or both of the notching procedures discussed in this Manual. NAIC Designations are proprietary symbols of the NAIC to be used by the SVO and SSG or under certain circumstances by an insurer to denote a category or band of credit risk.

89. NAIC Designation Category - Means and refers to 20 more granular delineations of **credit risk** in the NAIC 1 through NAIC 6 credit risk scale used by the VOS/TF to relate credit risk in insurer-owned securities to a risk-based capital factor assigned by the NAIC Capital Adequacy (E) Task Force. Each delineation of credit risk is represented by a letter (a Modifier) which modifies the NAIC Designation grade to indicate a more granular measure of credit risk within the NAIC Designation grade. The more granular delineations of credit risk are distributed as follows: 7 for the NAIC 1 Designation grade indicated by the letters A through G; 3 delineations each for each of the NAIC Designation grades NAIC 2, NAIC 3, NAIC 4 and NAIC 5 indicated by the letters A, B and C and 1 delineation for NAIC Designation grade NAIC 6. The NAIC Designation Category framework is shown in this Manual. All Modifiers roll up into the respective NAIC Designation grade as they are a subset of them.

Part Two

18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. **NAIC Designations identify a category or band of credit risk.** NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.

19. **NAIC 1 is assigned to obligations exhibiting the highest quality. Credit risk** is at its lowest and the issuer's credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An NAIC 1 obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program

20. **NAIC 2 is assigned to obligations of high quality. Credit risk** is low but may increase in the intermediate future and the issuer's credit profile is reasonably stable. This means that for the present, the obligation's protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An NAIC 2 obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.

21. **NAIC 3 is assigned to obligations of medium quality. Credit risk** is intermediate and the issuer's credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is

reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer's capacity to make timely payments. An NAIC 3 obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program

22. NAIC 4 is assigned to obligations of low quality. Credit risk is high and the issuer's credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer's capacity to make timely payments. An NAIC 4 obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

23. NAIC 5 is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer's credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An NAIC 5 Designation suggests a very high probability of default. An NAIC 5 obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.

24. NAIC 6 is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An NAIC 6 obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program

29. Securities with NAIC SGI Designations are deemed to possess the credit characteristics of securities assigned an NAIC 5 Designation. A security assigned an NAIC SGI Designation incurs the regulatory treatment associated with an NAIC 5 Designation

31. Securities with NAIC 6* Designations are deemed to possess the credit characteristics of securities assigned an NAIC 6 Designation.

36. The SVO shall conduct the following ongoing operations:

- Analysis of credit risk for purposes of assigning an NAIC Designation.
- Identification and analysis of securities that contain other non-payment risk and communication of this information by assignment of the NAIC Designation subscript to such securities.

42. Illustration - The distinctions in credit risk made in the notching process involve (conceptually) the issuer's actual capital structure. The hypothetical capital structure below is shown to illustrate and explain notching:

Senior secured	Notch up from the benchmark
Senior unsecured	Benchmark NAIC Designation
Senior subordinated	Notch down from the benchmark
Junior subordinated	Notch down from benchmark
Preferred stock	Notch down from benchmark

97. For purposes of this section, probable regulatory treatment means the professional opinion of the SVO as to the credit quality designation

143. Listing a Counterparty-An insurance company that wants to have a counterparty listed on the List of Counterparties Rated by the SVO for Schedule DB, Part D, Section 1 shall submit to the SVO:...

- ...Evidence of an NAIC CRP counterparty rating, an NAIC CRP senior unsecured rating or a copy of the most recent Audited Financial Statement for the counterparty, or the counterparty's guarantor, so that the SVO can assess credit quality and assign an NAIC Designation

155. An NRSRO that wishes to provide Credit Rating Services to the NAIC may indicate its interest by sending a letter to the Chair of the VOS/TF with a copy to the Director of the SVO, in which it:...

- ...Provides a chart relating its credit rating symbols to NAIC Designations.

Part Three

46. The following terms have the meaning shown below:

- Credit Substitution Methodology - Refers to an analytical technique in which an NAIC Designation is assigned to a security on the basis of the credit strength of a third party

279. Credit Risk Assessment - A calculation of the credit risk of a fund's underlying investment portfolio using a weighted average rating factor methodology (WARF)...

NAIC Fund Methodology*

287. The SVO shall:

- Conduct a look-through assessment
- Conduct a credit-risk assessment to determine the credit risk of the fund's cash flows.
- Conduct a speculative characteristics analysis.
- Determine whether the fund's cash flow can or cannot be appropriately characterized as fixed income like for regulatory purposes.
- If the SVO determines that the fund's cash flow can be appropriately characterized as fixed income for regulatory purposes, it assigns an NAIC Designation to reflect the credit risk associated with the fund's cash flow and includes the name of the fund on the appropriate NAIC List.**

** NOTE: The NAIC Designation does not address the fund's ability to meet payment obligations because the insurer/ shareholder does not own the bonds in the portfolio; the NAIC Designation instead conveys the credit risk/ quality of the fixed income like cash flow generated by the ETF.



Mike Monahan
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December 5, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners
110 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to the Purposes and Procedures Manual of the NAIC Investment Analysis Office (the "P&P Manual") to Clarify the Definition of an NAIC Designation in Part One and Part Two

Dear Ms. Mears,

The undersigned (ACLI, PPIA, and NASVA) appreciate the opportunity to comment on the exposure referred to above that was released for comment by the Valuation of Securities Task Force (VOSTF) on October 20, 2022.

The undersigned generally like to provide constructive comments surrounding VOSTF exposures (and NAIC exposures more generally). We consistently ask ourselves the following questions:

- 1) What objective(s) are the proposed changes trying to achieve?
- 2) Do the proposed changes achieve the objective(s) and/or are they appropriate?
- 3) If the proposed changes do not achieve the objective, or are not appropriate, what constructive comments can we provide?

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

acli.com

PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office ("SVO") to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC's ISIS electronic security filing system, and commenting on year-end processes.

Our comments will be provided through this lens for both Part One Proposed Changes and Part Two Proposed Changes.

Part One Proposed Changes

The proposed changes to Part One of the P&P Manual can appear benign, but the objective is unclear. The following provides some thoughts for which VOSTF members may want to consider prior to adopting.

As previously noted by industry, regulators and the SVO, the P&P Manual can be at times difficult to follow and interpret. Industry believes that are three reasons, in part, that contribute to this difficulty:

- 1) The objectives of proposed changes included within exposures are at times themselves not sufficiently clear and/or the practical considerations only becomes known at some later date through subsequent interpretation.
- 2) Over time, changes to the P&P Manual are made that are incremental without fully considering what is said in other parts.
- 3) There are ambiguities and inconsistencies between parts, or even within parts, which make understanding the P&P Manual challenging and open to interpretation.

