Statutory Accounting Principles (E) Working Group
Combined Agenda
May 16, 2023
11:00 a.m. – 12:00 p.m. CT

ROLL CALL

Dale Bruggeman, Chair	Ohio	Judy Weaver	Michigan
Kevin Clark, Vice Chair	Iowa	Doug Bartlett	New Hampshire
Sheila Travis	Alabama	Bob Kasinow	New York
Kim Hudson	California	Diana Sherman/Matt Milford	Pennsylvania
William Arfanis/Michael Estabrook	Connecticut	Jamie Walker	Texas
Rylynn Brown	Delaware	Doug Stolte/David Smith	Virginia
Cindy Andersen	Illinois	Amy Malm/Elena Vetrina	Wisconsin
Melissa Gibson/Stewart Guerin	Louisiana		

NAIC Support Staff: Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden

Note: This meeting will be recorded for subsequent use.

Hearing Agenda

REVIEW of COMMENTS on EXPOSED ITEMS

The following items received comments during the exposure period that are open for discussion.

1. INT 22-02: Extension of INT 22-02 Through Second Quarter 2023
2. Ref #2023-03: INT 22-01T: C-2 Mortality Risk Note
3. Ref #2023-11EP: Editorial Updates

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
INT 22-02 (Robin)	**Extension of INT 22-02 Through Second Quarter 2023**	**1 – INT**	**Yes, with comments**	**1**

Summary:
On April 12, 2023, the Working Group conducted an e-vote to expose *Interpretation 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax*. This exposure proposes to extend INT 22-02 from June 15 to July 1, 2023. The extension will allow INT 22-02 to be applied for the second quarter of 2023 financial statements. Disclosures continue to be required.

Key elements of INT 22-02 are that it does not require accrual of the Corporate Alternative Minimum Tax (CAMT) and that it requires disclosures. INT 22-02 provides overrides to existing guidance in *SSAP No. 9—Subsequent Events* and *SSAP No. 101—Income Taxes.* The Working Group anticipates having calls this quarter to address accounting for the CAMT.

<u>*Interested Parties' Comments:*</u>
Interested parties support the extension of the INT but recommend that it be extended to August 16th, the day after the quarterly statements are due.

<u>*Recommendation:*</u>
NAIC staff recommends that the Working Group adopt the exposed *Interpretation 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax* with a minor modification to incorporate the August 16 extension date of INT 22-02 suggested by interested parties which would change the exposed expiration date of July 1 to instead be Aug. 16. This date would be one day after the Aug. 15 filing date for the second quarter 2023 financial statements. Consistent with the exposure, this would still allow the Interpretation to be used through the second quarter 2023.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-03 (Robin)	**C-2 Mortality Risk Note**	**2 – Agenda Item**	**Comments Received**	**2, 4**

<u>*Summary:*</u>
Exposure proposes the addition of new financial statement notes which calculate net amount at risk and support the C-2 Mortality risk charge calculation. The Blanks (E) Working Group proposal 2023-09BWG is being simultaneously exposed.

The Life Risk-Based Capital (E) Working Group is working on a project to modify its C-2 mortality risk charges. The Working Group, in cooperation with the C-2 Mortality Work Group of the American Academy of Actuaries, developed structural updates to the life risk-based capital (RBC) treatment of group permanent life and miscellaneous other instruction updates. The proposal assigns the same factors to group permanent life as individual permanent life for policies with and without pricing flexibility.

A new financial statement note will provide the development of net amounts at risk in the categories needed for the Life C-2 mortality risk charges. These categories are designed to create a direct link to a financial statement source, and accompanying Life RBC C-2 mortality risk updates.

As the notes to the financial statements are maintained by the Statutory Accounting Principles (E) Working Group, this agenda item is to add the requirement for the new proposed note into the Accounting Practices and Procedures Manual. An annual statement blanks proposal is being simultaneously exposed as the Life Risk-Based Capital (E) Working Group, has requested year-end 2023 as the effective date for the note.

Existing Authoritative Literature:

- SSAP No. 51R—Life Contracts, contains the notes for life insurance products.
- SSAP No. 59—Credit Life and Accident and Health Insurance Contracts contains the notes for credit life insurance products.
- SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance contains the notes for life and health reinsurance.

<u>*Interested Parties' Comments:*</u>
Interested parties notes the following comment within the proposed disclosures:

> "Note that these amounts are intended for data capture using the tables and detailed line references in the annual statement instructions."

Given that the purpose of the change described in the above sentence is for data capture using the tables and detailed line references in the annual statement instructions, we recommend that the Working Group only expose this item as a sponsor for a Blanks change and that no changes be made to the SSAPs.

CJW Associate' Comments:
Both of these proposals state their purpose as incorporating elements needed for direct pulls into the Life Risk-Based Capital (LRBC) formula from the annual statement. However, both proposals go beyond elements needed for LRBC and the Blanks proposal even includes information that is already provided in the statement. Since these proposals are related as to intent and the SAPWG proposal is driving the BWG proposal, this email provides comments applicable to both proposals.

SAPWG 2023-03 calls for the disclosure of gross, assumed, ceded and net amounts at risk for life insurance. If the intent of the disclosure is really to accommodate LRBC, only the net amounts are needed. Why does the disclosure requirement go beyond the stated purpose? In addition, some of the information required in the proposed disclosure already exists in the statement. It is my understanding that a disclosure requirement does NOT have to be in the Notes to Financials. The disclosure can appear anywhere in the statement. In this case, some of the requested information is in the Exhibit of Life Insurance, Exhibit 5, and Separate Accounts Exhibit 3. In fact, the proposed additional language for the SSAPs even references those statement locations as drafting notes. Why then are those particular elements being duplicated in the BWG proposal for the Note? It is not necessary to report something in the Exhibit of Life Insurance or Exhibit 5, then duplicate it in a Note, and then be pulled into LRBC. Last year the LRBC formula directly pulled these elements from the Exhibit of Life Insurance, Exhibit 5, and the Separate Accounts Exhibit 3. That treatment should continue without duplicating the information in a Note.

BWG has been charged with reviewing statement reporting for redundancy and trying to eliminate it as much as possible. But BWG can't accomplish that alone. In fact, the charge actually states BWG is to "Coordinate with the applicable task forces and working groups as needed to avoid duplication of reporting within the annual and quarterly statement blanks." That is why this is being sent to both SAPWG and BWG. Reducing redundancy needs to be a concerted effort between all groups and not just left up to BWG.

In summary:

1. The language being considered for the SSAPs should be revised to not include pieces of information that are not used in LRBC, if the intent of the new proposed Note is to allow for direct pulls from the statement to LRBC.
2. Information included in the BWG proposal that is already available in the Exhibit of Life Insurance, Exhibit 5 and Separate Accounts Exhibit 3, should be eliminated from the new proposed Note.
3. The proposed Note should be restructured to not duplicate information already available in the statement and eliminate elements not used for LRBC.

Recommendation:
NAIC staff recommends that the Working Group defer action on this agenda item and refer the comments received to the Life Risk-Based Capital (E) Working Group. Key points on the comments received on the C-2 mortality note are:

- Interested parties recommended that this proposal reside somewhere else in the annual statement rather than the annual statement notes (that is, not in the SSAPs).
- Connie Jasper Woodroof provided comments focused on possible redundancy issues in the proposed note because some of the items in the proposed disclosure could be a direct pull from Exhibit 5 Aggregate Reserves for Life Contracts (or the similar exhibit 3 in the Separate Accounts statement.) She recommended

removing these elements from the proposal. Ms. Woodroof also provided comments that some of the elements in the proposed note were not necessary for the Life Risk-Based Capital C- 2 Mortality risk charge.

NAIC staff for the Life Risk-Based Capital (E) Working Group staff confirmed that while the annual statement notes for 2023 year-end would be helpful, it is not strictly necessary for the planned updates to the C-2 mortality risk charges to go forward.

NAIC staff therefore recommend deferring action to allow the Life Risk-Based Capital (E) Working Group to decide if they would like to move forward with an updated proposal for 2024.

Ref #	Title	Attachment #	Agreement with Exposed Document?	Comment Letter Page Number
2023-11EP Editorial (Julie)	**AP&P Manual Editorial Updates**	**3 – Agenda Item**	**No Comments**	**2**

Summary:
On February 23, 2023, the Working Group voted to expose various maintenance updates providing revisions to the *Accounting Practices and Procedures Manual*, such as editorial corrections, reference changes and formatting. These revisions are captured in three broad categories:

- *SSAP No. 86—Derivatives*: Change to a disclosure category from 'intrinsic value" to "volatility value."
- Various – Streamline references to the *Purposes and Procedures Manual*
- Various – Changes to consistently reference percent (with % sign and not 'percent') throughout SSAPs.

Interested Parties' Comments:
Regarding the proposed changes related to SSAP No. 86, interested parties appreciate staff for including the recommendation to revise the reference from "Intrinsic Value" to "Volatility Value" to clarify the disclosure category for the Blanks (E) Working Group's proposed change and a corresponding revision to SSAP No. 86R.

We also support the proposed changes to the P&P Manual and the use of percent references.

Recommendation:
NAIC staff recommends that the Working Group adopt the exposed maintenance updates providing revisions to the *Accounting Practices and Procedures Manual.*

Meeting Agenda

CONSIDERATION Of MAINTENANCE AGENDA – PENDING LIST

1. Ref #2023-12: Residuals in SSAP No. 48 Investments
2. Ref #2023-13: PIK Interest Disclosure Clarification
3. Ref #2022-14: New Market Tax Credits

Ref #	Title	Attachment #
2023-12 SSAP No. 43R (Julie)	**Residuals in SSAP No. 48 Investments**	**A – Agenda Item**

Summary:
This agenda item proposes revisions to clarify the scope and reporting for investment structures that represent residual interests within statutory accounting principles. Previously, revisions have been incorporated in *SSAP No. 43R—Loan-Backed and Structured Securities* to address the reporting of residual interests within securitization structures. With these revisions, residual interests, as defined within SSAP No. 43R, were required to be reported on Schedule BA on designed reporting lines beginning year-end 2022. After reviewing the 2022 reporting results, it was identified that the information for residuals may be underrepresented as a result of the various legal forms that residual investments can take. For example, a reporting entity could hold investments that have the substance of residual interests in the form of limited partnerships, joint ventures, or other equity fund investments. To ensure collective and consistent reporting of all residual interests, this agenda item proposes guidance to clarify the reporting of in-substance residuals regardless of the structure of the investment vehicle.

The discussion of residual interests often compares those securities to equity interests. These two investment structures are not synonymous, and it should not be perceived that all equity interests reflect residuals. A residual interest or a residual security tranche exists in investment structures that are backed directly, or indirectly through a feeder fund, by a discrete pool of collateral assets. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting excess funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual interest. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent cash flows will be generated and distributed. The residual interest holder absorbs these losses (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal, so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. The list below provides common characteristics in residuals, but with varying (and often changing structures), this list should not be used as rules governing whether a security reflects a residual interest. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form.

Common Characteristics of Residual Interests / Residual Security Tranches:

- Residuals often do not have contractual principal or interest.

- Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

- Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

- Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

- Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification and expose the agenda item.

Ref #	Title	Attachment #
2023-13 SSAP No. 34 Blanks Instructions (Julie)	**PIK Interest Disclosure Clarification**	**B – Agenda Item**

Summary:
This agenda item has been developed to further clarify, and incorporate a practical expedient, to the paid-in-kind (PIK) interest aggregate disclosure adopted in *SSAP No. 34—Investment Income Due and Accrued* for year-2023. In response to questions received on how paydowns / disposals would impact PIK interest included in the cumulative balance, it was noted that clarifying guidance would assist with consistent application. Furthermore, without clarification it was identified that companies and investment software vendors may interpret the need to detail the retrospective PIK allocations and paydowns / disposals as evidence for the resulting amount.

To eliminate the potential inconsistent application on how paydowns / disposals impact PIK interest included in cumulative principal / par balance, as well as to streamline the calculation, this agenda item proposes the following clarifications:

- Any decreasing amounts to principal balances (paydowns / disposals / sales, etc.,) shall first be applied to any PIK interest included in the principal balance. For example, if original par was $100, PIK interest received overtime was $50 and paydowns received were $30, the resulting PIK included in the cumulative balance would be $20 - ($50 less $30). No reduction to the original principal would occur until the PIK interest had been fully eliminated from the balance. If in this scenario paydowns of $70 had occurred, the company would report zero in the disclosure for cumulative PIK interest, as the amount received would have fully eliminated the $50 in PIK interest.

- The determination of PIK interest in cumulative balance can be calculated through a practical expedient calculation of original par / principal value to current par / principal value, not to go less than zero. This calculation will determine the resulting balance from PIK interest over time as well as paydowns / disposals, etc. The intent of this calculation is to prevent companies and investment software vendors from creating a schedule that details PIK interest and paydowns received retroactively since the origination of the investment. The practical expedient calculation from the original to current par / principal value shall result with the same resulting PIK interest amount included in the cumulative balance without the retroactive scheduling required.

The adopted disclosure in SSAP No. 34 is not intended to change, but the proposed clarification and practical expedient guidance is intended to be captured in the annual statement instructions. This agenda item is being exposed at the SAPWG, as the source of the adopted disclosure, and will be used to subsequently provide a memo to blanks for year-end 2023 application and to revise the formal instructions for 2024.

Recommendation:

NAIC staff recommend that the Working Group include this item on their maintenance agenda as a SAP clarification and expose this agenda item to clarify and incorporate a practical expedient, to the paid-in-kind (PIK) interest aggregate disclosure for SSAP No. 34 and annual statement instruction purposes.

For annual statement purposes, this instruction will be an editorial change only and can be provided by the SAPWG in a memo posted on the Blanks Working (E) Group page if adopted after the deadline to incorporate into the annual statement instructions for 2023.

Comments on this exposure are requested by June 30, 2023, to allow for adoption consideration at the 2023 Summer National Meeting.

Ref #	Title	Attachment #
2022-14 SSAP No. 93 SSAP No. 94R (Julie / Wil)	**New Market Tax Credit Projects**	**C – Agenda Item D – SSAP No. 93R E – SSAP No. 94R**

Summary:

During the 2022 Fall National Meeting, the Working Group exposed a discussion document to expand current statutory accounting guidance in *SSAP No. 93—Low-Income Housing Tax Credit Property Investments* to capture all tax equity investments that provide federal business tax credit and state premium tax credits if they meet specified criteria. During the 2023 Spring National Meeting, the Working Group received comments and directed NAIC staff to also draft an issue paper and revisions to *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits*. NAIC staff has completed its initial drafts of the SSAP No. 93 and 94R revisions, which are attachments to this agenda item for Working Group consideration for exposure The related Issue Paper will be drafted and presented for Working Group consideration at a later date.

The following are significant revisions detailed in the exposure of SSAP No. 93 and 94R:

- *SSAP No. 93— Investments in Tax Credit Structures* – In response to comments received from interested parties, the scope of the SSAP has been expanded to include tax credit investments irrespective of structure which is a departure from GAAP guidance which is only applicable to tax equity investments. Additionally, SSAP No. 93 has been revised so that it provides guidance on the investment structure whereas SSAP No. 94R provides guidance on state and federal tax credits, which would include tax credits allocated from tax credit investments. This statement applies the proportional amortization method in *2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method.*

- *SSAP No. 94R—State and Federal Tax Credits* – The scope of the SSAP has been expanded to include all state and federal tax credits which have been allocated to or purchased by the reporting entity. The previous version of SSAP No. 94R required tax credits which were purchased at a discount to be recorded at cost which effectively deferred the gain on purchase by creating an off-balance sheet asset that could not be recognized until the cost basis was utilized by the reporting entity. The revised version of SSAP No. 94R eliminates the off-balance sheet asset requirement and instead requires tax credits to be recorded at face value; acquisitions at a premium require the loss to be immediately recognized whereas acquisitions at a discount require the gain be deferred as an "other liability" until the reporting entity has utilized tax credits in excess of the acquisition cost.

Recommendation:

NAIC staff recommend that the Working Group expose the draft revisions to SSAP No. 93 and SSAP No. 94R as a new SAP concept. These revisions are intended to capture all tax equity investments that provide federal business tax credit and state premium tax credits if they meet specified criteria.

Comment deadline on the exposed items is June 30.