The proposed changes to Part One have an overriding objective to “Clarify the Definition of an NAIC Designation” and includes the following proposed changes to paragraph 37, in Part One of the P&P Manual, which defines what an NAIC designation represents:

- 1) An NAIC Designation reflects the likelihood of timely payment of principal and interest, as appropriate, and the probability of principal and interest payment default.
- 2) An NAIC Designation reflects the appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.
- 3) An NAIC Designation must be considered in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS).

Theoretically, the proposed changes could be hard to argue against (e.g., NAIC designations should be consistent with the risk-based model factors). However, the proposed changes may be more aspirational and not achieve the objective of trying to “Clarify the Definition of an NAIC Designation.”

For example, it is our understanding the risk-based capital factors were developed using Moody’s historic corporate bond default and loss given default data. If the first two proposed changes are added to what an NAIC Designation represents, will this provide additional clarity or just raise additional questions?

More specifically, if NAIC designations represent “probability of default” while the risk-based capital factors “represent both probability of default and the loss given a default” – are NAIC Designations and risk-based capital factors, by definition, inconsistent? Does this provide additional clarity or just raise further potential inconsistencies?

What practical considerations do the proposed changes have?

- 1) Do the NAIC risk-based capital factors need to be changed to be consistent with the definition of an NAIC Designation?

Our understanding, from recent discussions with the majority of rating agencies, is that they all essentially utilize a blended probability of default/loss given default methodology for rating bonds – e.g., more of a probability of default for investment grade securities, with a shift in direction toward factoring in loss given default for securities at the lower end of investment grade or below investment grade, although the specifics depend upon rating agency, type of security, and situational context.

- 2) Does this mean that some, part, or all of rating agencies' ratings, upon which NAIC Designations are based, are not consistent with the risk-based capital factors – i.e., NAIC designations need to change to be consistent with the NAIC risk-based capital factors?

It is our understanding that not only are the risk-based capital factors based on both probability of default and the loss given a default, but they are also based on the universe of public bonds rated by Moody's.

- 3) Does this mean that only NAIC Designations based upon Moody's ratings, or SVO evaluations utilizing a methodology consistent with Moody's methodology, consistent with the NAIC risk-based capital factors?

Prior to adopting this language, we urge the VOSTF to carefully think through these questions, including any practical considerations related to an NAIC Designation being in the context of its appropriateness and consistency of use in the NAIC Policy Statement and Financial Regulation Standards (SFRS). If the proposed changes are deemed appropriate, and the VOSTF members want to adopt them, industry has only two asks.

One, the first proposed change would need to include the shaded language to 1) be consistent with paragraph 35 (included in Part Two of the P&P Manual and discussed below) and 2) not be inconsistent with the second last bullet of paragraph 37 related to liquidity and deferrals.

An NAIC Designation reflects the likelihood of timely payment of principal and interest (as defined in the contractual debt documents), as appropriate, and the probability of principal and interest payment default.

Two, share with industry any further objective(s), including any practical considerations or implications of the proposed changes, so industry is not surprised of their impact via a subsequent interpretation.

Part Two Proposed Changes

The other proposed change relates to Part Two of the P&P Manual entitled, "Operational and Administrative Instructions Applicable to the SVO," the first paragraph (paragraph 18) of the "Production of NAIC Designations" section. The whole of that section is included as an Attachment to this letter as we will be referring to specific paragraphs. The proposed changes to paragraph 18 are included below:

18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations identify a category or band of credit risk that reflects the likelihood of timely payment of principal and interest, as appropriate, the probability of principal and interest payment default, and the appropriateness and consistency of its use in the NAIC Policy Statement and Financial Regulation Standards (SFRS) including the risk-based capital model factor that will be applied to the security given its level of risk. NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure, the likelihood of timely payment and risk of payment default. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.

Unlike the proposed changes to Part One, which are related to the definition of an NAIC Designation, this section relates to “Operational and Administrative Instructions Applicable to the SVO.”

No rationale was provided as to the objective for these changes. However, the section suggests the proposed changes relate to operational and/or administrative changes applicable to the SVO.

Currently, industry understands there are two instances for which notching is appropriate in the P&P Manual – 1) “position of a specific security in the issuer’s capital structure” and 2) “non-payment risk” related to Subscript S securities. Both instances are mentioned in paragraph 18 above, and each more fully explained in the section attached to this letter.

Industry understands these notching procedures are applied to securities that are not filing exempt. The SVO, not unlike how rating agencies apply their rating methodologies, designates the issuer and adjusts the designation for where the specific security is within the capital structure. In paragraph 39, notching for Subscript S is utilized “routinely, for any security or financial product filed with the SVO.”

Currently, it appears the SVO makes limited use of Subscript S notching as evidenced by relatively few Subscript S designations as described in paragraph 38 of the attachment. However, the SVO is concurrently looking to expand the definition of Subscript S securities in ways that conflict with the definition of an NAIC designation, as highlighted in our letter of September 12, 2022, while also suggesting it applies to filing exempt securities. However, the proposed changes now add a third instance for notching: 3) “likelihood of timely payment and risk of payment default.” There is no further objective of explanation for this third instance.

Close examination of the P&P Manual language related to Subscript S securities (i.e., paragraph 39) suggests it does not apply to filing exempt securities. If this interpretation is incorrect, the addition of the proposed language, which is a third instance of notching in the highlighted portion of the paragraph above, would then seem to suggest notching itself applies to all securities that are filing exempt and raises the question of whether all securities need to be filed with the SVO (i.e., essentially all securities have to be adjusted for where they are within the capital structure by the SVO (as are

already done so by rating agencies) and for which the SVO wants to notch due to not meeting the “likelihood of timely payment and risk of default” (see also our comments related to similar but not identical language under Part One above that also needs adjustment in that context)).

The SVO has not been able to explain to industry which populations of securities are subject to notching – filing exempt securities, filed securities, neither, or both. Combined with other recent and concurring exposures, such as the proposed expansion of securities meeting the definition of Subscript S, and the lack of insight into the overall rationale and objectives of this part of the VOSTF exposure, industry is challenged to fully react to and provide constructive comments due to our lack of understanding of what the practical implications and considerations are. Therefore, with regards to the proposed changes to Part Two, we ask the VOSTF to help industry understand such objectives and practical implications.

In summary, we are uncertain as to the actual objectives and the likely downstream effects, and do not want to be surprised by their impact upon any future subsequent interpretation.

We stand ready to work collaboratively with the Task Force and SVO on this and other matters in the future.

Sincerely,



Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey
NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Director

PRODUCTION OF NAIC DESIGNATIONS

NAIC DESIGNATIONS

18. NAIC Designations are proprietary symbols of the NAIC. The SVO and sometimes the SSG produce NAIC Designations for insurer-owned securities using the policies, procedures or methodologies adopted by the VOS/TF in this Manual. NAIC Designations identify a category or band of credit risk. NAIC Designations are produced for statutory accounting, reporting, state investment laws and other purposes identified in the NAIC Financial Regulation Standards and Accreditation Program and/or other NAIC developed regulatory guidance embodied in state law. NAIC Designations are adjusted in accordance with the notching procedures described below so that an NAIC Designation for a given security reflects the position of that specific security in the issuer's capital structure. NAIC Designations may also be adjusted by notching to reflect the existence of other non-payment risk in the specific security in accordance with the procedures described in this Manual.
19. **NAIC 1** is assigned to obligations exhibiting the highest quality. Credit risk is at its lowest and the issuer's credit profile is stable. This means that interest, principal or both will be paid in accordance with the contractual agreement and that repayment of principal is well protected. An **NAIC 1** obligation should be eligible for the most favorable treatment provided under the NAIC Financial Regulation Standards and Accreditation Program.
20. **NAIC 2** is assigned to obligations of high quality. Credit risk is low but may increase in the intermediate future and the issuer's credit profile is reasonably stable. This means that for the present, the obligation's protective elements suggest a high likelihood that interest, principal or both will be paid in accordance with the contractual agreement, but there are suggestions that an adverse change in circumstances or economic, financial or business conditions will affect the degree of protection and lead to a weakened capacity to pay. An **NAIC 2** obligation should be eligible for relatively favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.
21. **NAIC 3** is assigned to obligations of medium quality. Credit risk is intermediate and the issuer's credit profile has elements of instability. These obligations exhibit speculative elements. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is reasonable for the present, but an exposure to an adverse change in circumstances or economic, financial or business conditions would create an uncertainty about the issuer's capacity to make timely payments. An **NAIC 3** obligation should be eligible for less favorable treatment under the NAIC Financial Regulation Standards and Accreditation Program.

22. **NAIC 4** is assigned to obligations of low quality. Credit risk is high and the issuer's credit profile is volatile. These obligations are highly speculative, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is low and that an adverse change in circumstances or business, financial or economic conditions would accelerate credit risk, leading to a significant impairment in the issuer's capacity to make timely payments. An **NAIC 4** obligation should be accorded stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.
23. **NAIC 5** is assigned to obligations of the lowest credit quality, which are not in or near default. Credit risk is at its highest and the issuer's credit profile is highly volatile, but currently the issuer has the capacity to meet its obligations. This means that the likelihood that interest, principal or both will be paid in accordance with the contractual agreement is significantly impaired given any adverse business, financial or economic conditions. An **NAIC 5** Designation suggests a very high probability of default. An **NAIC 5** obligation should incur more stringent treatment under the NAIC Financial Regulation Standards and Accreditation Program.
24. **NAIC 6** is assigned to obligations that are in or near default. This means that payment of interest, principal or both is not being made, or will not be made, in accordance with the contractual agreement. An **NAIC 6** obligation should incur the most severe treatment under the NAIC Financial Regulation Standards and Accreditation Program.

NOTE: See "NAIC Designations," "Prohibition on Use of NAIC Designation in a Covenant" and "Coordination Between the Statutory Accounting Principles Working Group and the Valuation of Securities Task Force" in Part One; "NAIC Designation Categories" below; and "Procedure Applicable to Filing Exempt (FE) Securities and Private Letter (PL) Rating Securities" in Part Three.

NAIC DESIGNATION CATEGORIES

- 25. Upon the determination of an NAIC Designation, the SVO produces NAIC Designation Categories, as described and defined in this Manual.
- 26. NAIC Designation Categories are a subset of NAIC Designations and are used by the VOS/TF to link the NAIC risk-based-capital (RBC) framework adopted by the NAIC Capital Adequacy (E) Task Force to the VOS/TF’s credit assessment process. The NAIC Capital Adequacy (E) Task Force assigns RBC factors to each NAIC Designation Category as shown below.

NAIC Designation	+	NAIC Designation Modifier	=	NAIC Designation Category
1		A		1.A
1		B		1.B
1		C		1.C
1		D		1.D
1		E		1.E
1		F		1.F
1		G		1.G
2		A		2.A
2		B		2.B
2		C		2.C
3		A		3.A
3		B		3.B
3		C		3.C
4		A		4.A
4		B		4.B
4		C		4.C
5		A		5.A
5		B		5.B
5		C		5.C
6				6

NAIC DESIGNATIONS RELATED TO SPECIAL REPORTING INSTRUCTION

27. An insurance company that self-assigns a 5GI must attest that securities receiving this designation meet all required qualifications by completing the appropriate general interrogatory in the statutory financial statements. If documentation necessary for the SVO to perform a full credit analysis for a security does not exist or if an NAIC CRP credit rating for an FE or PL security is not available, but the issuer is not current on contractual interest and principal payments, and/or if the insurer does not have an actual expectation of ultimate payment of all contracted interest and principal, the insurance company is required to self-assign this security an NAIC 6*.
28. NAIC 6* is assigned by an insurer to an obligation in lieu of reporting the obligation with appropriate documentation in instances in which appropriate documentation does not exist, but the requirements for an insurance company to assign a 5GI are not met.
29. Securities with NAIC 5GI Designations are deemed to possess the credit characteristics of securities assigned an NAIC 5 Designation. A security assigned an NAIC 5GI Designation incurs the regulatory treatment associated with an NAIC 5 Designation.
30. Securities an insurance company previously assigned as NAIC 5GI are permitted to subsequently receive this designation if the requirements for an NAIC 5GI designation continue to be met.
31. Securities with NAIC 6* Designations are deemed to possess the credit characteristics of securities assigned an NAIC 6 Designation. Therefore, a security assigned an NAIC 6* Designation incurs the regulatory treatment associated with an NAIC 6 Designation.
32. Securities that are residual tranches or interests, as defined in *SSAP 43R – Loan Backed and Structured Securities*, shall be reported on Schedule BA - Other Long-Term Invested Assets, without an NAIC Designation and are ineligible to be assigned an NAIC 5GI or NAIC 6* Designation.

NOTE REGARDING RESIDUAL TRANCHES OR INTERESTS: For 2021 year-end reporting only, residual tranches or interests previously reported on Schedule D-1: Long-Term Bonds shall be permitted to be reported on Schedule D-1 with an NAIC 6* Designation, however an NAIC 5GI is not permitted.