ANY OTHER MATTERS

a. **VOSTF Referral Response (Julie):** After reviewing the Valuation of Securities (E) Task Force referral on the acquisition of commercially available analytical data and confirming that a response is only necessary with an affirmative answer, the Working Group has decided not to provide a response letter. Although the analysis contemplated by the VOSTF may be useful to other NAIC groups, the analysis of commercially available analytical data will not have a direct impact on the work of the SAPWG, because investment and reporting classifications follow the provisions in the SSAPs and are not dependent on investment analytics or performance. Regulators are encouraged to respond directly to the VOSTF if they have specific comments on the Task Force initiative to acquire commercially available analytical data.

b. **Verbal update on the Life Actuarial (A) Task Force Update on Negative Interest Maintenance Reserve (IMR) Referral** (**Rachel Hemphill, chair of LATF**).

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/0 5-16-23 Agenda.docx

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 22-02: Third Quarter 2022 through ~~First~~ Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax

INT 22-02 Dates Discussed

October 6, 2022; October 24, 2022, November 16, 2022; December 13, 2022; April 12, 2023

INT 22-02 References

Current:
SSAP No. 9—Subsequent Events
SSAP No. 101—Income Taxes

INT 22-02 Issue

Key Provisions of the Inflation Reduction Act

1. The Inflation Reduction Act (Act) was enacted on August 16, 2022, and included a new corporate alternative minimum tax (CAMT). The Act and the CAMT go into effect for tax years beginning after 2022. Reporting entities shall refer to the Act and the resulting regulations and other tax guidance to determine application, but a non-authoritative high-level summary based on information at the time of initial INT discussion regarding the CAMT is as follows:

a. The CAMT is 15% of the corporation's "adjusted financial statement income" for the tax year, reduced by corporate alternative minimum foreign tax credit.

b. The CAMT will only apply to "applicable corporations" (determined on an affiliated group basis) with average adjusted financial statement income in excess of $1 billion for the three prior tax years. This threshold is reduced to $100 million in the case of certain foreign-parented corporations. When a corporation becomes subject to the CAMT, it remains an applicable corporation for purposes of the CAMT, even if its average adjusted financial statement income is less than $1 billion, unless an exception applies.

c. A corporation's adjusted financial statement income is the amount of net income or loss the corporation reports on its applicable financial statement. The income is adjusted for various purposes including certain adjustments in the case of consolidated returns or for foreign income.

d. The Act includes references to the tax codes which provides a hierarchy for determining the "applicable financial statement." At a high level, the first choice is U.S. generally accepted accounting principles (GAAP) financial statements; the second choice is international financial reporting standards (IFRS) financial statements. If GAAP and IFRS financial statements are not available, the financial statements filed by the taxpayer with any other regulatory or government body is acceptable. If the taxpayer is part of an affiliated group of corporations filing a consolidated return, the adjustable financial statement income for the group considers the group's applicable financial statement.

e. To determine its U.S. federal income tax liability, an applicable corporation will need to compute taxes under both systems—the regular tax system and the CAMT system. The CAMT is payable to the extent the tentative CAMT exceeds the regular corporate income tax. Any CAMT paid is available indefinitely as a credit carryover that could reduce future regular tax in future years if the regular tax liability is in excess of CAMT tax liability.

f. The Act directs the Treasury to issue regulations and other guidance relate to implementing the CAMT, so several issues are pending detailed clarifications including clarifying the definition of an applicable corporation, and providing guidance on the starting point for, and adjustments to, adjusted financial statement income, as well as the handling of separate company tax returns when required under current tax law that are unique to the insurance industry.

Interpretation Issues

2. This interpretation is focused on addressing third quarter 2022 transition accounting and reporting aspects of the new CAMT. While most insurers will not be subject to the CAMT, for those that know that they are subject, and those that could be subject to the CAMT, there are a variety of reporting uncertainties, particularly regarding reporting for third quarter 2022.

3. The CAMT is effective for the tax years on or after 2023.

4. Both statutory accounting principles and U.S. GAAP require the effects of tax changes on deferred taxes, including the valuation allowance (future realizability of existing DTAs) in the period in which the legislation is enacted (third quarter 2022). *SSAP No. 101—Income Taxes,* paragraph 7.e. requires the statutory valuation allowance adjustment as a direct reduction in the gross DTA if, based on the weight of available evidence, it is more likely than not that some or all of the gross DTAs will not be realized. Gross DTA less the statutory valuation allowance results in adjusted gross DTAs. The statutory valuation allowance adjustment is not reported as a separate line in the statutory financial statements (it is an off-balance sheet item that reduces the gross DTAs). The statutory valuation allowance is disclosed.

5. The statutory accounting calculation for admissible DTAs is determined using adjusted gross DTAs (gross DTAs reduced by the valuation allowance). For statutory accounting, admittance of adjusted gross DTAs in SSAP No. 101 depends on a three-component calculation, for which the second step limits admittance of adjusted gross DTAs to those that are expected to be realized in a timeframe that does not exceed three years. The actual number of years permitted depends on specifics for each reporting entity (type and other information about the reporting entity), but the maximum timeframe is three years. The last step admits DTAs which can be offset by DTLs.

6. Guidance in *SSAP No. 9—Subsequent Events* requires consideration of Type I and Type II[1] subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued. For subsequent events identified after the statutory financial statements are filed (example, March 1), but before the audited financial statements are issued (example, June 1), reporting entities are generally required by their domestic state to amend their filed statutory financial statements to ensure that the statutory financial statements and the audited financial statements are consistent. Under this guidance, as additional information is made available on the impact of the Act, or information becomes available to update

[1] A Type I subsequent event relates to an event or transaction that provides additional evidence with respect to conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing financial statements. Under SSAP No. 9, entities shall recognize in the financial statements the effects of all material Type I subsequent events. A Type II subsequent event pertains to events or transactions that provide evidence to conditions that did not exist at the balance sheet date but arose after that date. Type II events are disclosed in the financial statements.

estimates and assessments, under existing statutory accounting guidance in SSAP No. 9, reporting entities would need to identify updated estimates as a Type I subsequent event in the audited financial statements.

Issue 1 – Consideration of the Act for Third Quarter 2022 Financial Statements

7. During the period of enactment (third quarter 2022) reporting entities filing statutory financial statements would normally have to consider the applicability of the CAMT and if applicable, determine the impact on the statutory valuation allowance as well as assess DTAs for admissibility (e.g., realization timeframe). These elements will be collectively referred to as "calculations impacted by the Act" or "calculations impacted by the CAMT."

8. This interpretation will address the issue for what reporting entities are required to report or disclose regarding the calculations impacted by the CAMT for September 30, 2022, financial statements.

Issue 2 – Consideration of Subsequent Events for Third Quarter 2022 Financial Statements

9. SSAP No. 9 requires consideration of subsequent events through the date of the statutory financial statements and the date of issuance of the audited financial statements, or the date in which audited financial statements are available to be issued.

10. For reporting entities that materially revise or establish calculations impacted by the CAMT subsequent to September 30, 2022 (including the statutory valuation allowance, the timing of determination of net admitted DTAs, and the determination of the applicability of the CAMT), this interpretation will address the extent a Type I or Type II subsequent event assessment is required for third quarter 2022 financial reporting.

INT 22-02 Discussion

11. The Statutory Accounting Principles (E) Working Group consensuses to the noted issues are included below.

Response: Issue 1 – Consideration of the Act for Third Quarter 2022 Financial Statements

12. Reporting entities that are aware they will be subject to the CAMT would normally reflect the effects of the Act on the calculations impacted by the CAMT if reasonably estimable for third quarter 2022. Because of the timing of the adoption of the Act and the considerable number of unknown variables for September 30, 2022, reporting, the Working Group has determined that a reasonable estimate is not determinable for third quarter 2022 interim financial statements for the calculations impacted by the CAMT.

13. Because reasonable estimates of calculations impacted by the CAMT are not determinable, reporting entities shall not recognize impacts related to CAMT for third quarter 2022 financial statements, but shall make the following disclosures regarding the CAMT and the Act:

a. The Act was enacted during the reporting period on August 16, 2022.

b. A statement regarding whether the reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined if it expects to be liable for CAMT in 2023. For example:

i. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it does not expect to be liable for CAMT in 2023.

ii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has not determined as of the reporting date if it will be liable for CAMT in 2023. The third quarter 2022 financial statements do not include an estimated impact of the CAMT because a reasonable estimate cannot be made.

iii. The reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined that it expects to be liable for CAMT in 2023. The third quarter 2022 financial statements do not include an estimated impact of the CAMT, because a reasonable estimate cannot be made.

Response: Issue 2 – Consideration of Subsequent Events for Third Quarter 2022 Financial Statements

14. For third quarter 2022 reporting, CAMT updated estimates or other calculations affected by the Act determined subsequent to third quarter statutory financial statement or filing date shall not be recognized as Type I subsequent events. Meaning, amended financial statements are not required to reflect updated estimates subsequent to the third quarter filing date and prior to the filing the third quarter financial statements. With the disclosure required under Issue 1, additional subsequent event disclosure (such as what would be required for Type II event) is not required.

15. Reporting entities shall be working in good faith to complete the accounting for the changes adopted under the Act.

INT 22-02 Status

16. The consensuses in this interpretation were adopted on October 24, 2022, to provide reporting guidance regarding the calculations impacted by the CAMT and provide limited-scope, limited-time exceptions to the valuation allowance and DTA calculations in response to legislation under SSAP No. 101 as well as Type I subsequent event requirements in SSAP No. 9 for September 30, 2022, statutory reporting. As detailed, the exceptions to SSAP No. 101 and SSAP No. 9 are effective for third quarter 2022.

17. On December 13, 2022, the Working Group adopted a consensus to extend this interpretation for December 31, 2022, and first quarter 2023 statutory financial statements. For application as of year-end 2022 and first quarter 2023:

a. Consistent with paragraphs 12 and 13, the Working Group has concluded that a reasonable estimate is not determinable for December 31, 2022, and March 31, 2023, therefore impacts related to the CAMT in the year-end 2022 and March 31, 2023, financial statements are not required.

~~b. The reporting entity shall include disclosures in paragraph 13 in the year-end 2022 and March 31, 2023, financial statements. In addition, the reporting entity shall disclose the following:~~

i. ~~If, based on information regarding the projected adjusted financial statement income for 2023, the entity or the controlled group of corporations of which the reporting entity is a member has determined if it is an "applicable corporation" to determine if CAMT exceeds the regular federal income tax payable. That is, disclose if the reporting entity (or the controlled group of corporations of which the reporting entity is a member) has determined if average "adjusted financial statement income" is above the thresholds for 2023 tax year that they expect to be~~

~~required to perform the CAMT calculations. This disclosure is about being applicable corporation, not if the entity is required to pay.~~

~~c.~~b. Consistent with paragraph 14, CAMT updated estimates or other calculations affected by the Act determined subsequent to filing the December 31, 2022, and March 31, 2023, financial statements shall not be recognized as Type I subsequent events.

~~d.~~c. For year-end 2022 financial statements, the subsequent event exception is expanded to encompass events that occur prior to the issuance of statutory financial statements as well as events that occur before the date the audited financial statements are issued, or available to be issued. This provision intends to prevent reporting entities from having to amend statutory financial statements from material Type I subsequent events as a result of updated information / estimates received after the reporting date of year-end 2022 statutory financial statements pertaining to the accounting for the enactment of the Act.

18. On April 12, 2023, the Working Group adopted a tentative consensus to extend this interpretation for the second quarter 2023 statutory financial statements. For application to the second quarter 2023 financial statements, reporting entities shall follow the guidance in this interpretation paragraphs 17 a-c.

~~18.~~19. With the extension, this interpretation will be automatically nullified on ~~June 15, 2023~~July 1, 2023.

~~19.~~20. ~~No. f~~Further discussion is planned.

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Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: New C-2 Mortality Risk Note

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:
The Life Risk-Based Capital (E) Working Group is working on a project to modify its C-2 mortality risk charges. The Working Group, in cooperation with the C-2 Mortality Work Group of the American Academy of Actuaries, developed structural updates to the life risk-based capital (RBC) treatment of group permanent life and miscellaneous other instruction updates. The proposal assigns the same factors to group permanent life as individual permanent life for policies with and without pricing flexibility.

A new financial statement note will provide the development of net amounts at risk in the categories needed for the Life C-2 mortality risk charges. These categories are designed to create a direct link to a financial statement source, and accompanying Life RBC C-2 mortality risk updates.

As the notes to the financial statements are maintained by the Statutory Accounting Principles (E) Working Group, this agenda item is to add the requirement for the new proposed note into the *Accounting Practices and Procedures Manual.* An annual statement blanks proposal is being simultaneously exposed as the Life Risk-Based Capital (E) Working Group, has requested year-end 2023 as the effective date for the note.

Existing Authoritative Literature:

- *SSAP No. 51R—Life Contracts*, contains the notes for life insurance products.
- *SSAP No. 59—Credit Life and Accident and Health Insurance Contracts* contains the notes for credit life insurance products.
- *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance* contains the notes for life and health reinsurance.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): Not applicable.

Staff Review Completed by: Robin Marcotte – NAIC Staff

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to SSAP No. 51R, SSAP No. 59 and SSAP No. 61R as illustrated below, with a proposed effective date of year end 2023. The Blanks (E) Working Group proposal 2023-09BWG, which illustrates the data to be captured in tables, is being simultaneously exposed to allow for a year end 2023 effective date.

Proposed revisions to *SSAP No. 51R—Life Contracts* (*Drafting notes are for ease of review and will be removed from the final publication)***:**

54. Disclose for life insurance net amount at risk for the following: 1) gross of reinsurance, plus 2) assumed reinsurance, 3) less ceded reinsurance, will provide 4) net of reinsurance amounts by product characteristics, separately for individual and industrial life as described below. Note that these amounts are intended for data capture using the tables and detailed line references in the annual statement instructions.

a. Individual and industrial life -Within individual and industrial life, the categories are by contract type depending on the degree of pricing flexibility. Pricing Flexibility is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years and reflecting typical business practices. The individual and industrial life product categories are as follows:

i. Total individual and industrial life. Paragraph 54.a.i total individual and industrial life amounts are then disaggregated to disclose the following information in more detail. Note that the totals of paragraph 54.a.i (a)-(c) should be equal to the sum of total individual and industrial life total in paragraph 54.a.i.

(a.) Individual and industrial life policies with pricing flexibility;

(b.) Individual and industrial term life policies without pricing flexibility;

(c.) Individual and industrial permanent life policies without pricing flexibility;

b. For the individual and industrial life products in paragraph 54.a., provide the following details:

i. Life in Force - Exhibit of Life Insurance Amount of Insurance for Industrial and Ordinary Life - life insurance in-force end of the year and reinsurance ceded end of the year. *(Drafting note: Lines 21 and 22);*

ii. Exhibit 5 Life Reserves - Exhibit 5 for Industrial and Ordinary Life - gross total plus reinsurance ceded. *(Drafting note: Lines 0199997 and 0199998)*

iii. Separate Account Life Reserves – Separate Accounts, Exhibit 3 - Aggregate Reserve of Life , Annuity and Accident and Health Contracts, Column 3 - Ordinary, life insurance total line. *(Drafting note: Line 0199999)*

iv. Modified Coinsurance Life Reserves – The portion of modified coinsurance life reserves which relates to policy reserves that, if written on a direct basis would be included on Exhibit 5. For Assumed (column 2) the portion of the modified coinsurance life reserves would be from Schedule S, Part 1, Section 1, Reinsurance Assumed (Life Insurance, Annuities and Deposit Funds and Other Liabilities), Column 12 - Modified Coinsurance Reserve. For the ceded, the portion of the modified coinsurance life reserve would be from Schedule S, Part 3, Section 1, Reinsurance Ceded (Life Insurance, Annuities and Deposit Funds and Other liabilities), and column 14 Modified Coinsurance Reserve.

v. The total of the above life reserves in paragraph 54.b.ii., plus paragraph 54.b.iii. plus paragraph 54.b.iv.;

~~i.~~vi. Life net amount at risk paragraph 54.b.i. minus paragraph 54.b.v.

Proposed revisions to *SSAP No. 59—Credit Life and Accident and Health Insurance* Contracts (*Drafting notes are for ease of review and will be removed from the final publication):*

20. Disclose for credit life insurance net amount at risk for the following: 1) gross of reinsurance, plus 2) assumed reinsurance, 3) less ceded reinsurance, will provide 4) net of reinsurance amounts by credit life product characteristics, separately as described below. Note that these amounts are intended for data capture using the tables and detailed line references in the annual statement instructions. Amounts for Servicemen's Group Life Insurance (*SGLI*) or Federal Employees' Group Life Insurance (FEGLI) are excluded from the disclosures in this paragraph.

a. Group and Individual Credit Life (excluding FEGLI/SGLI) - Within group and individual credit life, the categories are by the remaining length of the premium rate term by group contract and on the degree of pricing flexibility. Pricing flexibility is defined as the ability to materially adjust rates on in force contracts through changing premiums and/or non-guaranteed elements as of the valuation date and within the next 5 policy years and reflecting typical business practices.

i. Total group and individual credit life (excluding FEGLI/SGLI) - Paragraph 20.a.i total group and individual credit life (excluding FEGLI and SGLI) amounts are then disaggregated to disclose the following information in more detail. Note that the totals of paragraph 20.a.i (a)-(d) should be equal to the sum of total individual and industrial life total in paragraph 20.a.i.