NOTE: The GI after the quality indicator 5 refers to General Interrogatory and distinguishes NAIC 5GI from an NAIC 5 Designation. The asterisk (*) after the quality indicator 6 distinguishes the NAIC 6* Designation from an NAIC 6 Designation.

NAIC DESIGNATION SUBSCRIPT S

Description of Other Non-Payment Risk

33. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.
34. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.
35. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a schedules basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).
36. Using the broad concepts identified above, non-payment risk may be present when:
 - A reporting insurance company takes on a participatory risk in the transaction;
 - *Illustration* – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.
 - The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;

- *Illustration* – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.
 - *Illustration* – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity dates (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.
37. Agrees to an exposure that has the potential to result in a significant delay in payment of contractually promised interest and/or a return of principal in an amount less than the original investment.

Meaning of the Subscript S Symbol

38. An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.
39. The SVO shall assess securities for other non-payment risk:
- Routinely, for any security or financial product filed with the SVO.
 - As part of the analysis of a security or financial product submitted to the SVO under the RTAS – Emerging Investment Vehicle process discussed in of this Manual.
 - When requested to do so by any state insurance regulator acting pursuant to this Manual, and:
 - When requested by the VOS/TF; or
 - In support of any other NAIC group engaged in the analysis of investment risks in new securities.

NOTE: See “NAIC Designation Subscript S” in Part One.

SVO NOTCHING GUIDELINES

Definition and Purpose

- 40. Notching is defined as the process used to make distinctions between different liabilities in an issuer capital structure to reflect differences in credit or other non-payment risk smaller than a whole grade. Notching expresses differences in expected loss (i.e., severity) of an issuer’s liabilities by their relative priority of claim in bankruptcy.
- 41. With the exception of **NAIC 6**, notching distinctions are expressed by combining an NAIC Designation with an NAIC Designation Modifier to produce an NAIC Designation Category. For example, as shown in the table above, **NAIC 1** is combined with NAIC Designation Modifier 1.A to produce the NAIC Designation Category 1.A. Modifiers are used with or assigned to the **NAIC 6** Designation.

Notching NAIC Designation Categories (to Reflect Credit Risk)

- 42. **Illustration** – The distinctions in credit risk made in the notching process involve (conceptually) the issuer’s actual capital structure. The hypothetical capital structure below is shown to illustrate and explain notching:

Senior secured	Notch up from the benchmark
Senior unsecured	Benchmark NAIC Designation
Senior subordinated	Notch down from the benchmark
Junior subordinated	Notch down from benchmark
Preferred stock	Notch down from benchmark

Methodology

- 43. The SVO determines the benchmark NAIC Designation Category for the senior unsecured obligation of the issuer or its equivalent. The SVO adjusts the benchmark NAIC Designation Category up or down to reflect the difference in risk between the benchmark security and the specific liability under review by the SVO.

SVO Guidelines for Notching

- 44. The SVO shall notch an NAIC Designation Category for an issuer up or down to reflect the position of a specific liability in the issuer’s capital structure.

45. Notching upward from a benchmark NAIC Designation Category is almost exclusively associated with transactions in which the SVO determines that collateral act to further reduce the probability of default from that implied by the issuer's senior unsecured NAIC Designation Category.
46. In determining the number of notches that should be applied to a security, the SVO shall apply the following guidelines.

Notching Investment Grade Issuers

47. Notching for issuer's whose senior unsecured benchmark NAIC Designation is **NAIC 1** and **NAIC 2** is therefore based on the following general guidelines:
 - **Secured debt** may be designated one notch above the senior unsecured issuer designation.
 - **Subordinated debt** (including junior and senior subordinated) are generally designated one notch below the senior unsecured rating.
 - **Preferred debt** will generally be designated one notch below subordinated debt (two below senior unsecured or senior implied).
 - **Holding company debt** is generally designated at or below the lowest rated debt security that would be assigned at the principal operating company.

Notching for Non-Investment Grade Issuers

48. Given the risks associated with non-investment grade issues, notching for issuer's whose senior unsecured benchmark NAIC Designation is **NAIC 3**, **NAIC 4** and **NAIC 5** requires grater professional judgment and discretion.
49. As such, notching differentials for issuers with **NAIC 3**, **NAIC 4** and **NAIC 5** Designations may be wider than for issuer's whose senior unsecured NAIC Designation is **NAIC 1** or **NAIC 2**.

Notching for NAIC Designation Subscript (to Reflect Non-Payment Risk Unrelated to Credit Risk)

50. **Grant of Significant Discretion** – The SVO is granted significant discretion to determine the number of notches it will assign to a security to reflect other non-payment risk. This discretion is to be exercised in the context of the regulatory objective and purpose of this procedure. SVO determinations made under this subparagraph are subject to review in accordance with the procedures described of this Part, above.

Relevant Considerations

51. The name given to the security is not relevant to a determination whether this subparagraph should be applied. The relevant criterion is whether the risks in the security are clearly credit risks or whether they are not clearly credit risks.
52. Factors the SVO may deem relevant to the question of notching for other non-payment risk may include:
 - Any security or financial instrument denominated with a term associated with fixed income investments must contain a clearly stated obligation to pay a return and to repay the amount of the principal repayment. Otherwise it is not rational or possible to assign an NAIC Designation.
 - Any security or financial instrument denominated as fixed income that does not contain a legally binding obligation to pay shall not be assigned an NAIC Designation and instead will be reported to the VOS/TF and the Chief Examiner of the State of Domicile.
 - Any security or financial instrument that is denominated as fixed income and that contains a promise to pay that is otherwise conditional may be notched either under this subparagraph to reflect other non-payment risks or under the notching procedure for credit risk to reflect the expected loss of that obligation in the issuer's specific capital structure, depending on which approach seems more appropriate to the SVO.
53. The widest degree of notching for a security or financial instrument is likely to be for a security that is denominated as fixed income, but which is deemed to be a perpetual investment and to not require payment of dividends.
54. In contracts that permit the issuer flexibility to not make payments, the SVO would focus on the degree of financial discretion afforded the issuer to not make payments and the circumstances under which that financial flexibility will be exercised.
55. In contracts where the insurer agrees to accept a risk or participate in an activity that may reduce either the interest or dividend otherwise agreed on or the amount to be repaid to less than the original principal investment, the SVO would consider whether the risk of a loss is structurally or otherwise mitigated.
56. Notching differentials are expected to be wider for **NAIC 3**, **NAIC 4** and **NAIC 5** issuers because the issuer's credit risk is deemed to increase the likelihood that the issuer will avail itself of contractually provided flexibility to not pay or increase the likelihood of a loss as a result of the insurer's participatory activity.

57. Deferral of dividends in a security denominated preferred stock is presumed to be subject to notching for credit risk subject to an SVO determination that the denomination is not truly reflective of the terms of the agreement in which case it may be more appropriately notched for other than credit risk.
58. In a given capital structure, the priority of payment due to an investor may be so subordinated as to require treatment under these guidelines for other non-payment risk. This is especially true where deep subordination is combined with a right to defer interest.

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2022-012.03 ACLIDesigDefResponse_v1205221.docx

MEMORANDUM

TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Tom Botsko, Chair, Capital Adequacy (E) Task Force and Property and Casualty Risk-Based Capital (E) Working Group
Philip Barlow, Chair, Risk-Based Capital Investment Risk and Evaluation (E) Working Group and Life Risk-Based Capital (E) Working Group
Steve Drutz, Chair, Health Risk-Based Capital Working Group

DATE: December 8, 2022

RE: Clarification of the Definition of an NAIC Designation in Part One and Part Two of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) (Dated Sept. 30, 2022) Amendment to Nov. 30, 2022, Comment Letter

Thank you for the opportunity to provide additional feedback on the letter that was provided to this group dated Nov. 30, 2022.

Upon further discussion with the Valuation of Securities (E) Task Force in the last several days, we have a better understanding of the concept it was proposing with the original wording.

Therefore, we will be working together on revised wording for this bullet point that expresses how the Valuation of Securities (E) Task Force works with the Capital Adequacy (E) Task Force, the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, the Property and Casualty Risk-Based Capital (E) Working Group, and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group to use the designations provided by Valuation of Securities (E) Task Force in the analysis for determining the risk-based capital (RBC) charges.

Thank you for the opportunity to provide input to this exposure. We look forward to discussing this with you and the Task Force at your convenience.

MEMORANDUM

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Members of the Valuation of Securities (E) Task Force

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Philip Barlow, Chair, Risk-Based Capital Investment Risk and Evaluation (E) Working Group and Life Risk-Based Capital (E) Working Group
Steve Drutz, Chair, Health Risk-Based Capital Working Group

DATE: November 30, 2022

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Thank you for the opportunity to provide feedback on the update to the exposed definition on the referenced document. Under part 37 of the NAIC designation section, the second added bullet item states the following:

“An NAIC Designation reflects the appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.”

We believe that this statement conflicts with the mission and purpose of the Capital Adequacy (E) Task Force, the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, the Property and Casualty Risk-Based Capital (E) Working Group, and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group. Therefore, we recommend that this bullet point be removed. While the appropriate designation assignment is important, it is the responsibility of the Capital Adequacy (E) Task Force and the supporting risk-based capital (RBC) working groups to determine and recommend the appropriate charge (model factor) in all aspects of the RBC formulas.

In addition, the next to last bullet point of this same section mentions that the NAIC designations do not measure other risks. This further supports the request to remove this proposed item. The Capital Adequacy (E) Task Force and its working groups assess all the risks as appropriate to determine the RBC charge associated with the investment. An investment’s designation may result in a different RBC factor once the specific investment type is analyzed. While an NAIC designation may be used for multiple types of investments, the appropriate RBC charge may vary greatly depending on the analysis, and in particular, because of the type of investment.

Once the Capital Adequacy (E) Task Force is aware of a change or implementation of a new or revised designations, the Task Force and it’s working groups will work with the other working groups or task forces to determine the best approach to evaluate the appropriate RBC charge associated with the assigned designation for a given investment type.

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As you may recall, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group was created to work with the Valuation of Securities (E) Task Force and other groups in parallel to streamline the process of determining and evaluating the appropriate RBC charge for new investment types. As investments are recommended to be reported separately in the annual statement, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group should receive a referral or at least be made aware of the plan to segregate a new investment type for reporting purposes. The Capital Adequacy (E) Task Force and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group need to keep in close communication with these proposals to make sure an appropriate charge is available when the reporting change is implemented. In addition, if the reason for a plan to segregate a specific investment type for reporting purposes is primarily to change the applicable RBC charge, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group should discuss whether this segregation is appropriate prior to any plan to segregate the investment type.

Because the Risk-Based Capital Investment Risk and Evaluation (E) Working Group is relatively new to the Capital Adequacy (E) Task Force, it is imperative that we all communicate our priorities and proposals to improve the process.

As the Risk-Based Capital Investment Risk and Evaluation (E) Working Group takes on its new responsibilities, it will continue to prioritize its tasks, as well as any new proposals.

Thank you for the opportunity to provide input to this exposure. We are happy to discuss this with you and the Task Force at your convenience.



MEMORANDUM

TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Tom Botsko, Chair, Capital Adequacy (E) Task Force and Property and Casualty Risk-Based Capital (E) Working Group
Philip Barlow, Chair, Risk-Based Capital Investment Risk and Evaluation (E) Working Group and Life Risk-Based Capital (E) Working Group
Steve Drutz, Chair, Health Risk-Based Capital Working Group

DATE: December 8, 2022

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Therefore, we will be working together on revised wording for this bullet point that expresses how the Valuation of Securities (E) Task Force works with the Capital Adequacy (E) Task Force, the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, the Property and Casualty Risk-Based Capital (E) Working Group, and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group to use the designations provided by Valuation of Securities (E) Task Force in the analysis for determining the risk-based capital (RBC) charges.

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Philip Barlow, Chair, Risk-Based Capital Investment Risk and Evaluation (E) Working Group and Life Risk-Based Capital (E) Working Group
Steve Drutz, Chair, Health Risk-Based Capital Working Group

DATE: November 30, 2022

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Thank you for the opportunity to provide feedback on the update to the exposed definition on the referenced document. Under part 37 of the NAIC designation section, the second added bullet item states the following:

“An NAIC Designation reflects the appropriateness and consistency of the risk-based capital model factor that will be applied to the security given its level of risk.”

We believe that this statement conflicts with the mission and purpose of the Capital Adequacy (E) Task Force, the Life Risk-Based Capital (E) Working Group, the Health Risk-Based Capital (E) Working Group, the Property and Casualty Risk-Based Capital (E) Working Group, and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group. Therefore, we recommend that this bullet point be removed. While the appropriate designation assignment is important, it is the responsibility of the Capital Adequacy (E) Task Force and the supporting risk-based capital (RBC) working groups to determine and recommend the appropriate charge (model factor) in all aspects of the RBC formulas.