(a.) Group and individual credit term life (excluding FEGLI/SGLI) with remaining rate terms 36 months and under.

(b.) Group and individual credit term life (excluding FEGLI/SGLI) with remaining rate terms over 36 months.

(c.) Group and individual credit permanent life policies (excluding FEGLI/SGLI) with pricing flexibility.

(d.) Group and individual credit permanent life policies (excluding FEGLI/SGLI) without pricing flexibility.

b. For the group and individual credit life products in paragraph 20.a., provide the following details (excluding amounts for FEGLI/SGLI):

i. Life in force - Exhibit of Life Insurance Amount of Insurance for group and individual credit life, life insurance inforce end of the year and reinsurance ceded end of the year. *(Drafting note: Lines 21 and 22)*

ii. Exhibit 5 Life Reserves - Exhibit 5 for group and individual credit life - gross total plus reinsurance ceded. *(Drafting note: Lines 0199997 and 0199998)*

iii. Separate Account Life Reserves – Separate Accounts, Exhibit 3 - Aggregate Reserve of Life-, Annuity and Accident and Health Contracts, Column 4 Group, life insurance totals line. *(Drafting note: Line 0199999)*

iv. Modified Coinsurance Life Reserves – The portion of modified coinsurance life reserves which relates to policy reserves that, if written on a direct basis would be included on Exhibit 5. For Assumed (column 2 below) the portion of the modified coinsurance life reserves would be from Schedule S, Part 1, Section 1, Reinsurance Assumed (Life Insurance, Annuities and Deposit Funds and Other Liabilities), Column 12 - Modified Coinsurance Reserve. For the Ceded, the portion of the modified coinsurance life reserve would be from Schedule S, Part 3, Section 1, Reinsurance Ceded (Life Insurance, Annuities and Deposit Funds and Other liabilities), Column 14 Modified Coinsurance Reserve.

v. The total of the above life reserves in paragraph 20.b. ii., plus paragraph 20. b.iii., plus paragraph 20.b.iv.

vi. Life net amount at risk - paragraph 20.b.i. minus paragraph 20.b.v.

Proposed revisions to *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance:*

85. The disclosures regarding the life net amount at risk for individual and industrial life and group and individual credit life which include information regarding modified coinsurance reserves in SSAP No. 51R, paragraph 54 and SSAP No. 59, paragraph 20 are required in the categories and detail specified in those statements. Note that these amounts are intended for data capture using the tables and detailed line references in the annual statement instructions.

Status:
On March 22, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 51R, SSAP No. 59 and SSAP No. 61R, providing new disclosures, which provides net amount at risk detail needed to support updates to the life risk-based capital (RBC) C-2 mortality risk charges.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/2 23-03 - C-2 Mortality risk note.docx

NAIC Accounting Practices and Procedures Manual
Editorial and Maintenance Update
March 22, 2023

Maintenance updates provide revisions to the *Accounting Practices and Procedures Manual*, such as editorial corrections, reference changes and formatting.

SSAP/Appendix	Description/Revision
SSAP No. 86	Paragraph 43.g.ii.: Revise "Intrinsic Value" to reflect "Volatility Value"
P&P Manual References	All citations to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* are proposed to be reviewed and streamlined so they do not reflect a specific location in the Manual or a webpage. These references will be eliminated to prevent inappropriate citations.
Percent References	Instances in which 'percent' is spelled out in combination with a number will be eliminated with retention of the % sign. This is a consistency change as the usage is currently inconsistent within the Manual.

Recommendation:
NAIC staff recommend that the Statutory Accounting Principles (E) Working Group move this agenda item to the active listing, categorize as a SAP Clarification, and expose editorial revisions as illustrated within.

SSAP No. 86R—Derivatives
Revise the reference to "Intrinsic Value" to reflect "Volatility Value." This change was proposed by industry to clarify the disclosure category for the excluded component to the Blanks (E) Working Group and a corresponding revision is needed in SSAP No. 86R.

43.a. For hedging instruments with excluded components for determining hedge effectiveness:

i. In the investment schedule, identify hedging instruments with excluded components and report the current fair value of the excluded component, the fair value of the excluded component that is reflected in the reported BACV for the hedging instrument (this item would not be applicable for foreign-currency forwards and currency swaps where the forward points or cross-currency basis, respectively, are the excluded component), and the change in fair value reported as an unrealized gain/loss.

ii. In the notes to the financial statements, provide information on the aggregate excluded components by category: Time Value, ~~Intrinsic~~ Volatility Value, Forward Points and Cross Currency Basis Spread. The aggregate amounts reported should include the following (as applicable): current fair value, recognized unrealized gain/loss, the fair value reflected in BACV, and for the excluded forward points (e.g., forward spot rates), the aggregate amount owed at maturity, along with current year and remaining amortization.

Purposes and Procedure Manual References
The following SSAPs will be revised to update references to the P&P Manual.

SSAP No. 25—Affiliates and Other Related Parties

21.h. The amount deducted from the value of an upstream intermediate entity or ultimate parent owned, either directly or indirectly, via a downstream subsidiary, controlled, or affiliated entity, in accordance with *SSAP*

No. 97—Investments in Subsidiary, Controlled and Affiliated Entities. ~~the *Purposes and Procedure Manual of the NAIC Investment Analysis Office*, "Procedures for Valuing Common Stocks and Stock Warrants."~~

SSAP No. 26R—Bonds

4.a. Exchange traded funds (ETFs), which qualify for bond treatment, as identified in ~~Part Three of~~ the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* and published on the SVO web page~~ at *https://content.naic.org/industry/securitiesvaluation- office*~~. (SVO-identified ETFs are reported on Schedule D – Part 1.)

SSAP No. 30R—Unaffiliated Common Stock

4.c. Shares of SEC registered Investment Companies3 captured under the Investment Company Act of 1940 (open-end investment companies (mutual funds), closed-end funds and unit investment trusts), regardless of the types or mix of securities owned by the fund (e.g., bonds or stocks), including shares of funds referenced in the "NAIC Fixed Income-Like SEC Registered Funds List" as identified in ~~Part Three of~~ the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* and published on the SVO web page.~~;~~

4.d. Exchange Traded Funds, except for those identified for bond or preferred stock treatment, as identified in ~~Part Three of~~ the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* and published on the SVO web page~~ at *https://content.naic.org/industry/securities-valuation-office*~~;

SSAP No. 32R—Preferred Stock

4.a. Exchange Traded Funds, which qualify for preferred stock treatment, as identified in ~~Part Three of~~ the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* and published on the SVO web page~~ at *https://content.naic.org/industry/securities-valuationoffice*~~. SVO-identified preferred stock ETFs shall follow the accounting provisions for perpetual preferred stock.

SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities

64. By August 31 or one month after the audit report date of each year, the NAIC shall initiate a review of all SCA investments for which new Sub 2 form filings have been received as well as an annual update review of Sub 2 SCA investments already logged in the VISION database. The NAIC review shall encompass a review of the most recent annual statutory reporting by the parent insurance company's Schedule Y (to ascertain the identity of the members of the holding company system and to ensure that information for all SCA companies has been submitted), a review of the parent's financial statement blank to review the last reported value for the SCA investments and a review of the VISION database to determine whether SCA debt and SCA preferred securities have been assigned NAIC designations. As part of its analysis, the NAIC shall review the portion of the bond investments carried by the parent or a subsidiary insurer with a **Z** notation. If the NAIC determines that the portion of the **Z** bonds shown on the documentation is significant, the NAIC shall not process the Sub 2 filing until the insurance company reports the bonds to permit removal of the **Z** notation. Beginning with year-end 2019, two new suffixes will apply: **YE** and **IF**. YE means that the security is a properly filed annual update that the SVO has determined will not be assigned an NAIC designation by the close of the year-end reporting cycle. The symbol YE is assigned by the SVO pursuant to the carryover administrative procedure described in ~~Part One, Section 3 f) (iii) of~~ the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*. When the SVO assigns the symbol YE it also assigns the NAIC designation in effect for the previous reporting year. IF means that the security is an initial filing that has been properly filed with the SVO but which the SVO has determined will not be assigned an NAIC designation by the close of the year-end reporting cycle. The symbol IF is assigned by the SVO and communicates that the insurer should self-designate the security for year-end and identify it with the symbol IF. IF, therefore, also communicates to the regulator that the NAIC designation reported by the insurance company was not derived by or obtained from the SVO, but has been determined analytically by a reporting insurance company.

Percent References
The following SSAPs will be revised to update the percent reference.

SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets:

13. As directed by *SSAP No. 101—Income Taxes*, tax loss contingencies (including related interest and penalties) for current and all prior years, shall be computed in accordance with this SSAP, with the following modifications:

    a. The term "probable" as used in this standard shall be replaced by the term "more likely than not (a likelihood of more than 50% ~~percent~~)" for federal and foreign income tax loss contingencies only.

    b. For purposes of the determination of a federal and foreign income tax loss contingency, it shall be presumed that the reporting entity will be examined by the relevant taxing authority that has full knowledge of all relevant information.

    c. If the estimated tax loss contingency is greater than 50% ~~percent~~ of the tax benefit originally recognized, the tax loss contingency recorded shall be equal to 100% ~~percent~~ of the original tax benefit recognized.

    As noted in SSAP No. 101, state taxes (including premium, income and franchise taxes) shall also be computed in accordance with this SSAP. These items (as detailed in SSAP No. 101) are not impacted by the modifications detailed in paragraphs 13.a.-13.c.

SSAP No. 16R—Electronic Data Processing Equipment and Software

4. The aggregate amount of admitted EDP equipment and operating system software (net of accumulated depreciation) shall be limited to 3% ~~three percent~~ of the reporting entity's capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for its most recently filed statement with the domiciliary state commissioner adjusted to exclude any EDP equipment and operating system software, net deferred tax assets and net positive goodwill.(INT 01-18)

SSAP No. 43R—Loan-Backed and Structured Securities

FN 10: Changes in the interest rate of a "plain-vanilla," variable-rate beneficial interest (a plain-vanilla, variable-rate beneficial interest does not include those variable-rate beneficial interests with interest rate reset formulas that involve either leverage or an inverse floater) generally should not result in the recognition of an other-than-temporary impairment. For plain-vanilla, variable-rate beneficial interests, the yield is changed to reflect the revised interest rate based on the contractual interest rate reset formula. For example, if a beneficial interest pays interest quarterly at a rate equal to LIBOR plus 2% ~~percent~~, the yield of that beneficial interest is changed prospectively to reflect changes in LIBOR. However, changes in the fair value of a plain-vanilla, variable-rate beneficial interest due to credit events should be considered when evaluating whether there has been an other-than-temporary impairment.

SSAP No. 57—Title Insurance

19.g. An investment in a title plant or plants in an amount equal to the actual cost shall be allowed as an admitted asset for title insurers. The aggregate carrying value of an investment in a title plant or plants shall not exceed the lesser of 20% of admitted assets or ~~forty percent (~~40%~~)~~ of surplus to policyholders, both as required to be shown on the statutory balance sheet of the insurer for its most recently filed statement with the domiciliary state commissioner; if the amount of the investment exceeds the above limits, the excess amount shall be recorded as a nonadmitted asset.

SSAP No. 60—Financial Guarantee Insurance

10. The contingency reserve shall be the greater of 50%~~fifty percent~~ of premiums written for each category or the amount provided by applying the following percentages to the principal guaranteed in each

calendar year. The premiums written shall be net of reinsurance if the reinsurer has established a contingency reserve.

a.	Municipal obligation bonds	0.55% ~~percent~~
b.	Special revenue bonds	0.85% ~~percent~~
c.	Investment grade Industrial Development Bonds (IDBs) secured by collateral or having a term of seven years or less, and utility first mortgage obligations	1.00% ~~percent~~
d.	Other investment grade IDBs	1.50% ~~percent~~
e.	Other IDBs	2.50% ~~percent~~
f.	Investment grade obligations, secured by collateral or having a term of seven years or less	1.00% ~~percent~~
g.	Other investment grade obligations not secured	1.50% ~~percent~~
h.	Non-investment grade consumer debt obligations	2.00% ~~percent~~
i.	Non-investment grade asset backed securities	2.00% ~~percent~~
j.	All other non-investment grade obligations	2.50% ~~percent~~

SSAP No. 62R—Property and Casualty Reinsurance

116.a. The written premium ceded to the reinsurer by the reporting entity or its affiliates represents ~~fifty percent (~~50%~~)~~ or more of the entire direct and assumed premium written by the reinsurer based on its most recently available financial statement; or

116.b. ~~Twenty-five percent (~~25%~~)~~ or more of the written premium ceded to the reinsurer has been retroceded back to the reporting entity or its affiliates in separate reinsurance contract.

Exhibit C – Assumptions

Premium = $1,000 (assumes no commissions or allowances)
Coverage Period = 1 year
Initial expected recoveries = $225 per year (at end of year) for five years
Initial Implicit rate = 4% ~~percent~~*

*present value of $225 per year for five years at 4% ~~percent~~ = $1,000

At the end of Year 2, the timing of anticipated recoveries under the reinsurance contract changes. A reevaluation of the implicit interest rate produces a rate of 3.63% ~~percent~~ and an asset of $640 at the end of the year.

SSAP No. 65—Property and Casualty Contracts

37. If the reporting entity does not hold specific collateral for the policy, amounts accrued for reimbursement of the deductible shall be billed in accordance with the provisions of the policy or the contractual agreement and shall be aged according to the contractual due date. In the absence of a contractual due date, billing date shall be utilized for the aging requirement. Deductible recoverables that are greater than ninety days old shall be nonadmitted. However, if the reporting entity holds specific collateral for the high deductible policy, 10%~~ten percent~~ of deductible recoverable in excess of collateral specifically held and identifiable on a per policy basis, shall be reported as a nonadmitted asset in lieu of applying the aging requirement; however, to the extent that amounts in excess of the 10% are not anticipated to be collected they shall also be nonadmitted. The collateral requirements of

this paragraph may be satisfied when an insured provides one collateral instrument to secure amounts owed under multiple policies, provided that the reporting entity has the contractual right to apply the collateral to the high deductible policy. Collateral obtained at a group level that is not supported by an existing pooling agreement requires a written allocation agreement among all collateral beneficiaries. The terms of such agreement must be fair and equitable. Documentation supporting any allocation of collateral among reporting entities must be maintained to allow proper calculation of the nonadmitted amounts and prohibit double counting of collateral.

SSAP No. 78—Multiple Peril Crop Insurance

3. Catastrophic insurance is designed to provide farmers with protection against extreme crop losses for a small processing fee. Buy-up insurance provides protection against more typical and smaller crop losses in exchange for a policyholder-paid premium. The government subsidizes the total premium for catastrophic insurance and a portion of the premium for buy-up insurance. Farmers who purchase buy-up crop insurance must choose both the coverage level (the proportion of the crop to be insured) and the unit price (such as, per bushel) at which any loss is calculated. With respect to the coverage level of production, farmers can choose to insure as much as 85% ~~percent~~ of normal production or as little as 50% ~~percent~~ of normal production at different price levels. With respect to the unit price, farmers choose whether to value their insured production at FCICs full estimated market price or at a percentage of the full price.

5. Companies participate in the MPCI program with FCIC through the Standard Reinsurance Agreement (SRA) per the terms of which the insurance companies share in the underwriting results of each policy. The SRA reinsurance terms provide a company the flexibility to limit its exposure on a state by state basis. MPCI premium is not expense loaded, therefore FCIC pays the insurance companies, on behalf of the policyholder, a percent of premium for administrative expenses associated with selling and servicing crop insurance policies, including the expenses associated with adjusting claims.

15. FCIC pays the insurance companies a percent of premium for administrative expenses associated with selling and servicing crop insurance policies, including the expenses associated with adjusting claims. The expense payment associated with the catastrophic coverage shall be recorded as a reduction of loss expenses whereas the expense payment for the buy-up coverage shall be recorded as a reduction of other underwriting expenses. The company shall disclose the total amounts received for each type of coverage.

SSAP No. 86—Derivatives

26.c. The term highly effective describes a cash flow hedging relationship where the change in fair value of the derivative hedging instrument is within 80 to 125% ~~percent~~ of the opposite change in the fair value of the hedged item attributable to the hedged risk. It shall also apply when an R-squared of .80 or higher is achieved when using a regression analysis technique. Further guidance on determining effectiveness can be found within Exhibit A;

27.c. The term highly effective describes a cash flow hedging relationship where the change in cash flows or present value of cash flows of the derivative hedging instrument is within 80 to 125% ~~percent~~ of the opposite change in the cash flows or present value of the cash flows of the hedged item attributable to the hedged risk. It shall also apply when an R-squared of .80 or higher is achieved when using a regression analysis technique. Further guidance on determining effectiveness can be found within Exhibit A.

Exhibit A, 19.c.ii. The variable-rate asset or liability has a floor or cap and the interest rate swap has a floor or cap on the variable interest rate that is comparable to the floor or cap on the variable-rate asset or liability. For purposes of this paragraph, comparable does not necessarily mean equal. For example, if an interest rate swap's variable rate is based on LIBOR and an asset's variable rate is LIBOR plus 2% ~~percent~~, a 10% ~~percent~~ cap on the interest rate swap would be comparable to a 12% ~~percent~~ cap on the asset.

Exhibit A, 22 The fixed interest rate on a hedged item need not exactly match the fixed interest rate on an interest rate swap designated as a fair value hedge. Nor does the variable interest rate on an interest-bearing asset or liability need to be the same as the variable interest rate on an interest rate swap designated as a cash flow hedge. An interest rate swap's fair value comes from its net settlements. The fixed and variable interest rates on an interest rate swap can be changed without affecting the net settlement if both are changed by the same amount. That is, an interest rate swap with a payment based on LIBOR and a receipt based on a fixed rate of 5% ~~percent~~ has the same net settlements and fair value as an interest rate swap with a payment based on LIBOR plus 1% ~~percent~~ and a receipt based on a fixed rate of 6% ~~percent~~.

SSAP No. 92—Postretirement Benefits Other Than Pensions

49. As a minimum, amortization of a net gain or loss included in unassigned funds (surplus) shall be included as a component of net periodic postretirement benefit cost for a year if, as of the beginning of the year, that net gain or loss exceeds 10% ~~percent~~ of the greater of the accumulated postretirement benefit obligation or the fair value of plan assets. If amortization is required, the minimum amortization shall be that excess divided by the average remaining service period of active plan participants. If all or almost all of a plan's participants are inactive, the average remaining life expectancy of the inactive participants shall be used instead of the average remaining service period.

75. An employer shall disclose the amount of contributions to multiemployer plans for each annual period for which a statement of income is presented. An employer may disclose total contributions to multiemployer plans without disaggregating the amounts attributable to pension plans and other postretirement benefit plans. The disclosures shall include a description of the nature and effect of any changes affecting comparability, such as a change in the rate of employer contributions, a business combination, or a divestiture. This disclosure shall identify whether the contributions represent more than 5% ~~percent~~ of total contributions to the plan as indicated in the plan's most recently available annual report.

108.b.i ~~Ten~~10% ~~percent~~ of the calculated surplus impact as of the transition date; and

SSAP No. 93—Low-Income Housing Tax Credit Property Investments

Exhibit A Assumptions

1. All cash flows (except initial investment) occur at the end of each year.

2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).

3. The investor made a $100,000 investment for a 5% ~~percent~~ limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.

4. The partnership finances the project cost of $4,000,000 with 50% ~~percent~~ equity and 50% ~~percent~~ debt.

5. The annual tax credit allocation (equal to 4% ~~percent~~ of the project's original cost) will be received for a period of 10 years.

6. The investor's tax rate is 40% ~~percent~~.

Chart Footnotes:

(1) End-of-year investment for a 5% ~~percent~~ limited liability interest in the project net of amortization in Column (2).

(3) 4%~~Four percent~~ tax credit on $200,000 tax basis of the underlying assets.

SSAP No. 100R—Fair Value

52.g. If a group of investments would otherwise meet the criteria in paragraph 45 but the individual investments to be sold have not been identified (for example, if a reporting entity decides to sell 20% ~~percent~~ of its investments in private equity funds but the individual investments to be sold have not been identified), so the investments continue to qualify for the practical expedient in paragraph 39, the reporting entity shall disclose its plans to sell and any remaining actions required to complete the sale(s).

SSAP No. 101—Income Taxes

2. For purposes of accounting for federal and foreign income taxes, reporting entities shall adopt *FASB Statement No. 109, Accounting for Income Taxes* (FAS 109) with modifications for state income taxes[INT 18-03], the realization criteria for deferred tax assets, and the recording of the impact of changes in deferred tax balances. One objective of accounting for income taxes is to recognize the estimated amount of taxes payable or refundable for the current year as a tax liability or asset. A second objective is to recognize deferred tax liabilities and assets for the future tax consequences of events that have been recognized in a reporting entity's statutory financial statements or tax returns. However, the second objective is realistically constrained because (a) the tax payment or refund that results from a particular tax return is a joint result of all the items included in that return, (b) taxes that will be paid or refunded in future years are the joint result of events of the current or prior years and events of future years, and (c) information available about the future is limited. As a result, financial statements will recognize current and deferred income tax assets and liabilities in accordance with the provisions of this statement based upon estimates and approximations. For purposes of this statement, only adjusted gross deferred tax assets that are more likely than not (a likelihood of more than 50% ~~percent~~) to be realized shall be considered in determining admitted adjusted gross deferred tax assets.

3.a.i The term "probable" as used in SSAP No. 5R shall be replaced by the term "more likely than not (a likelihood of more than 50% ~~percent~~)" for federal and foreign income tax loss contingencies only.

7.e. Gross DTAs are reduced by a statutory valuation allowance adjustment if, based on the weight of available evidence, it is more likely than not (a likelihood of more than 50% ~~percent~~) that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment, determined in a manner consistent with paragraphs 20-25 of FAS 109, shall reduce the gross DTAs to the amount that is more likely than not to be realized (the adjusted gross deferred tax assets).

1.3 SSAP No. 101 – Gross DTAs are reduced by a statutory valuation allowance adjustment that is determined on a separate company, reporting entity basis. Pursuant to paragraphs 2 and 7.e. of SSAP No. 101, gross DTAs are adjusted to an amount that is more likely than not to be realized (a likelihood of more than 50% ~~percent~~). Only adjusted gross DTAs shall be considered in determining admitted adjusted gross DTAs. See Question 2 for further discussion of the statutory valuation allowance adjustment. See Question 4 for a further discussion of the admissibility test. See Question 12 for further discussion of presentation and disclosure of the statutory valuation allowance adjustment.

1.11 SSAP No. 101 – FIN 48 is rejected for statutory accounting pursuant to paragraph 31 of SSAP No. 101. SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets provides guidance in determining the amount of federal and foreign income tax loss contingencies with the following modifications. The term "probable" as used in SSAP No. 5R is replaced by the term "more likely than not (a likelihood of more than 50% ~~percent~~)". In determining the amount of a federal or foreign income tax loss contingency, it shall be assumed that the reporting entity will be examined by the tax authority that has full knowledge of all relevant information. If the estimated tax loss contingency is greater than 50% of the tax benefit originally recognized, the tax loss contingency recorded shall be equal to 100% of the original tax benefit recognized. See Question 9 for further discussion of income tax loss contingencies.

2.1 A – An enterprise shall record a gross deferred tax liability or asset for all temporary differences and operating loss, capital loss and tax credit carryforwards. Temporary differences include unrealized gains and losses and nonadmitted assets but do not include AVR, IMR, Schedule F penalties and, in the case of a mortgage guaranty insurer, amounts attributable to its statutory contingency reserve to the extent that "tax and loss" bonds have been purchased. In general, temporary differences produce taxable income or result in tax deductions when the related asset is recovered or the related liability is settled. A deferred tax asset or liability represents the increase or decrease in taxes payable or refundable in future years as a result of temporary differences and carryforwards at the end of the current year. Additionally, gross DTAs are reduced by a statutory valuation allowance adjustment if, based on the weight of available evidence, it is more likely than not (a likelihood of more than 50% ~~percent~~) that some portion or all of the gross DTAs will not be realized. The statutory valuation allowance adjustment, determined in a manner consistent with paragraphs 20-25 of FAS 109, shall reduce gross DTAs to the amount that is more likely than not to be realized (the adjusted gross deferred tax assets). This answer only addresses the recognition of adjusted gross DTAs and gross DTLs and does not address the admissibility of such amounts. See Question 4 for a discussion of the admissibility criteria of SSAP No. 101.

5.12 The temporary difference related to property and casualty unearned premiums is typically ~~twenty percent (~~20%~~)~~ of the outstanding statutory unearned premium reserve. If a company issues only one-year policies, it is reasonable to assume that the entire temporary difference will reverse in one year. If a company writes multi-year contracts, management will be required to estimate the percentage of the unearned premium that will be earned within each year of the applicable reversal period and apply these percentages to the outstanding temporary difference.

5.14 For those temporary differences that do not have a defined reversal period, such as unrealized losses on common stock or deferred compensation liabilities, management will need to determine when the temporary difference is “expected” to reverse. For instance, assume a company has an unrealized loss of $200 in its equity portfolio and that, on average, the portfolio turns over ~~twenty percent (~~20%~~)~~ per year. It would be appropriate for the company to conclude that $40 of the temporary difference will reverse in each year in the applicable reversal period. When determining when the temporary difference would be “expected” to reverse, management should normally consider events that are likely to occur using information, facts and circumstances in existence as of the reporting date. The estimates used in this circumstance should not be extended to other tests of impairment. For instance, when the entity assumed a 20% turnover in its equity portfolio, it is not involuntarily required to record an impairment in accordance with paragraph 10 of SSAP No. 30R—Unaffiliated Common Stock.

10.3 As an example, assume Company X files its 20X1 federal income tax return and reports $1,000,000 of taxable income comprised of $800,000 of ordinary income and $200,000 of capital gain income. Since the company is subject to taxation at a 21% ~~percent~~ tax rate on all its income, it incurred federal income tax expense of $210,000. In preparing its 20X1 statutory income tax provision, the company estimated that its liability for 20X1 federal income tax would be $147,000 based on $600,000 of ordinary income and $100,000 realized capital gains.

10.8 For example, assume the reporting entity has DTAs of $1,000 relating to temporary differences other than unrealized losses, and a $100 DTL relating to unrealized gains as of the beginning of the year. Since the entity is subject to tax at 21% ~~percent~~ and all of its DTAs are expected to reverse within one year, the entity recorded a $900 net admitted DTA as of the beginning of the year.

12.20 The Company has not recognized a deferred tax liability of approximately $30,000 of foreign withholding taxes for the undistributed earnings of its 100% ~~percent~~ owned foreign subsidiaries that arose in 20X2 and prior years because the Company does not expect those unremitted earnings to reverse and become taxable to the Company in the foreseeable future. A deferred tax liability will be recognized when the Company expects that it will recover those undistributed earnings in a taxable manner, such as through receipt of dividends or sale of the investments. As of December 31, 20X2, the undistributed earnings of these subsidiaries were approximately $200,000.

SSAP No. 102—Pensions

22. As a minimum, amortization of a net gain or loss included in unassigned funds (surplus) shall be included as a component of net pension cost for a year if, as of the beginning of the year, that net gain or loss exceeds 10% ~~percent~~ of the greater of the projected benefit obligation or the fair value of plan assets. If amortization is required, the minimum amortization shall be that excess divided by the

average remaining service period of active employees expected to receive benefits under the plan. If all or almost all of a plan's participants are inactive, the average remaining life expectancy of the inactive participants shall be used instead of average remaining service.

79. A reporting entity shall disclose the amount of contributions to multiemployer plans for each annual period for which a statement of income is presented. A reporting entity may disclose total contributions to multiemployer plans without disaggregating the amounts attributable to pension plans and other postretirement benefit plans. The disclosures shall include a description of the nature and effect of any changes affecting comparability, such as a change in the rate of employer contributions, a business combination, or a divestiture. This disclosure shall identify whether the contributions represent more than 5% ~~percent~~ of total contributions to the plan as indicated in the plan's most recently available annual report.

93.b.i. ~~Ten~~10% ~~percent~~ of the calculated surplus impact as of the transition date;

SSAP No. 103R—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities

22. An exchange of debt instruments with substantially different terms is also considered a debt extinguishment and shall be accounted for in accordance with paragraph 21. A debtor's exchange of debt instruments (in a nontroubled debt situation) is accomplished with debt instruments that are substantially different if the present value of the cash flows under the terms of the new debt instrument is at least 10% ~~percent~~ different from the present value of the remaining cash flows under the terms of the original instrument. If the difference between the present value of the cash flows under the terms of the new debt instrument and the present value of the remaining cash flows under the terms of the original debt instrument is less than 10% ~~percent~~, a creditor should evaluate whether the modification is more than minor based on the specific facts and circumstances (and other relevant considerations) surrounding the modification.

91. The reporting entity shall receive collateral having a fair value as of the transaction date at least equal to 102% ~~percent~~ of the fair value of the loaned securities at that date. If at any time the fair value of the collateral received from the counterparty is less than 100% ~~percent~~ of the fair value of the loaned securities, the counterparty shall be obligated to deliver additional collateral by the end of the next business day, the fair value of which, together with the fair value of all collateral then held in connection with the transaction at least equals 102% ~~percent~~ of the fair value of the loaned securities. If the collateral received from the counterparty is less than 100% ~~percent~~ at the reporting date, the difference between the actual collateral and 100% ~~percent~~ will be nonadmitted. Collateral value is measured and compared to the loaned securities in aggregate by counterparty.

92. In the event that foreign securities are loaned and the denomination of the currency of the collateral is other than the denomination of the currency of the loaned foreign securities, the amount of collateral shall be at least equal to 105% ~~percent~~ of the fair value of the loaned securities at that date. If at any time the fair value of the collateral received from the counterparty is less than 102% ~~percent~~ of the fair value of the loaned securities, the reporting entity must obtain additional collateral by the end of the next business day, the fair value of which together with the fair value of all collateral then held in connection with the transaction at least equals 105% ~~percent~~ of the fair value of the loaned securities. If the collateral received from the counterparty is less than 100% ~~percent~~ at the reporting date, the difference between the actual collateral and 100% ~~percent~~ will be nonadmitted. Collateral value is measured and compared to the loaned securities in aggregate by counterparty.

113. The collateral requirements for repurchase and reverse repurchase agreements are as follows:

Repurchase Transaction

a. The reporting entity shall receive collateral having a fair value as of the transaction date at least equal to 95% ~~percent~~ of the fair value of the securities transferred by the reporting entity in the transaction as of that date. If at any time the fair value of the collateral received from the counterparty is less than 95% ~~percent~~ of the fair value of the securities so transferred, the counterparty shall be obligated to deliver additional collateral by the end of the next business day the fair value of which, together with the fair value of all collateral then held in connection with the transaction, at least equals 95% ~~percent~~ of the fair value of the transferred securities. If the collateral is less than 95% ~~percent~~ at the reporting date, the difference between the actual collateral and 95% ~~percent~~ will be nonadmitted.

Reverse Repurchase Transaction

b. The reporting entity shall receive as collateral transferred securities having a fair value at least equal to 102% ~~percent~~ of the purchase price paid by the reporting entity for the securities. If at any time the fair value of the collateral is less than 100% ~~percent~~ of the purchase price paid by the reporting entity, the counterparty shall be obligated to provide additional collateral, the fair value of which, together with fair value of all collateral then held in connection with the transaction, at least equals 102% ~~percent~~ of the purchase price.

130. Exchanges of debt instruments or debt instrument modifications are considered extinguishments if the exchange or modification results with substantially different terms or is considered more than minor. If the cash flows under the terms of the new debt instrument are at least 10% ~~percent~~ different from the present value of the remaining cash flows under the terms of the original instrument, then the exchange of, or modification to, debt instruments is consider substantially different and/or more than minor.

Illustration 3 Company C originates $1,000 of loans that yield 10% ~~percent~~ interest income for their estimated lives of 9 years. Company C transfers the entire loans to an entity and the transfer is accounted for as a sale. Company C receives as proceeds $1,000 cash, a beneficial interest to receive 1% ~~percent~~ on the contractual interest on the loans (an interest-only strip receivable), and an additional 1% ~~percent~~ of the contractual interest as compensation for servicing the loans. The fair values of the servicing asset and the interest-only strip receivable are $40 and $60, respectively.