In addition, the next to last bullet point of this same section mentions that the NAIC designations do not measure other risks. This further supports the request to remove this proposed item. The Capital Adequacy (E) Task Force and its working groups assess all the risks as appropriate to determine the RBC charge associated with the investment. An investment’s designation may result in a different RBC factor once the specific investment type is analyzed. While an NAIC designation may be used for multiple types of investments, the appropriate RBC charge may vary greatly depending on the analysis, and in particular, because of the type of investment.

Once the Capital Adequacy (E) Task Force is aware of a change or implementation of a new or revised designations, the Task Force and it’s working groups will work with the other working groups or task forces to determine the best approach to evaluate the appropriate RBC charge associated with the assigned designation for a given investment type.

As you may recall, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group was created to work with the Valuation of Securities (E) Task Force and other groups in parallel to streamline the process of determining and evaluating the appropriate RBC charge for new investment types. As investments are recommended to be reported separately in the annual statement, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group should receive a referral or at least be made aware of the plan to segregate a new investment type for reporting purposes. The Capital Adequacy (E) Task Force and the Risk-Based Capital Investment Risk and Evaluation (E) Working Group need to keep in close communication with these proposals to make sure an appropriate charge is available when the reporting change is implemented. In addition, if the reason for a plan to segregate a specific investment type for reporting purposes is primarily to change the applicable RBC charge, the Risk-Based Capital Investment Risk and Evaluation (E) Working Group should discuss whether this segregation is appropriate prior to any plan to segregate the investment type.

Because the Risk-Based Capital Investment Risk and Evaluation (E) Working Group is relatively new to the Capital Adequacy (E) Task Force, it is imperative that we all communicate our priorities and proposals to improve the process.

As the Risk-Based Capital Investment Risk and Evaluation (E) Working Group takes on its new responsibilities, it will continue to prioritize its tasks, as well as any new proposals.

Thank you for the opportunity to provide input to this exposure. We are happy to discuss this with you and the Task Force at your convenience.

[https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2022-012.04 Memo to the VOSTF \(002\).docx](https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2022-012.04 Memo to the VOSTF (002).docx)



TO: Kevin Fry, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Update the Definition of Other Non-Payment Risk Assigned a Subscript "S" in the P&P Manual

DATE: November 15, 2021

Summary – Securities that possess “Other Non-Payment Risks” are intended to be reviewed by the SVO but these investments have not been explicitly included on the list of Specific Populations of Securities Not Eligible For Filing Exemption in Part Three of the *Purposes Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual). Securities with other non-payment risks are identified through assignment of the Administrative Symbol “S” as a subscript to the NAIC Designation. This amendment adds “Securities with Other Non-Payment Risks” to the list of securities that are ineligible for filing exemption.

As noted in Part One, paragraph 90, of the P&P Manual, *“An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process.”*

The proposed amendment further clarifies through additional illustrations that securities that:

- a) incorporate the performance of other assets to determine their contractual payments, either directly or indirectly through reference pools, equity baskets, or indices;
- b) receive payments as the remainder or residual cashflow after all other payment obligations have been made;
- c) receive additional performance or bonus cashflows; or
- d) have no contractual events of payment default;

would also be considered as having “Other Non-Payment Risks”.

Proposed Amendment - The text changes to update the definition of “Other Non-Payment Risks” and include Securities with Other Non-Payment Risk as a security type ineligible for filing exemption is shown below with additions in red underline and deletions in ~~red strikethrough~~, as it would appear in the 2021 P&P Manual format.

PART TWO
OPERATIONAL AND ADMINISTRATIVE INSTRUCTIONS
APPLICABLE TO THE SVO

NAIC DESIGNATION SUBSCRIPT S

Description of Other Non-Payment Risk

32. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.
33. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.
34. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a schedules basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).
35. Using the broad concepts identified above, non-payment risk may be present when:
 - A reporting insurance company takes on a participatory risk in the transaction;
 - *Illustration* – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.
 - The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;

- *Illustration* – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.
- *Illustration* – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity date* (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.
- The governing agreements permit irregular or conditional payments that are incompatible with the notion of an issuer making scheduled payments of interest and repaying principal in full to the insurer on a date certain;
 - *Illustration* – A security that incorporates the performance of other assets to determine contractual payments, principal or interest, either directly or indirectly through references to asset pools, equity baskets, or non-interest rate indices.
 - *Illustration* – A security that receives payments as the remainder or residual cashflow after all other payment obligations have been made.
 - *Illustration* – A security that receives performance or bonus cashflows in addition to scheduled payments of principal and interest.
 - *Illustration* – A security with no contractual events of payment default.
- Agrees to an exposure that has the potential to result in a significant delay in payment of contractually promised interest and/or a return of principal in an amount less than the original investment.

Meaning of the Subscript S Symbol

36. An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.
37. The SVO shall assess securities for other non-payment risk:
 - Routinely, for any security or financial product filed with the SVO.
 - As part of the analysis of a security or financial product submitted to the SVO under the RTAS – Emerging Investment Vehicle process discussed in of this Manual.
 - When requested to do so by any state insurance regulator acting pursuant to this Manual, and:

- When requested by the VOS/TF; or
- In support of any other NAIC group engaged in the analysis of investment risks in new securities.

NOTE: SEE “NAIC DESIGNATION SUBSCRIPT S” IN PART ONE.

PART THREE
SVO PROCEDURES AND METHODOLOGY FOR PRODUCTION OF NAIC
DESIGNATIONS

PROCEDURE APPLICABLE TO FILING EXEMPT (FE) SECURITIES AND PRIVATE LETTER (PL) RATING SECURITIES

...

FE SECURITIES

Filing Exemption

3. Bonds, within the scope of SSAP No. 26R and SSAP No. 43R (excluding RMBS and CMBS subject to financial modeling) and Preferred Stock within scope of SSAP No. 32, that have been assigned an Eligible NAIC CRP Rating, as described in this Manual, are exempt from filing with the SVO (FE securities) with the exception of Bonds and/or Preferred Stock explicitly excluded below.

Specific Populations of Securities Not Eligible for Filing Exemption

4. The filing exemption procedure does not apply to:

...

- Securities with Other Non-Payment Risks – As noted in Parts One and Two of this Manual, the regulatory assumption of a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A security that is inconsistent with this assumption contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption.

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2023/2023-05-15 Interim meeting/01-Definition of NAIC Designation Part Two/2021-047.01 VOSTF_2021_Other_Non-Pmt_Risk_.docx



Mike Monahan
Senior Director, Accounting Policy
202-624-2324 t
mikemonahan@acli.com

February 10, 2022

Ms. Carrie Mears, Chair
Valuation of Securities Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript S

Dear Ms. Mears,

The American Council of Life Insurers (“ACLI”), Private Placement Investors Association (“PPIA”), and North American Securities Valuation Association (“NASVA”) (“the undersigned”) appreciate the opportunity to engage with state regulators and the NAIC on the SVO’s proposed Amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript S.