Illustration 4 – Facts

Transferor's carrying amount and fair value of security loaned	$1,000
Cash "collateral"	1,020
Transferor's return from investing cash collateral at a 5% ~~percent~~ annual rate	5
Transferor's rebate to the securities borrower at a 4% ~~percent~~ annual rate	4

SSAP No. 104R—Share-Based Payments

117.a.ii. Any purchase discount from the market price does not exceed the per-share amount of share issuance costs that would have been incurred to raise a significant amount of capital by a public offering. A purchase discount of 5% ~~percent~~ or less from the market price shall be considered to comply with this condition without further justification. A purchase discount greater than 5% ~~percent~~ that cannot be justified under this condition results in compensation cost for the entire amount of the discount. Note that an entity that justifies a purchase discount in excess of 5% ~~percent~~ shall reassess at least annually, and no later than the first share purchase offer during the fiscal year, whether it can continue to justify that discount pursuant to this paragraph.

122. Changes in total employee withholdings during a purchase period that occur solely as a result of salary increases, commissions, or bonus payments are not plan modifications if they do not represent changes to the terms of the award that was offered by the employer and initially agreed to by the employee at

the grant (or measurement) date. Under those circumstances, the only incremental compensation cost is that which results from the additional shares that may be purchased with the additional amounts withheld (using the fair value calculated at the grant date). For example, an employee may elect to participate in the plan on the grant date by requesting that 5% ~~percent~~ of the employee's annual salary be withheld for future purchases of stock. If the employee receives an increase in salary during the term of the award, the base salary on which the 5% ~~percent~~ withholding amount is applied will increase, thus increasing the total amount withheld for future share purchases. That increase in withholdings as a result of the salary increase is not considered a plan modification and thus only increases the total compensation cost associated with the award by the grant date fair value associated with the incremental number of shares that may be purchased with the additional withholdings during the period. The incremental number of shares that may be purchased is calculated by dividing the incremental amount withheld by the exercise price as of the grant date (for example, 85% ~~percent~~ of the grant date stock price).

SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees

11. The term "highly effective" describes a fair value hedging relationship where the change in fair value of the derivative instrument is within 80 to 125% ~~percent~~ of the opposite change in fair value of the hedged item attributed to the hedged risk. It shall also apply when an R-squared of .80 or higher is achieved when using a regression analysis technique.

Status:

On March 22, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed editorial revisions as illustrated within the agenda item.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/3 23-11EP - Spring 2023.docx

Attachment 4

Statutory Accounting Principles (E) Working Group
May 16 Meeting
Comment Letters Received

TABLE OF CONTENTS

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May 5, 2023

Mr. Dale Bruggeman, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Interested Parties Comments on Exposures with Comments due May 5

Dear Mr. Bruggeman:

Interested parties appreciate the opportunity to comment on the items exposed for comment by the Statutory Accounting Working Group (the Working Group) with comments due May 5:

- INT 22-02: Extension of INT 22-02 through Second Quarter 2023 Reporting of the Inflation Reduction Act – Corporate Alternative Minimum Tax (CAMT),
- Ref #2023-03: New C-2 Mortality Risk Note, and
- Ref #2023-11EP: NAIC Accounting Practices and Procedures Manual Editorial and Maintenance Update March 22, 2023.

INT 22-02: Third Quarter 2022 through Second Quarter 2023 Reporting of the Inflation Reduction Act - Corporate Alternative Minimum Tax

The Working Group adopted a tentative consensus to extend this interpretation for the second quarter 2023 statutory financial statements. This exposure proposed to extend *INT 22-02* to July 1, 2023. The extension is intended to allow the INT to be applied for the second quarter of 2023 financial statements and disclosures continue to be required. For application to the second quarter 2023 financial statements, reporting entities shall follow the guidance in this interpretation paragraphs 17 a-c.

Interested parties support the extension of the INT but recommend that it be extended to August 16th, the day after the quarterly statements are due.

Ref #2023-03: New C-2 Mortality Risk Note

The Working Group moved this agenda item to the active listing, categorized as a SAP clarification, and exposed revisions to SSAP No. 51R, SSAP No. 59, and SSAP No. 61R providing new disclosures to capture the net amount at risk detail needed to support updates to the life risk-based capital (RBC) C-2 mortality risk charges.

Interested parties notes the following comment within the proposed disclosures:

> "Note that these amounts are intended for data capture using the tables and detailed line references in the annual statement instructions."

Given that the purpose of the change described in the above sentence is for data capture using the tables and detailed line references in the annual statement instructions, we recommend that the Working Group only expose this item as a sponsor for a Blanks change and that no changes be made to the SSAPs.

Ref #2023-11EP: NAIC Accounting Practices and Procedures Manual Editorial and Maintenance Update March 22, 2023

The following editorial comments were proposed:

SSAP No. 86 - Paragraph 43.g.ii.: Revise "Intrinsic Value" to reflect "Volatility Value"

P&P Manual References - All citations to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* are proposed to be reviewed and streamlined so they do not reflect a specific location in the Manual or a webpage. These references will be eliminated to prevent inappropriate citations.

Percent References - Instances in which 'percent' is spelled out in combination with a number will be eliminated with retention of the % sign. This is a consistency change as the usage is currently inconsistent within the Manual.

Regarding the proposed changes related to SSAP No. 86, interested parties appreciate staff for including the recommendation to revise the reference from "Intrinsic Value" to "Volatility Value" to clarify the disclosure category for the Blanks (E) Working Group's proposed change and a corresponding revision to SSAP No. 86R.

We also support the proposed changes to the P&P Manual and the use of percent references.

Thank you again for your consideration of interested parties' comments regarding the exposures discussed above. Please feel free to contact either one of us with any questions you may have.

Sincerely,

D. Keith Bell Rose Albrizio

cc: Interested parties
NAIC staff

CJW Associates

Dale Bruggeman, Chair of the Statutory Accounting Principles Working Group
Pat Gosselin, Chair of the Blanks Working Group

RE: SAPWG ref 2023-03
BWG ref 2023-09

Both of these proposals state their purpose as incorporating elements needed for direct pulls into the Life Risk-Based Capital (LRBC) formula from the annual statement. However, both proposals go beyond elements needed for LRBC and the Blanks proposal even includes information that is already provided in the statement. Since these proposals are related as to intent and the SAPWG proposal is driving the BWG proposal, this email provides comments applicable to both proposals.

SAPWG 2023-03 calls for the disclosure of gross, assumed, ceded and net amounts at risk for life insurance. If the intent of the disclosure is really to accommodate LRBC, only the net amounts are needed. Why does the disclosure requirement go beyond the stated purpose? In addition, some of the information required in the proposed disclosure already exists in the statement. It is my understanding that a disclosure requirement does NOT have to be in the Notes to Financials. The disclosure can appear anywhere in the statement. In this case, some of the requested information is in the Exhibit of Life Insurance, Exhibit 5, and Separate Accounts Exhibit 3. In fact, the proposed additional language for the SSAPs even references those statement locations as drafting notes. Why then are those particular elements being duplicated in the BWG proposal for the Note? It is not necessary to report something in the Exhibit of Life Insurance or Exhibit 5, then duplicate it in a Note, and then be pulled into LRBC. Last year the LRBC formula directly pulled these elements from the Exhibit of Life Insurance, Exhibit 5, and the Separate Accounts Exhibit 3. That treatment should continue without duplicating the information in a Note.

BWG has been charged with reviewing statement reporting for redundancy and trying to eliminate it as much as possible. But BWG can't accomplish that alone. In fact, the charge actually states BWG is to "Coordinate with the applicable task forces and working groups as needed to avoid duplication of reporting within the annual and quarterly statement blanks." That is why this is being sent to both SAPWG and BWG. Reducing redundancy needs to be a concerted effort between all groups and not just left up to BWG.

In summary:

1. The language being considered for the SSAPs should be revised to not include pieces of information that are not used in LRBC, if the intent of the new proposed Note is to allow for direct pulls from the statement to LRBC.
2. Information included in the BWG proposal that is already available in the Exhibit of Life Insurance, Exhibit 5 and Separate Accounts Exhibit 3, should be eliminated from the new proposed Note.

3. The proposed Note should be restructured to not duplicate information already available in the statement and eliminate elements not used for LRBC.

Thank you.

Connie

Connie Jasper Woodroof
CJW Associates

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Residuals in SSAP No. 48 Investments

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☐	☒	☐
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:

This agenda item proposes revisions to clarify the scope and reporting for investment structures that represent residual interests or a residual security tranche (collectively referred to as residuals) within statutory accounting principles. Previously, revisions have been incorporated in *SSAP No. 43R—Loan-Backed and Structured Securities* to address the reporting of residual interests within securitization structures. With these revisions, residual interests, as defined within SSAP No. 43R, were required to be reported on Schedule BA on designated reporting lines beginning year-end 2022. After reviewing the 2022 reporting results, it was identified that the information for residuals may be underrepresented as a result of the various legal forms that residual investments can take. For example, a reporting entity could hold investments that have the substance of residual interests in the form of limited partnerships, joint ventures, or other equity fund investments. To ensure collective and consistent reporting of all residual interests, this agenda item proposes guidance to clarify the reporting of in-substance residuals regardless of the structure of the investment vehicle.

The discussion of residual interests often compares those securities to equity interests. These two investment structures are not synonymous, and it should not be perceived that all equity interests reflect residuals. A residual interest or a residual security tranche exists in investment structures that are backed by a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting excess funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual interest. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent cash flows will be generated and distributed. The residual interest holder absorbs these losses (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal, so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. The list below provides common characteristics in residuals, but with varying (and often changing structures), this list should not be used as rules governing whether a security reflects a residual interest. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form.

Common Characteristics of Residual Interests / Residual Security Tranches:

- Residuals often do not have contractual principal or interest.
- Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

- Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.
- Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.
- Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Existing Authoritative Literature:

SSAP No. 43R—Loan-Backed and Structured Securities defines residuals specific to securitizations or beneficial interests and requires these securities to be reported on dedicated Schedule BA reporting lines. (This guidance was effective for year-end 2022 and detailed in agenda item 2022-15.)

26. Loan-backed and structured securities shall be valued and reported in accordance with this statement, the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual), and the designation assigned in the *NAIC Valuations of Securities* product prepared by the NAIC Securities Valuation Office or equivalent specified procedure. The carrying value method shall be determined as follows:

    a. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed and structured securities, excluding residual tranches or interests, shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value.

    b. For reporting entities that do not maintain an AVR, loan-backed and structured securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively), excluding residual tranches or interests, shall be reported at amortized cost; loan-backed and structured securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

    c. For residual tranches or interests[FN] captured in scope of this statement, all reporting entities shall report the item on Schedule BA: Other Long-Term Invested Assets at the lower of amortized cost or fair value. Changes in the reported value from the prior period shall be recorded as unrealized gains or losses. For reporting entities that maintain an AVR, the accounting for unrealized gains and losses shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*.

    Footnote: Reference to “residual tranches or interests” intends to capture securitization tranches and beneficial interests as well as other structures captured in scope of this statement that reflect loss layers without any contractual payments, whether principal or interest, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. Although payments to holders can occur throughout an investment’s duration (and not just at maturity), such instances still reflect the residual amount permitted to be distributed after other holders have received contractual interest and principal payments.

Annual Statement Instructions also detail specific reporting lines for residuals with instructions for reporting in Schedule BA:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:
Fixed Income Instruments
Unaffiliated..4699999

Affiliated..4799999

Common Stock

Unaffiliated..4899999
Affiliated..4999999

Preferred Stock

Unaffiliated..5099999
Affiliated..5199999

Real Estate

Unaffiliated..5299999
Affiliated..5399999

Mortgage Loans

Unaffiliated..5499999
Affiliated..5599999

Other

Unaffiliated..5699999
Affiliated..5799999

<u>Residual Tranches or Interests with Underlying Assets Having Characteristics of:</u>

Investment in Residual Tranches or Interests should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests captures securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.

<u>Fixed Income Instruments</u>

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 1 – Long-Term Bonds*

<u>Common Stocks</u>

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 2 – Section 2 – Common Stocks*

<u>Preferred Stocks</u>

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule D – Part 2 – Section 1 – Preferred Stocks*

<u>Real Estate</u>

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule A – Real Estate Owned*

<u>Mortgage Loans</u>

Include: Investments with underlying collateral which, if held individually, would be reported on *Schedule B – Mortgage Loans*

<u>Other</u>

Include: Items that do not qualify for inclusion in the above subcategories.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- Under the principles-based bond project, revisions have been proposed to incorporate guidance for residuals in *SSAP No. 21R—Other Admitted Assets*. With the Spring 2023 National Meeting exposure, information was requested from industry on how amortized cost for residuals was determined as well as how other-then-temporary assessments were completed.

- The Investment Risk and Evaluation (IRE) Risk Based-Capital (E) Working Group is considering a structural change and a potential factor change for residuals reported on Schedule BA. The year-end 2022 data was reviewed and was noted to underrepresent the full scope of residual tranche securities held by insurance reporting entities as the current guidance in SSAP No. 43R is specific to securitizations or beneficial interests.

- A March 31, 2023, Valuation of Securities (E) Task Force referral to the Statutory Accounting Principles (E) Working Group identified other structures that could contains residual tranche securities that may not be captured within the year-end 2022 Schedule BA dedicated residual reporting lines.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): NA

Recommendation:
NAIC staff recommend that the Working Group move this item to the active listing, as a SAP clarification, and expose revisions to clarify that investments structures captured in scope of *SSAP No. 48—Joint Ventures, Partnerships, and Limited Liability Companies*, that represent residual interests or that predominantly hold residual interests, shall be reported on the dedicated residual reporting line on Schedule BA. As these investments are already reported on Schedule BA, this revision results in a reporting classification change within the same schedule. These investments are still considered to be in scope of SSAP No. 48 and they are only permitted to be admitted if they qualify as admitted assets pursuant to requirements of SSAP No. 48. (Under SSAP No. 48, investments in scope must be supported by an audit to qualify for admittance.)

Proposed revisions to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*:

New header and paragraphs 18-20. All other paragraphs will be renumbered accordingly.

Residual Interests and Reporting

18. Investments in scope of this statement are reported on *Schedule BA: Other Long-Term Assets*. Schedule BA includes dedicated reporting categories for joint ventures, partnerships, and limited liability company investments as well as for residual interests, both with reporting lines in accordance with underlying asset characteristics. Investments within scope of this standard shall be divided within these reporting categories, with investments that reflect residual interests, or that predominantly hold residual interests, captured in the residual interest reporting category.

19. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures that are backed by a discrete pool of collateral assets. These designs could be backed directly or indirectly through a feeder fund. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual security /

residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

20. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Corresponding revisions are also proposed to SSAP No. 43R—Loan-Backed and Structured Securities:

Revisions are proposed to pull the residual guidance into a new section, after paragraph 26, rather than a footnote. Remaining paragraphs will be renumbered accordingly.

Reporting Guidance for All Loan-Backed and Structured Securities

26. Loan-backed and structured securities shall be valued and reported in accordance with this statement, the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual), and the designation assigned in the NAIC Valuations of Securities product prepared by the NAIC Securities Valuation Office or equivalent specified procedure. The carrying value method shall be determined as follows:

a. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed and structured securities, excluding residual tranches or interests, shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value.

b. For reporting entities that do not maintain an AVR, loan-backed and structured securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively), excluding residual tranches or interests, shall be reported at amortized cost; loan-backed and structured securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

c. For residual tranches or interests~~1~~ captured in scope of this statement, all reporting entities shall report the item on Schedule BA: Other Long-Term Invested Assets at the lower of amortized cost or fair value. Changes in the reported value from the prior period shall be recorded as unrealized gains or losses. For reporting entities that maintain an AVR, the accounting for unrealized gains and losses shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*.

Residual Tranches or Interests

27. A residual interest or a residual security tranche (collectively referred to as residuals) exists in investment structures (including securitizations, beneficial interests and other structures captured in scope of this statement) that are backed by a discrete pool of collateral assets. These collateral assets generate cash flows that provide interest and principal payments to debt holders, and once those contractual requirements are met, the resulting funds generated by (or with the sale of) the collateral assets are provided to the holder of the residual security / residual interest holder. When an asset within the discrete pool of assets does not perform as expected, it impacts the extent to which cash flows will be generated and distributed. The residual security holder absorbs these losses first (as it reduces what they could receive as a residual holder) while the holders of the debt securities continue to receive interest and principal so long as there are enough collateral cash flows to cover them. The residual holder may ultimately receive nothing, a reduced amount from original projection, or large returns, based on how the underlying collateral assets perform.

28. The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche for reporting purposes shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

~~[1] Reference to "residual tranches or interests" intends to capture securitization tranches and beneficial interests as well as other structures captured in scope of this statement that reflect loss layers without any contractual payments, whether principal or interest, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. Although payments to holders can occur throughout an investment's duration (and not just at maturity), such instances still reflect the residual amount permitted to be distributed after other holders have received contractual interest and principal payments.~~

Proposed revisions to Annual Statement Instructions:

Residual Tranches or Interests with Underlying Assets Having Characteristics of:

Investment in Residual Tranches or Interests should be assigned to the subcategory with the highest underlying asset concentration. There shouldn't be any bifurcation of the underlying assets among the subcategories.

Include: Residual tranches or interests ~~captures~~ from securitization tranches and beneficial interests as well as other structures captured in scope of *SSAP No. 43R – Loan-Backed and Structured Securities*. ~~, that reflect loss layers without any contractual payments, whether interest or principal, or both. Payments to holders of these investments occur after contractual interest and principal payments have been made to other tranches or interests and are based on the remaining available funds. See SSAP No. 43R for accounting guidance.~~

Investments in joint ventures, partnerships and limited liability companies captured in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* that represent residual interests, or that predominantly hold residual interests.

This category shall also include residual interests or residual security tranches within investment structures that are not captured in scope of SSAP No. 43R or SSAP No. 48 but that reflect, in substance, residual interests or residual security tranches.

The structural design of a residual interest or residual security tranche can vary, but the overall concept is that they receive 'residual' cash flows after all debt holders receive contractual interest and principal payments. Determining whether a security reflects a residual interest or tranche shall be based on the substance of the investment held rather than its legal form. Common characteristics of residual interests / residual security tranches include the items noted below, but the presence of absence of any of these factors should not be definitive in determination. Classification as a residual should be based on the substance of the investment and how cash flows to the holder are determined.

a. Residuals often do not have contractual principal or interest.

b. Residuals may have stated principal or interest, but with terms that result in receiving the residual cash flows of the underlying collateral. The terms allow for significant variation in the timing and amount of cash flows without triggering a default of the structure.

c. Residuals do not have credit ratings or NAIC assigned designations. Rather, they provide the subordination to support the credit quality of the typically rated debt tranches.

d. Residuals may provide payment throughout the investment duration (and not just at maturity), but the payments received continue to reflect the residual amount permitted after other tranche holders receive contractual principal and interest payments.

e. Frequently, there are contractual triggers that divert cash flows from the residual tranche to the debt tranches if the structure becomes stressed.

Staff Note: With adoption of guidance to define a residual, corresponding revisions will also be proposed to the SSAPs proposed to be updated under the principles-based bond definition (e.g., *SSAP No. 43R—Asset-Backed Securities* and *SSAP No. 21R—Other Admitted Assets*.)

Staff Review Completed by: Julie Gann - NAIC Staff, April 2023

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/A 23-12 - Residuals.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: PIK Interest Disclosure Clarification

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☐	☒	☐
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue: This agenda item has been developed to further clarify, and incorporate a practical expedient, to the paid-in-kind (PIK) interest aggregate disclosure adopted in *SSAP No. 34—Investment Income Due and Accrued* for year-2023. In response to questions received on how paydowns / disposals would impact PIK interest included in the cumulative balance, it was noted that clarifying guidance would assist with consistent application. Furthermore, without clarification it was identified that companies and investment software vendors may interpret the need to detail the retrospective PIK allocations and paydowns / disposals as evidence for the resulting amount.

To eliminate the potential inconsistent application on how paydowns / disposals impact PIK interest included in cumulative principal / par balance, as well as to streamline the calculation, this agenda item proposes the following clarifications:

- Any decreasing amounts to principal balances (paydowns / disposals / sales, etc.,) shall first be applied to any PIK interest included in the principal balance. For example, if original par was $100, PIK interest received overtime was $50 and paydowns received were $30, the resulting PIK included in the cumulative balance would be $20 - ($50 less $30). No reduction to the original principal would occur until the PIK interest had been fully eliminated from the balance. If in this scenario paydowns of $70 had occurred, the company would report zero in the disclosure for cumulative PIK interest, as the amount received would have fully eliminated the $50 in PIK interest.

- The determination of PIK interest in cumulative balance can be calculated through a practical expedient calculation of original par / principal value to current par / principal value, not to go less than zero. This calculation will determine the resulting balance from PIK interest over time as well as paydowns / disposals, etc. The intent of this calculation is to prevent companies and investment software vendors from creating a schedule that details PIK interest and paydowns received retroactively since the origination of the investment. The practical expedient calculation from the original to current par / principal value shall result with the same resulting PIK interest amount included in the cumulative balance without the retroactive scheduling required.

The adopted disclosure in SSAP No. 34 is not intended to change, but the proposed clarification and practical expedient guidance is intended to be captured in the annual statement instructions. This agenda item is being exposed at the SAPWG, as the source of the adopted disclosure, and will be used to subsequently provide a memo to blanks for year-end 2023 application and to revise the formal instructions for 2024.

Existing Authoritative Literature:

- **SSAP No. 34—Investment Income Due and Accrued**

Disclosures

7. The following disclosures shall be made for investment income due and accrued in the financial statements. (SSAP No. 37 captures disclosures for mortgage loans on nonaccrual status pursuant to paragraph 6.)

a. The bases by category of investment income for excluding (nonadmitting) any investment income due and accrued;

b. Disclose total amount excluded;

c. Disclose the gross, nonadmitted and admitted amounts for interest income due and accrued;

d. Disclose aggregate deferred interest;

e. Disclose cumulative amounts of paid-in-kind (PIK) interest included in the current principal balance.

- **A/S Instructions – Life, Accident and Health / Fraternal Companies**

7. Investment Income Instruction:

Disclose the following for investment income due and accrued in the financial statements:

A. The bases, by category of investment income, for excluding (nonadmitting) any investment income due and accrued,

B. The total amount excluded.

C. The gross, nonadmitted and admitted amounts for interest income due and accrued. (1) Gross amount for interest income due and accrued. (2) Nonadmitted amount for interest income due and accrued. (3) Admitted amount for interest income due and accrued.

D. The aggregate deferred interest.

E. The cumulative amounts of paid-in-kind (PIK) interest included in the current principal balance.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- Agenda item 2022-17: Interest Income Disclosure update was adopted March 22, 2023. This disclosure data-captured existing and incorporated new disclosures, to SSAP No. 34, which included the cumulative amount of paid-in-kind (PIK) interest included in the current principal balance. The revisions were adopted for year-end 2023 and are shown in the authoritative literature section above.

- Blanks Proposal 2023-11BWG intends to adopt instructions and illustrations for the revised disclosures in May 2023.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): NA

Recommendation:
NAIC staff recommend that the Working Group include this item on their maintenance agenda as a SAP clarification and expose this agenda item to clarify and incorporate a practical expedient, to the paid-in-kind (PIK) interest aggregate disclosure for SSAP No. 34 and annual statement instruction purposes. For annual

statement purposes, this instruction will be an editorial change only and can be provided by the SAPWG in a memo posted on the Blanks Working (E) Group page if adopted after the deadline to incorporate into the annual statement instructions for 2023. Comments on this exposure are requested by June 30, 2023, to allow for adoption consideration at the 2023 Summer National Meeting.

Proposed Revisions to SSAP No. 34

7. The following disclosures shall be made for investment income due and accrued in the financial statements. (SSAP No. 37 captures disclosures for mortgage loans on nonaccrual status pursuant to paragraph 6.)

a. The bases by category of investment income for excluding (nonadmitting) any investment income due and accrued;

b. Disclose total amount excluded;

c. Disclose the gross, nonadmitted and admitted amounts for interest income due and accrued;

d. Disclose aggregate deferred interest;

e. Disclose cumulative amounts of paid-in-kind (PIK) interest included in the current principal balance~~.~~ / par value[FN].

New Footnote: In disclosing the cumulative amount of PIK interest, identify the specific amounts of PIK interest by lot and aggregate the amounts by CUSIP/PPN that have a net increase to the original par value. The net increase includes PIK interest added to the par value less disposals (i.e., repayments; sales) that are first applied to any PIK interest outstanding. As a practical expedient, an insurer may calculate the cumulative amount of PIK interest on a bond by subtracting the original principal / par value from the current principal / par value, but not less than $0.

Proposed instruction for inclusion in the Annual Statement Instructions (or 2023 memo to Blanks):

7. Investment Income Instruction:

Disclose the following for investment income due and accrued in the financial statements:

A. The bases, by category of investment income, for excluding (nonadmitting) any investment income due and accrued,

B. The total amount excluded.

C. The gross, nonadmitted and admitted amounts for interest income due and accrued. (1) Gross amount for interest income due and accrued. (2) Nonadmitted amount for interest income due and accrued. (3) Admitted amount for interest income due and accrued.

D. The aggregate deferred interest.

E. The cumulative amounts of paid-in-kind (PIK) interest included in the current principal balance.

For the PIK interest included in the current principal balance, include the amount of reported interest in which the terms permit "paid in kind" (PIK) instead of cash. The amount reported shall reflect the cumulative amount of PIK interest included in the current principal balance / par value. In disclosing the cumulative amount of PIK interest, identify the specific amounts of PIK interest by lot and aggregate the amounts by CUSIP/PPN that have a net increase to the original par value. The net increase includes PIK interest added to the par value less disposals (i.e., repayments; sales) that are first applied to any PIK interest outstanding. As a practical expedient, an insurer may calculate the cumulative amount of PIK interest on a bond by subtracting the original principal / par value from the current principal / par value, but not less than $0.

Staff Review Completed by: Julie Gann - NAIC Staff, May 2023

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/B 23-13 - PIK Interest.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: New Market Tax Credits

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue: The New Market Tax Credits (NMTC) Program was established by Congress in December 2000 and permits individual and corporate taxpayers to receive a non-refundable tax credit against federal income taxes for making equity investments in financial intermediaries known as Community Development Entities (CDEs). CDEs that receive the tax credit allocation authority under the program are domestic corporations or partnerships that provide loans, investments, or financial counseling in low-income urban and rural communities. The tax credit provided to the investors total 39% of the total cost of the investment and is claimed over a seven-year period. The CDEs in turn use the capital raised to make investments in low-income communities. CDEs must apply annually to the CDFI Fund to compete for NMTC allocation authority. The NMTC program is currently subject to expiration but has been extended to Dec. 31, 2025. The NMTC Extension Act of 2021 (introduced February 2021) would make the NMTC program permanent, modify the credit to provide for an inflation adjustment to the limitation amount for the credit after 2021, and allow an offset against the alternative minimum tax for the credit.

The success of the federal NMTC program has led to states adopting their own NMTC legislation. Per one noted article, majority of state NMTC programs follow the federal rules with some modifications that vary from state to state. State modifications have been noted to specifically target smaller business, simplifying the application process, prohibiting the use of real estate business, and capping the amount of tax credits that can be allocated to one project. The economic impact of the state NMTC programs is typically less than the impact of federal NMTC programs because the economic return to investors for state tax credits is generally lower than what they receive for federal credits. Some states require that state tax credits can only be used in conjunction with federal credits. Pairing federal and state programs is beneficial to the qualifying business as they keep more of the investment without an obligation to return as the investors gets more tax credits.

Overview of Federal Program:

- Federal government authorizes an annual credit authority for NMTCs (amount of tax credits available).

- The Community Development Fund Institutions (CDFI fund) is a division of the U.S. Treasury responsible for implementing the NMTC program. Since there are limited tax credits each year, the CDFI fund has a competitive application process for the right to grant tax credits to investors and to make qualified NMTC investments.

- The right to grant tax credits is referred to as "NMTC Allocation" and is awarded to Community Development Entities (CDEs) that invest in low-income communities. The CDEs offer the tax credits to cash investors, and then use the cash to make investments (typically loans to a qualifying project – a "Qualifying Active Low-Income Community Business" - QALICB) that further the mission and objectives of the NMTC program.

- The program specifies that the investor must provide cash as an equity investment (qualified equity investment – QEI) and it must stay invested in the CDE and the resulting NMTC qualifying project (QALICB) for a period of seven years.

    - The restrictions are specific that the investment is an equity investment as stock (other than nonqualified preferred) in an entity that is a corporation for federal tax purposes or any capital interest in an entity that is a partnership for federal tax purposes. (The investor is generally a 99.99% or 100% equity owner.)

- NMTC investments must remain in a qualified business for a seven-year period. Any principal amount repaid during that period must be reinvested by the CDE until the seven-year period expires. Most CDEs and investors avoid the reinvestment requirement and structure interest-only loans that prohibit principal repayment within the seven-year timeframe.

    - The 39% tax credit is provided as 5% of the investment in the first 3 years and then 6% of the investment for the next 4 years.

    - For tax purposes, the basis adjustment in the qualified equity investment is reduced by the amount of any new market tax credits on each credit allowance date.

    - Programs that cease to qualify are subject to tax credit recapture.

- Investors enter these transactions recognizing that the original investment amount will not be fully returned. Rather, a portion (or perhaps all) of the equity investment will be unpaid without an obligation to return from the borrowing business. NMTC investments with these terms have specific maturing terms / actions. One approach could be that an option (put/call) is held by the investor that gives them the right to sell its equity investment to the borrower for a nominal price.

- The designs are often complex and introduce leverage lenders to maximize tax credits to the equity investor:
    - Equity investor provides $3M to acquire 100% equity interest in an investment fund.
    - Investment fund borrows $7M from a leverage lender.
    - This results with a $10M qualifying NMTC transaction, resulting with the equity investor receiving $3.9M in tax credits over 7 years from an initial $3M investment.
    - The investment fund provides two loans to the qualified low-income business (QALICB). The first loan is for the $7M leverage loan, the second is for the $3M equity investment.
    - Both loans only pay interest for the seven-year period to meet the NMTC terms.
    - At the conclusion of the 7 years, the project sponsor purchases the second loan via a ‘put/call’ agreement, converting the $3M into a permanent subsidiary for the project.
    - The borrower / project sponsor refinances the $7M loan to repay the leverage lender.
    - The ultimate result is that the equity investor received $3.9M over 7 years in tax credits for $3M.

- Example without leverage lender:
    - Investor provides a $10M NMTC Investment
    - Investor receives $3.9M in tax credits over seven years.
    - Investors receives $7.4M of original investment at the end of the seven years.
    - Borrower keeps $2.6M of the original investment to further their low-income qualifying activities.
    - Investor receives a net return of $1.3M. ($10M less $3.9M tax credits less return of 7.4M principal.)

<u>FASB Discussion</u>
The FASB has a current Emerging Issues Task Force project to assess whether the proportional amortization method of accounting, which is used for Low-Income Housing Tax Credits (LIHTC), should be expanded to investments in tax credit structures beyond LIHTC. The proportional amortization method results in the tax credit investment being amortized in proportion to the allocation of tax credits in each period and allows the investment amortization and tax credits to be presented on a net basis within the income tax line item. Currently, investments in other tax credit structures are typically accounted for using the equity method or the cost method. Under the equity and cost methods, investment gains/losses and tax credits are presented on a gross basis on an entity's income statement. The FASB has received two requests asking that the proportional amortization method be made applicable to New Market Tax Credit Structures as well as other investment structures that are made primarily for the purpose of receiving tax credits and other tax benefits. The FASB added a project to the Emerging Issues Task Force agenda on Sept. 22, 2021. The FASB Task Force reached a consensus-for-exposure on June 16, 2022, that the proportional amortization method can be elected on a tax credit program by tax credit program basis. This proposed ASU was exposed in August 2022, with comments due Oct. 6, 2022. A final ASU is expected later in 2022 or early in 2023.

<u>IRS Provisions</u> – The NMTC is captured as a nonrefundable 'general business credit' and is limited to tax liability. If tax liability is not sufficient to take the credit, then the tax credit is subject to carryforward / carryback provisions. Per instructions from the *2021 Instructions for Form 3800 – General Business Credit*, general business credits that cannot be used because of a tax liability limit are first carried-back 1 year through an amended return. If there are unused credits after carrying back 1 year, the tax credit can be carried forward to each of the 20 tax years after the year of the credit.

<u>Inflation Reduction Act Provisions</u> – The Inflation Reduction Act was signed by President Biden on Aug. 16, 2022. Although there are several elements within the Act, it includes a 15% corporate minimum tax rate for corporations with at least $1 billion in income and includes numerous investments in climate protection, clean energy production and tax credits aimed at reducing carbon emissions. Although the Act has been signed, several elements are pending further application guidance. From preliminary information, the act allows for general business credits, such as the low-income housing tax credit (LIHTC), new markets tax credit (NMTC), historic tax credit (HTC) and renewable energy tax credits (RETCs) to be taken against the minimum tax. **However, further monitoring of application / interpretation guidance that is still forthcoming is required to assess the actual application and impact of tax credits on companies subject to the minimum tax.**

<u>Statutory Accounting Considerations:</u>

- Although the design is an equity investment of stock or interest in a corporation or partnership, which would normally be subject to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, the intent of NMTC investments is for tax credits and not equity returns. As such, this structure is closer to the existing low-income housing tax credits guidance in SSAP No. 93 than the partnership / LLC guidance in SSAP No. 48.