The Proposed Amendment proposes the following two distinct additions to the P&P Manual:

- 1) The proposed addition of Subscript S securities (collectively) to the list of securities explicitly noted to be non-eligible for filing exemption in the P&P Manual, and
- 2) The proposed addition of four illustrations to the definition of Subscript S securities with other non-payment risk.

The undersigned offer the following comments on these proposals. For the purposes of brevity, we will not repeat our comments made in our letter of the same date, on the Proposed Amendment to

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI’s member companies are dedicated to protecting consumers’ financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI’s 280 member companies represent 94 percent of industry assets in the United States.

acli.com

PPIA is a business association of insurance companies, other institutional investors, and affiliates thereof, that are active investors in the primary market for privately placed debt instruments. The association exists to provide a discussion forum for private debt investors; to facilitate the development of industry best practices; to promote interest in the primary market for privately placed debt instruments; and to increase accessibility to capital for issuers of privately placed debt instruments. The PPIA serves 63 member companies and works with regulators, NASVA, the American College of Investors Counsel, and the investment banking community to efficiently implement changes within the private placement marketplace.

NASVA is an association of insurance company representatives who interact with the NAIC Securities Valuation Office (“SVO”) to provide important input, and to exchange information, in order to improve the interaction between the SVO and its users. In the past, NASVA committees have worked on issues such as improving filing procedures, suggesting enhancements to the NAIC’s ISIS electronic security filing system, and commenting on year-end processes.

the P&P Manual to update the definition of Principal Protected Securities (PPS), as we believe the two proposed amendments are highly interrelated. The undersigned respectfully request readers to read that letter first to understand the full context of our comments below.

- 1) Subscript S securities are already not eligible for filing exemption, and the Subscript S proposed amendment, recommends collectively and explicitly adding Subscript S securities to the list of non-filing exempt securities. The undersigned support this proposal, in concept, because we believe they were inadvertently left off the list due to a historical oversight. As such, collectively adding Subscript S securities to the list of securities not eligible for filing exemption will improve the clarity and usability of the P&P Manual.
- 2) Prior to adding Subscript S securities to the list of non-eligible filing exempt securities, we recommend the following four steps:
 - i. Add the PPS definition, as currently written in the P&P Manual, to the list of illustrations (i.e., examples) already included under Subscript S definition. See also our letter, referred to above, related to PPS as well as our comments included below for more context.
 - ii. Remove PPS from the list of securities not eligible for filing exemption, consistent with other examples of Subscript S securities. See also our letter, referred to above, related to PPS for more context.
 - iii. Define separately the new concern related to PPS as a separate illustration (example) within the Subscript S definition. We believe trying to layer on this concern, atop the PPS definition, will make the already current and complex PPS definition, potentially unworkable. Further, it appears at least some of proposed four new additions to the Subscript S definition are already an attempt by the SVO to do so. The concern should only be addressed in one spot to ensure as much clarity and usability in the P&P Manual as possible. See also our letter, referred to above, related to PPS.
 - iv. The proposed amendment also includes four additional illustrations to the Subscript S definition without any context for their proposed inclusion. We understand at least some of these proposed new additions are related to concerns with PPS-like securities created by means other than that illustrated within the PPS definition. There is widespread confusion among the undersigned's constituency as to what specifically the SVO is trying to address with the four examples, but more importantly, what do they all potentially capture by way of unintended consequences. We therefore propose that we jointly work with the SVO, to more fully understand the explicit concerns, so we can jointly address those concerns and importantly ensure continued clarity and usability of the P&P Manual – consistent with the other examples included within Subscript S.

We discussed these concepts with Charles Therriault, and his team, and suggested we would like to work with the SVO to address this matter in the most efficient way possible. Our understanding is Charles and team are amenable to this suggestion.

We look forward to working with the SVO and regulators on this issue.

Sincerely,



Mike Monahan
Senior Director, Accounting Policy

Tracey Lindsey

Tracey Lindsey
NASVA

John Petchler

John Petchler
on behalf of PPIA
Board of Directors

https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2022/2022-04 - Spring National Meeting/03 - Update Definition Subscript S/2021-047.02 ACLIJointComments_VOSTF_Subscript S.docx



TO: Carrie Mears, Chair, Valuation of Securities (E) Task Force
Members of the Valuation of Securities (E) Task Force

FROM: Charles A. Therriault, Director, NAIC Securities Valuation Office (SVO)
Marc Perlman, Managing Investment Counsel, NAIC Securities Valuation Office (SVO)

CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Update the Definition of Other Non-Payment Risk Assigned a Subscript "S" in the P&P Manual

DATE: July 11, 2022

Update – At the 2022 Spring National meeting the SVO was directed to work with industry on technical modifications to this proposed amendment that was first exposed at the 2021 Fall National Meeting. The SVO met with representatives of the American Council of Life Insurers (ACLI), Private Placements Investors Association (PPiA) and North American Securities Valuation Association (NASVA) on Apr. 29, May 6 and 24, and Jun. 17. The attached revised amendment reflects items discussed during those meetings. There was not consensus on three primary issues, each a proposed illustration of Other Non-Payment Risk warranting a Subscript S: (1) maturities equal to or exceeding 40 years, (2) certain deferred principal payment features, and (3) certain deferred interest payment features. Maturities exceeding 40-years have the characteristic of perpetual or permanent capital and deferred interest or principal is inconsistent with the regulatory assumption that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain.

The SVO recommends adopting the definitional updates to Part Two of the P&P Manual and temporarily deferring the proposed Part Three instructions to remove securities with Other Non-Payment Risk from filing exemption (FE). This temporary deferral is intended to give industry sufficient time to find and provide examples of securities that are publicly rated by different credit rating providers (CRP) which have the three characteristics listed above for which there was not consensus so that the SVO can study them.

Summary – Securities that possess "Other Non-Payment Risks" are intended to be reviewed by the SVO but these investments have not been explicitly included on the list of Specific Populations of Securities Not Eligible For Filing Exemption in Part Three of the *Purposes Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual). Securities with other non-payment risks are identified through assignment of the Administrative Symbol "S" as a subscript to the NAIC Designation. This amendment adds "Securities with Other Non-Payment Risks" to the list of securities that are ineligible for filing exemption.