- Although *SSAP No. 93—Low Income Housing Tax Credit Property Investments* provides guidance for an equity investment, that provides tax credits with a limited (or zero) residual investment value, the guidance in SSAP No. 93 is specific to LIHTC programs.

- It has been identified that there are structures that have been designed to resemble fixed-income notes that do not pay regular cash interest, but rather provide NMTC tax credits as interest returns. These structures are in substance that same as other investments in NMTC, with an underlying equity interest in the CDE that generates tax credits. However, they have been structured with a guarantee for compensatory interest in the form of cash for the amount of the tax credit expected to have been received that year. These structures are also being considered within scope of this agenda item. Such structures have to meet specific criteria to qualify for tax credits under the IRS rules.

Existing Authoritative Literature:

SSAP Authoritative Guidance:

- **SSAP No. 93—Low Income Housing Tax Credit Property Investments**
  This statement establishes accounting principles for investments in federal certain state sponsored Low Income Housing Tax Credit (LIHTC) properties owned through limited liability entities that are flow-through entities for tax purposes. The guidance requires LIHTC investments to be initially recorded at cost and carried at proportional amortized cost unless the investment is identified as impaired. Under the proportional amortization method, amortization of the LLC investment is recognized in the income statement as a component of net investment income/expense and the current tax credit is accounted for as a component of income tax expense:

  - Federal tax credits are recognized in the income statement as an offset to federal taxes in the tax reporting year in which the tax credit is utilized in accordance with *SSAP No. 101—Income Taxes*.

  - State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized.

  - Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101.

  SSAP No. 93 indicates that immediate recognition of the entire benefit of the tax credit to be received during the term of the investment in a low-income housing project is not appropriate. It also indicates that low-income housing tax credits shall not be recognized in the financial statements before their inclusion in the investor's tax return.

- **SSAP No. 94R—Transferable and Non-Transferable State Tax Credits**
  This statement establishes accounting principles for investments transferable and non-transferable state tax credits, with an explicit exclusion for LIHTCs (or similar tax credits) captured in scope of SSAP No. 93.

  Guidance for admittance of state tax credits under this statement varies based on whether it is transferable or non-transferable:

  <u>Transferable – Per the SSAP, all the following criteria must be met for admittance:</u>

  1) The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise sell or transfer the credit;
  2) The transferable state tax credit will expire is not used by a predetermined date; and
  3) The transferable state tax credit can be applied against either state income tax or state premium tax.

  <u>Non-Transferable – Per the SSAP, all the following criteria must be met for admittance:</u>

  1) Successive holder of a state tax credit must redeem the credit by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry-over, carry-back, obtain a refund, sell or assign the credit;
  2) The non-transferable state tax credit will expire if not used by the predetermined date; and
  3) The non-transferable state tax credits can be applied against either state income tax or state premium tax.

Review of Existing Statutory Accounting Guidance for NMTC and Overall Application:

- Existing statutory accounting guidance does not encompass federal NMTC (or other federal tax credits), as SSAP No. 93 is limited to LIHTC and SSAP No. 94 is specific to state tax credits.

- Provisions in SSAP No. 93 do not fully address earned (received) tax credits that carryforward for future use.

- The admittance criteria in SSAP No. 94 are applied to characteristics that perhaps may not be factors that would impact admittance:

    - A tax credit that does not expire would be precluded as an admitted asset under the guidance.

    - A non-transferable tax credit that can be carried-forward, carried-back, able to be refunded or that can be sold or assigned is precluded as an admitted asset under the guidance.

Statutory Accounting Reporting Guidance:

Guaranteed and non-guaranteed federal low-income housing tax credits have separate reporting lines on Schedule BA along with an "all other" low-income housing tax credit line. The guidance is specific that these lines are only for low-income tax credits (or tax credits for affordable housing) that are in the form of a partnership or limited liability company. Non-qualifying LIHTC are to be reported in the "All Other" category. With this current guidance, there is no explicit reporting provision for tax credits that are not captured in LIHTC.

Reporting Lines and Instructions:

Guaranteed Federal Low Income Housing Tax Credit
Unaffiliated 3599999
Affiliated 3699999
Non-Guaranteed Federal Low Income Housing Tax Credit
Unaffiliated 3799999
Affiliated 3899999
Guaranteed State Low Income Housing Tax Credit
Unaffiliated 3999999
Affiliated 4099999
Non-Guaranteed State Low Income Housing Tax Credit
Unaffiliated 4199999
Affiliated 4299999
All Other Low Income Housing Tax Credit
Unaffiliated 4399999
Affiliated 4499999

Low Income Housing Tax Credit

Include: All Low Income Housing Tax Credit Investments (LIHTC or affordable housing) that are in the form of a Limited Partnership or a Limited Liability Company including those investments that have the following risk mitigation factors:

A. Guaranteed Low Income Housing Tax Credit Investments. There must be an all-inclusive guarantee from a CRP-rated entity that guarantees the yield on the investment.

B. Non-guaranteed Low Income Housing Tax Credit Investments.

I. A level of leverage below 50%. For a LIHTC Fund, the level of leverage is measured at the fund level.

II. There is a Tax Credit Guarantee Agreement from General Partner or managing member. This agreement requires the General Partner or managing member to reimburse investors for any shortfalls in tax credits due to errors of compliance, for the life of the partnership. For a LIHTC Fund, a Tax Credit Guarantee is required from the developers of the lower tier LIHTC properties to the upper tier partnership and all other LIHTC investments.

III. There are sufficient operating reserves, capital replacement reserves and/or operating deficit guarantees present to mitigate foreseeable foreclosure risk at the time of the investment.

Non-qualifying LIHTCs should be reported in the “All Other” category

Statutory Accounting RBC Impact:

Life: The RBC factor for LIHTC are captured as part of the real estate on LR007:

(17)	Federal Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 75	0.0014
(18)	Federal Non-Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 76	0.0260
(19)	State Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 77	0.0014
(20)	State Non-Guaranteed Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 78	0.0260
(21)	All Other Low Income Housing Tax Credits	AVR Equity Component Column 1 Line 79	0.1500
(22)	Total Schedule BA Real Estate	Lines (16) + (17) + (18) + (19) + (20) + (21)	

P/C and Health: The RBC factors for LIHTC are captured as components of other long-term assets. The reporting lines and factors are the same as they are for life (as shown above).

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): NA

Recommendation:
NAIC staff recommend that the Working Group include this item on their maintenance agenda as a new SAP concept and expose the draft revisions to SSAP No. 93 and SSAP No. 94R, which intend to capture all tax equity investments that provide federal business tax credit and state premium tax credits if they meet specified criteria.

Staff Review Completed by: William Oden and Julie Gann - NAIC Staff, May 2023

Status:
On December 13, 2022, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a new SAP concept, and exposed a discussion document to expand current statutory accounting guidance for low-income housing tax credits to capture all tax equity investments that provide general federal business tax credit and state premium tax credits if they meet specified criteria.

On March 22, 2023, the Statutory Accounting Principles (E) Working Group directed NAIC staff to draft statutory accounting guidance in the form of a new or revised SSAP that expands the current LIHTC guidance for equity investments that general federal business tax credit and state premium tax credits.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2023/05-16-23/C 22-14 - NMTC.docx

Note: *The revisions made to SSAP No. 93—Low-Income Housing Tax Credit Property Investments have been presented in a clean format rather than through tracked changes to prioritize readability for initial comment as the revisions are for all intent and purposes comprehensive. A tracked changes version of SSAP No. 93 will be included in the Issue Paper, which is anticipated to be drafted in the fall of 2023.*

Statements of Statutory Accounting Principles No. 93 - Revised

Investments in Tax Credit Structures

STATUS

Type of Issue	Common Area
Issued	June 13, 2005; Substantively revised XX XX, 2023
Effective Date	January 1, 2006; Substantive revisions detailed in Issue Paper No. xxx effective XX XX, 2023
Affects	No other pronouncements
Affected by	No other pronouncements
Interpreted by	INT 06-07
Relevant Appendix A Guidance	None

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for qualifying tax credit investments in programs made primarily for the purpose of receiving allowable general business federal tax credits and or state tax credits, including state premium tax credit programs. Although these investments are often in the form of equity, this statement shall be applied to all investments (regardless of the structure of the investment) that qualify pursuant to paragraph 1.

2. A reporting entity that invests in projects or programs that generate general business federal tax credits, corresponding state tax credits or state premium tax credits that meet the following conditions at the time of initial investment are required to capture the investment in scope of this statement:

   a. It is probable that the tax credits allocable to the investor will be available.

   b. Reporting entity investor does not have the ability to exercise significant influence over the operating and financial policies of the underlying projects.

   c. Substantially all the projected benefits are from tax credits and other tax benefits, determined on a discounted basis using a discount rate that is consistent with the cash flow assumptions utilized by the reporting entity for the purpose of deciding to invest in the project.

   d. The reporting entity's projected yield based solely on the cash flows from the tax credits and other tax benefits is positive.

3. Investments[1] in tax credit structures that do not meet the conditions in paragraph 2 shall be captured within the statutory accounting statement applicable to the investment held.

4. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors, to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the reporting entity is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the reporting entity will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

5. Investments in tax credit structures are generally acquired to obtain a positive yield through tax credits and other tax benefits. The value of the investment is primarily based on the value of the remaining stream of tax credits and deductible expenses available to the reporting entity investor. The primary purpose of investing in these tax credit structures is to generate tax credits which benefit reporting entities most commonly through a reduction in tax liability or, when transferability is permitted, through the sale/transfer of the tax credits.

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[1] The scope of *ASC 323-740–Investments—Equity Method and Joint Ventures—Income Taxes—Proportional Amortization Method* only extends to tax equity investments, whereas this statement is intended to capture all tax credit investments which meet criteria 2.a-2.d, regardless of structure. This includes, but is not limited to, tax equity investments and tax credit debt investments.

6. Investments in tax credit structures held by reporting entities meet the definition of an asset as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement.

Accounting

7. At initial recognition, investments in scope of this statement shall be recorded at cost. This guidance addresses the methodology for measuring an investment that is accounted for using the proportional amortization method.

8. Subsequent to initial recognition, the investment shall be carried at proportional amortized cost. Under the proportional amortization method, the reporting entity amortizes the initial cost of the investment in proportion to the tax credits and other tax benefits allocated to the investor. The amortization amount shall be calculated as follows (ASC 323-740-35-2):

   a. The initial investment balance less any expected residual value of the investment, multiplied by,

   b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the life of the investment.

9. Reporting entities shall recognize tax credits in the period they are allocated to the investor for tax purposes. Unless all tax credits are allocated to the reporting entity at the date of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of the investment project that generates tax credits and other tax benefits is not permitted. Tax credits shall not be recognized in the financial statements before the year in which the credit arises. (ASC 323-740-25-5)

10. Any expected residual value of the investment shall be excluded from the proportional amortization calculation. Non-tax related benefits received from the investment shall be included as a component of net investment income when realized or realizable. Gains or losses on the sale of the investment, if any, shall be included as a capital gain or loss at the time of the sale. (ASC 323-740-35-5) Determination of gain or loss will depend on the reported value (e.g., residual value at the end of the amortization timeframe) compared to the amount received in exchange for the investment. Liquidation of the investment commonly occurs at the end of the tax credit timeframe through a put or call agreement, often reflecting a nominal residual value that was established at the time of acquisition. The liquidation amount from such agreements shall reflect the expected residual value when available.

11. At the end of the amortization timeframe (life of the investment), if the reporting entity retains the investment, the investment shall be subsequently measured and assessed within the statutory accounting statement applicable to the investment held. Retained investments will remain on Schedule BA until disposal and cannot exceed the initial expected residual value.

12. Exhibit A illustrates the application of accounting guidance in two examples that generate tax credit and tax benefits using the proportional amortization method. The first example illustrates the application of a standard project. The second example illustrates the application of accounting guidance in a project that generates non-tax related benefits in addition to tax credits and other tax benefits using the proportional amortization method. (ASC 323-740-35-3)

Application of Proportional Amortization Method

13. Under the proportional amortized cost method, the amortization of the investment is to be recognized in the income statement as an expense component of the net investment income calculation.

Non-tax related benefits received from operations, or sale of the investment should be accounted for in accordance with paragraph 10.

14. Tax credits and other tax benefits, not to include amortization of the investment, shall be reflected as follows:

a. Tax credits allocated are to be recorded, and assessed for admittance, in accordance with *SSAP No. 94R–Transferable and Non-Transferable Tax Credits*.

b. Federal tax benefits other than tax credits (e.g., tax benefits from investment depreciation) shall be recognized in the year allocated pursuant to *SSAP No. 101—Income Taxes*. When utilized the federal tax benefits are recognized as a component of income tax expense.

c. State tax benefits other than tax credits shall be recognized in the year allocated shall be recognized in the year allocated gross of any related state tax liabilities pursuant to SSAP No. 101. When utilized, the state tax benefits are recognized as a component of taxes, licenses, and fees.

Admittance Requirements

15. Although investments in tax credit programs do not represent investments that can be directly liquidated for policyholder claims, the reduction of tax liability or transfer of tax credits represents a benefit that supports admittance of these investments, but only if the tax credit will be received and can be utilized by the reporting entity. Investments in tax credit programs that will not result in any of the anticipated tax credits or that will result in tax credits which cannot be utilized or transferred by the reporting entity shall be considered impaired and should refer to paragraphs 25 and 26.

16. Reporting entities shall, at initial investment, obtain a clean[2] fund level tax opinion[3] on the validity of the credits and structure of the underlying program and investment fund. Investments not supported by an initial tax opinion shall be nonadmitted. If the program is a permitted syndicated program with a yield guarantee, the opinion must verify that the investment and guarantee has been properly structured under IRS rules and the guarantee does not disqualify the reporting entity from obtaining federal general business tax credits.

17. Reporting entities shall annually obtain U.S. GAAP or U.S. tax basis audited financial statements on the investment fund. In the event audited U.S. GAAP or U.S. tax basis financial statements are not obtained or the audit receives an opinion other than unqualified, the asset shall be nonadmitted. If the audited financial statements are in-process but not completed as of the annual statement filing deadline, the reporting entity may admit the investment based on the results of the immediately preceding prior year audited financial statements. A lag in reporting shall be consistent from period to period.

a. <u>Other tax credit investments</u> – If the reporting entity has a tax credit investment which by virtue of its structure cannot be audited, the investment is exempt from the annual audit requirement. One example of this type of investments would be tax credit debt investments[4] which do not involve any amount of equity ownership as a component of the investment.

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[2] While not quantified or defined in either the Internal Revenue Code or state regulations, common industry standards consider a "should" opinion to be the minimum degree of confidence associated with a clean tax opinion. For the purposes of this statement, a "should" opinion must represent a probability of success no less 70%. Any tax opinion with a degree of confidence less than "should" is to be nonadmitted.

[3] A fund level tax opinion for the purposes of this statement is defined as a full IRS Circular 230 tax opinion which covers from the fund level through to the underlying assets generating the tax credit benefits. The fund level is defined as the entity, or level, at which the investor comes directly into the investment without any intermediaries.

[4] Common examples of tax credit debt investments are Tax Credit Strips, Qualified Tax Credit Bonds, and Build America Tax Credit Bonds. Tax opinions received on these tax credit investments are also referred to as "bond counsels."

This type of tax credit debt investment is exempt from the annual audit requirement, but the reporting entity is still required to obtain a clean tax opinion to support admittance at initial investment.