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Central Office | 1100 Walnut Street | Suite 1500 | Kansas City, MO 64106-2197 | (816) 842-3600

Capital Markets & Investment Analysis Office | One New York Plaza | Suite 4210 | New York, NY 10004 | (212) 398-9000

www.naic.com

As noted in Part One, paragraph 90, of the P&P Manual, “An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process.”

The proposed amendment clarifies through additional illustrations the types of securities that would be considered as having “Other Non-Payment Risks”.

Proposed Amendment - The text changes to update the definition of “Other Non-Payment Risks” and include Securities with Other Non-Payment Risk as a security type ineligible for filing exemption is shown below with additions red underline, deletions in ~~red strikethrough~~, existing text that has been moved in green and text to defer in yellow highlight, as it would appear in the 2022 P&P Manual format.

PART ONE
POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE

NAIC DESIGNATIONS

...

NAIC Designation Subscript S

90. An objective of the VOST/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process.

NOTE: See “NAIC Designation Subscript S” in Part Two.

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PART TWO
OPERATIONAL AND ADMINISTRATIVE INSTRUCTIONS
APPLICABLE TO THE SVO

PRODUCTION OF NAIC DESIGNATIONS

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NAIC DESIGNATION SUBSCRIPT S

Description of Other Non-Payment Risk

33. It may not be practical, desirable or possible to specifically define other non-payment risk given the assumption that it originates as a result of a contractual agreement or the presence of a structural element of a transaction that is agreed upon between the issuer and the insurer. Accordingly, what follows is intended as general guidance to insurers and others.
34. Most typically, other non-payment risk has been associated with contractual agreements between the insurer and the issuer in which the issuer is given some measure of financial flexibility not to make payments that otherwise would be assumed to be scheduled, given how the instrument has been denominated, or the insurer agrees to be exposed to a participatory risk.
35. Other non-payment risk differs from the type of issues encountered in credit risk. This is because typically, credit assessment is concerned with securities in which the parties create subordination by modifying the lender's priority of payment (e.g., senior unsecured versus junior subordinated) but in a context where the contract otherwise specifies that the failure to make payments on a schedules basis (defined in the contract) is an event of default (in the case of a bond) or triggers some other specific and identifiable lender remedy (in the case of other fixed income securities).
36. Using the broad concepts identified above, non-payment risk may be present when:
 - A reporting insurance company takes on a participatory risk in the transaction;
 - *Illustration* – The contract promised payment of a dollar denominated obligation in non-U.S. currency but does not require an exchange rate that would yield foreign currency sufficient to buy a defined principal amount of U.S. dollars. The other non-payment risk in this illustration consists of the reporting insurance company's acceptance of currency risk which may diminish the principal amount of the investment. Currency risk here is not related to the issuer's ability or willingness to pay and therefore is not appropriately reflected in the NAIC Designation of the issuer or captured by notching for credit risk.

- The contract governing the loan provides for a degree of permanence in the borrower's capital structure that is incompatible with notions of a loan that is expected to be repaid;
 - *Illustration* – A loan stated to be perpetual and giving the issuer the right to miss interest or dividend payments otherwise said to be scheduled where the missed payments are not required to be paid on a subsequent date.
 - *Illustration* – An instrument denominated as a bond but lacking a maturity date, a mechanism to determine a maturity date (e.g., a mandatory redemption) or that states a maturity equal to or exceeding 40 years.
- The governing agreements permit irregular or conditional payments that are incompatible with the notion of an issuer making scheduled payments of interest and repaying principal in full to the insurer on a date certain:
 - ~~○ *Illustration* – A security that incorporates the performance of other assets to determine contractual payments, principal or interest, either directly or indirectly through references to asset pools, equity baskets, or non-interest rate indices.~~
 - ~~○ *Illustration* – A security that receives payments as the remainder or residual cashflow after all other payment obligations have been made.~~
 - ~~○ *Illustration* – A security that receives performance or bonus cashflows in addition to scheduled payments of principal and interest.~~
 - *Illustration* – A Principal Protected Security, as defined in Part Three of this Manual.
 - *Illustration* – A security with no contractual events of payment default.
 - *Illustration* – Insurer agrees to an exposure that has A security with contractual terms that have the potential to result a significant delay in payment of contractually promised interest and/or return of principal in an amount less than the original investment.
 - *Illustration* – A security with deferred principal payment features that are at the option of the issuer, not including grace periods of up to 30 calendar days.
 - *Illustration* – A security with interest payment deferral feature that does not capitalize interest into principal or permits interest deferral for greater than twelve months or past legal maturity.

- ~~▪ Agrees to an exposure that has the potential to result in a significant delay in payment of contractually promised interest and/or a return of principal in an amount less than the original investment.~~

Meaning of the Subscript S Symbol

37. An SVO determination that a specific security contains other non-payment risk is communicated by assigning the NAIC Designation subscript S to the specific CUSIP and applying the notching procedure described below. The subscript follows the NAIC Designation as follows: **NAIC 2S**.
38. The SVO shall assess securities for other non-payment risk:
 - Routinely, for any security or financial product filed with the SVO.
 - As part of the analysis of a security or financial product submitted to the SVO under the RTAS – Emerging Investment Vehicle process discussed in of this Manual.
 - When requested to do so by any state insurance regulator acting pursuant to this Manual, and:
 - When requested by the VOS/TF; or
 - In support of any other NAIC group engaged in the analysis of investment risks in new securities.

NOTE: SEE “NAIC DESIGNATION SUBSCRIPT S” IN PART ONE.

PART THREE
SVO PROCEDURES AND METHODOLOGY FOR PRODUCTION OF NAIC
DESIGNATIONS

PROCEDURE APPLICABLE TO FILING EXEMPT (FE) SECURITIES AND PRIVATE LETTER (PL) RATING SECURITIES

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FE SECURITIES

Filing Exemption

3. Bonds, within the scope of SSAP No. 26R and SSAP No. 43R (excluding RMBS and CMBS subject to financial modeling) and Preferred Stock within scope of SSAP No. 32, that have been assigned an Eligible NAIC CRP Rating, as described in this Manual, are exempt from filing with the SVO (FE securities) with the exception of Bonds and/or Preferred Stock explicitly excluded below.

Specific Populations of Securities Not Eligible for Filing Exemption

4. The filing exemption procedure does not apply to:

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Deferred

- **Securities with Other Non-Payment Risks** – As noted in Parts One and Two of this Manual, the regulatory assumption of a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A security that is inconsistent with this assumption contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption.

<https://naiconline.sharepoint.com/teams/SVOVOSTaskForce/Shared Documents/Meetings/2021/12 December FALL NATIONAL METING/04 - Other Non-payment Risk subscript S/2021-047.01 Task Force 2021 Amend PP Other Non-Payment Risk.docx>