18. A reporting entity is required to assess the realization of tax credits against tax liability for both the tax year in which the credit can be initially utilized as well as in accordance with carry-forward and/or carryback periods to determine the extent the investments can be admitted:

a. Tax credit investments which allocate tax credits which are transferable in accordance with permitted IRS or state tax provisions are admitted up to the lesser of the proportional amortized cost, or fair value of the tax credits.

b. Tax credit investments which allocate tax credits eligible for direct payment are admitted up to the lesser of the proportional amortized cost, or the estimated proceeds.

c. For all other tax credits, if a reporting entity does not expect to fully utilize investment tax credits in the upcoming tax year or for a carryback year, the reporting entity shall perform an assessment to determine the extent it will be able to utilize the tax credits over the life of the investment. If assessment projections identify that the tax credits from investments in tax credit programs will exceed what can be utilized under IRS or state tax provisions (current and other applicable tax periods), the reporting entity shall nonadmit investments as necessary so that investments in scope of this statement (in aggregate) are only admitted to the extent tax credits are expected to be utilized. Additionally, if the assessment indicates that the next three years of investment tax credits cannot be substantially utilized then the entire investment shall be nonadmitted. In making this assessment, the reporting entity is not permitted to assume increased operations (e.g., expanded product sales) beyond actual experience to conclude that additional federal or state tax liability will exist that would allow additional utilization of tax credits. A reporting entity can subsequently admit a previously nonadmitted tax credit investment, based on subsequent assessments in which the reporting entity determines that they will be able to utilize the tax credits.

19. For tax credit investments which have an amortization timeframe greater than the tax credit allocation timeframe (as demonstrated in both examples within Exhibit A), the reporting entity would perform the same assessment detailed in paragraph 18.c but on the remaining stream of anticipated tax benefits.

Future Contributions and Additional Tax Credits

20. Many tax credit investments require future contributions by the investor, that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. A liability shall be recognized for delayed equity contributions which result in additional tax credits that are unconditional and legally binding, and a liability shall also be recognized for equity contributions which result in additional tax credits that are contingent upon a future event when that contingent event becomes probable pursuant to the loss contingency guidance in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*. (ASC 323-740-25-3) Liabilities or loss contingencies recognized for future contributions which result in additional tax credits shall be reported as 'Payable for Securities' until remitted or until the obligation is otherwise eliminated.

21. If a commitment to provide future contributions is not required to be recognized pursuant to paragraph 20, the commitment shall be disclosed in the notes to the financial statements with other commitments.

22. Additional contributions that do not result in additional tax credits for the reporting entity investor shall be immediately expensed as a component of net investment income.

23. If additional contributions result in additional tax credits for the reporting entity, the proportional amortization method for the tax credit investment shall be adjusted, on a prospective basis, to reflect the increased cost with the revised expected income tax credits and income tax benefits.

24. In the event a reporting entity obtains additional tax credits without the reporting entity making additional contributions, the reporting entity shall not adjust the value of the tax credit investment. (The proportional amortization method shall not be adjusted to reflect the expected additional tax credits.) Rather, the tax credit shall be recognized when allocated pursuant to paragraph 14.

Impairment

25. Reporting entities with investments in tax credit programs shall complete and document an impairment analysis at each reporting period. For this analysis, the reporting entity shall compare the current book adjusted carrying value to the fair value of the investment. (In lieu of fair value, an entity can compare book adjusted carrying value to the present value of future tax credits and other tax benefits discounted at a risk-free rate of return.) If book adjusted carrying value is higher, the difference between book adjusted carrying value and fair shall be recognized as an other-than-temporary impairment [INT 06-07] to the tax credit investment. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value (discounted value present value).

26. An other-than-temporary impairment shall also be considered to have occurred if a previously allocated tax credit has been recaptured or if it is probable that future tax credits will not be allocated as expected. If a project no longer qualifies for tax credits, the entire investment, less any residual established at initial recognition, shall be written off as other-than-temporarily impaired. If the reporting entity experiences a tax credit recapture, the reporting entity shall assess whether future tax credits and other benefits will qualify for use by the reporting entity. If future credits will not be generated or will be subject to future recapture, then the reporting entity shall write-off the investment as other-than-temporarily impaired so that the resulting investment value only reflects expected qualifying tax credits and other benefits expected to be allocated. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries or revision to tax credit expectations.

Disclosures

27. A reporting entity shall disclose information that enables users of its financial statements to understand the following information about its tax investments in projects that generate tax credits and other tax benefits from tax programs captured in scope of this statement: (ASC 323-740-50-1)

a. The nature of its investments in projects that generate tax credits and other tax benefits.

b. The effect of the recognition and measurement of its investments in projects that generate tax credits and other tax benefits and the related tax credits on its financial position and results of operations.

28. To meet the objective of paragraph 27, a reporting entity shall disclose the following information about its tax investments in projects that generate tax credits and other tax benefits from a tax credit program in scope of this statement:

a. The amount of tax credits and other tax benefits recognized during the period.

b. The balance of the investments recognized in the statement of financial position for the reporting period(s) presented.

c. The amount of investment amortization and non-income tax related activity recognized as a component of net investment income, and other returns allocated that were recognized outside of income tax expense.

d. An aggregate schedule of tax credits expected to be generated each year for the subsequent five years and thereafter, disaggregated by transferable and non-transferable.

e. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of contributions that are contingent commitments related to tax credit investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.

29. The following disclosures shall be included if applicable to tax credit investments:

a. If the underlying property is currently subject to any regulatory reviews and the status of such review. (Example: Investigations by the housing authority.)

b. Significant modifications or events that resulted in a change in the nature of the investment or a change in the relationship with the underlying project for investments in scope. (ASC 323-740-50-1A)

30. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:

a. A description of the impaired assets and the facts and circumstances leading to the impairment; and

b. The amount of the impairment and how fair value was determined.

31. Refer to the Preamble for further discussion regarding disclosure requirements.

Relevant Literature

32. This statement adopts with modification *Accounting Standards Update (ASU) 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. The ASU is modified for the following statutory concepts:

a. This statement is applicable to all federal and state tax credit programs earned through any tax credit investment structure that meets the requirements in paragraph 2. Under the ASU, use of the proportional amortization method is an election and only pertains to income tax equity investment structures in which the reporting entity does not exercise significant influence. With this statement, the U.S. GAAP election to use the proportional amortization method is rejected and use of proportional amortization for investments within the scope of this statement is required. The guidance is expanded for state premium tax credits.

b. Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be allocated by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements. Under the ASU, a practical expedient is allowed for the calculation of proportional amortization but has been rejected with this statement.

c. Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.

d. Tax benefits allocated, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.

e. Reporting entities shall follow the guidance in paragraphs 20 and 21 regarding the recognition of contingent commitments from SSAP No. 5R to equity contributions.

f. This statement has specific impairment and nonadmittance requirements.

g. For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).

h. Disclosures should be followed as indicated in the disclosures section in this statement.

Effective Date and Transition

33. This statement is effective for reporting periods beginning on or after January 1, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3. The guidance previously in paragraph 3 of this statement superseded paragraph 1 of SSAP No. 48. In 2011, this guidance was moved to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* and deleted from this statement. The original guidance included in this standard is retained for historical purposes in Issue Paper No. 125. The guidance from ASU 2014-01 is effective for reporting periods beginning on or after January 1, 2015, with early adoption permitted.

34. In XXX 2023, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective TBD, expanded the scope of SSAP No. 93 to include all federal and state tax credit investment structures and provide new guidance on the accounting, recognition, and reporting of tax credit investment structures. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credit investment structures to reflect the guidance in the conceptual revisions. Additionally, all tax credit investment structures which fall within the scope of this statement not currently reported on Schedule BA are to be transferred to Schedule BA as of the effective date.

REFERENCES

Relevant Issue Papers

- Issue Paper No. 125—Accounting for Low-Income Housing Tax Credit Property Investments

- Issue Paper No. XX—XXX

EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD

Example 1: Application of Proportional Amortization Method for Qualifying Investment

This example is based on paragraph 323-740-55-5 of the Accounting Standards Codification which illustrates the application of a standard project. The amount and timing of amortization in the proportional amortization method is consistent with the statutory modifications; therefore, the table incorporated in this exhibit is based on the proportional amortization table. The statutory income statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.

Terms:
Date of Investment: January 1, 20X1
Purchase Price of Investment: $100,000

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.

2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).

3. The investor made a $100,000 investment for a 5 percent limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.

4. The partnership finances the project cost of $4,000,000 with 50 percent equity and 50 percent debt.

5. The annual tax credit allocation (equal to 4 percent of the project's original cost) will be received for a period of 10 years.

6. The investor's tax rate is 40 percent.

7. For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.

8. The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the $100,000 investment.

9. It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.

10. The investor expects that the estimated residual value of the investment will be zero.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

(1) End-of-year investment for a 5 percent limited liability interest in the project net of amortization in Column (2).

(2) Initial investment of $100,000 x (total tax benefits allocated during the year in Column (6)/total anticipated tax benefits over the life of the investment of $120,000).

(3) Four percent tax credit on $200,000 tax basis of the underlying assets.

(4) Depreciation (on $200,000 tax basis of the underlying assets) using the straight-line method over 27.5 years up to the amount of the initial investment of $100,000.

(5) Column (4) x 40% tax rate.

(6) Column (3) + Column (5).

Example 2: Tax Equity Investments with Non-Income Tax Related Benefits

This example is based on paragraphs 323-740-55-11 through 323-740-55-14 of the Accounting Standards Codification and illustrates a tax equity investment that generates non-income-tax-related benefits in addition to tax credits and other income tax benefits.

The amount and timing of amortization in the proportional amortization method is consistent with the statutory modifications; therefore, the table incorporated in this exhibit is based on the proportional amortization table. The statutory income statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.

Terms:
Date of Investment: January 1, 20X1
Purchase Price of Investment: $100,000

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a $100,000 investment for a 5 percent limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership will receive production tax credits based on the energy the project produces. The credits will be allocated over a four-year period.
5. The tax equity investor will receive cash proceeds based on 2 percent of the project's cash generated during the life of the project.
6. The investor's tax rate is 40 percent.
7. All requirements are met to retain allocable income tax credits such that there will be no recapture of income tax credits.
8. The investor expects that the estimated residual value of the investment will be zero.
9. All of the conditions are met to require use of the proportional amortization method.
10. After 10 years, the tax equity investor has a right to require that the project sponsor purchase the tax equity investor's equity interest for a nominal amount. It is assumed that the Put option will be exercised.

Proportional Amortization Method with Statutory Modifications

	Net Investment	Amortization of Investment	Tax Credits	Net Losses/Tax Depreciation	Other Tax Benefits from Tax Depreciation	Tax Credits and Other Tax Benefits	Non-Tax Related Cash Returns
Year	(1)	(2)	(3)	(4)	(5)	(6)	
	100,000						
1	79,399	20,601	20,000	8,300	3,320	23,320	58
2	58,799	20,601	20,000	8,300	3,320	23,320	58
3	38,198	20,601	20,000	8,300	3,320	23,320	58
4	17,597	20,601	20,000	8,300	3,320	23,320	58
5	14,664	2,933		8,300	3,320	3,320	58
6	11,731	2,933		8,300	3,320	3,320	58
7	8,799	2,933		8,300	3,320	3,320	58
8	5,866	2,933		8,300	3,320	3,320	58
9	2,933	2,933		8,300	3,320	3,320	58
10	0	2,933		8,300	3,320	3,320	58
Total		100,000	80,000	83,000	33,200	113,200	580

(1) End-of-year investment for a 5 percent limited liability interest in the project net of amortization in Column (2).

(2) Initial investment of $100,000 x (total tax benefits allocated during the year in Column (6)/total anticipated tax benefits over the life of the investment of $113,200).

(3) These tax credits have been generated through the production of electricity, which generates production tax credits. The tax equity investor is not receiving renewable energy credits or carbon offsets.

(4) Depreciation /other tax losses passed on to the investor.

(5) Column (4) x 40% tax rate.

(6) Column (3) + Column (5).

(7) Non-income-tax-related benefits recognized in current-period pre-tax earnings when allocated. This represents the cash proceeds allocated by the tax equity investor based on the cash generated from the project.

Statements of Statutory Accounting Principles No. 94 - Revised

~~Transferable and Non-Transferable~~ State and Federal Tax Credits

STATUS

Type of Issue	Common Area
Issued	June 12, 2006; Substantively revised December 7, 2011. Conceptually revised -XXXX.
Effective Date	December 31, 2006; Substantive revisions detailed in Issue Paper No. 145 effective December 31, 2011; New SAP concept revisions detailed in Issue Paper No. XXX effective XXX.
Affects	No other pronouncements
Affected by	No other pronouncements
Interpreted by	No other pronouncements
Relevant Appendix A Guidance	None

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for ~~transferable and non-transferable~~ state and federal tax credits that are consistent with the Statutory Accounting Principles Statement of Concepts and Statutory Hierarchy (Statement of Concepts).

2. Investments in ~~Low-Income Housing Tt~~tax ~~Credits credits~~ credits as discussed in *SSAP No. 93R—~~Low-Income Housing Tax Credit Property Investments~~Investments in Tax Credit Structures*, which involve

investments in projects or programs that generate general business federal tax credits or state tax credits, are not within the scope of this statement. However, the tax credits received from tax credit investments are within the scope of this statement.

3. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors ~~(insurance companies)~~, in order to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the insurance company is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the ~~insurance company~~investors will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the ~~insurance company~~investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

4. Both state and federal governments have enacted laws that create programs by which tax credits are granted to entities under certain specified conditions. The terms of these tax credits vary based on the issuing jurisdiction and from program to program.~~The criteria in paragraphs 5 and 6 are for transferable state tax credits (i.e., credits which may be sold or assigned). The criteria in paragraphs 7 and 8 are for non-transferable state tax credits (i.e., those which cannot be sold or assigned to other parties).~~

~~5. Some states have enacted laws that create programs by which transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). The terms of these state tax credits vary from state to state and, within a state, from program to program. However, many of these transferable state tax credit programs share the following four characteristics:~~

~~a. The tax credit is nonrefundable;~~

~~b. The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise resell or transfer the credit;~~

~~c. The transferable state tax credit will expire if not used by a predetermined date; and~~

~~d. The transferable state tax credit can be applied against either state income tax or state premium tax.~~

~~6. For purposes of this statement, such programs will be referred to as "transferable state tax credits." The criteria in paragraphs 5.b., 5.c. and 5.d. must be present in order for the transferable state tax credit to receive the accounting treatment described in this statement. When a reporting entity purchases a transferable state tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e. limited partnership).~~

~~**Non-Transferable State Tax Credits**~~

~~7. If the original or subsequent holder of the transferable tax credit is not able to transfer the tax credit, then the admissibility criteria in paragraph 8 for non-transferable tax credits apply. These non-transferable state tax credits share the following characteristics:~~

~~a. The tax credit is nonrefundable;~~

~~b. The successive holder of a state tax credit must redeem the credit by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry-over, carry-back, obtain a refund, sell or assign the credit;~~

~~c. The non-transferable state tax credit will expire if not used by the predetermined date; and~~

~~d. The non-transferable state tax credit can be applied against either state income tax or state premium tax.~~

5. ~~The criteria in paragraphs 7.b., 7.c. and 7.d. must be present in order for the non-transferable state tax credit to receive the accounting treatment described in this statement.~~For the purposes of this statement, "tax credits" must be issued by either a federal or state governmental entity and must be refundable[1] or can be applied against income tax or premium tax in accordance with permitted IRS or state tax provisions. Tax credits which may be sold or otherwise transferred to another entity are referred to as "transferable tax credits" whereas all other tax credits are referred to as "non-transferable".

6. When a reporting entity purchases a transferable tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e., limited partnership)~~.~~. Direct payment elections are non-revocable and supersede the transferability of tax credits, as such, once the election has been made the tax credit would be considered a non-transferable tax credit.

~~**Transferable and non-transferable state tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement. If the criteria in paragraphs 6 or 8 are not met, the tax credits are nonadmitted.**~~

~~Acquisition~~Accounting

7. All tax credits within the scope of the statement must be recognized in the period they are allocated to or purchased by the reporting entity for tax purposes and must be recorded at face value upon receipt. ~~Transferable and non-transferable state tax credits are recorded at cost at the date of acquisition.~~Tax credits acquired at a premium or discount to their face value must record the gain/loss as follows:

a. Tax credits acquired at a discount must defer the gain as a miscellaneous liability upon receipt of the tax credit.

b. Tax credits acquired at a premium must realize the loss within the income statement upon receipt of the tax credit.

8. Deferred g~~G~~ains on ~~transferable and nontransferable~~ tax credits are deferred until the value of the ~~state~~ tax credits utilized exceeds the initial acquisition cost of the state tax credits, or until the ~~state~~ tax credits are transferred to other entities or the direct payment election is utilized and the payment(s) or refund ~~is greater than~~exceed the initial ~~carrying~~ acquisition ~~value~~cost.

[1] Direct payment tax credits are synonymous with refundable tax credits, as such the terms are used interchangeably within this statement.

~~**Balance Sheet Treatment**~~

9. Tax credits shall be recognized in the period that they are purchased or allocated to the reporting entity for tax purposes:

a. Federal tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101–Income Taxes*. Federal tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported net of deferred tax asset (DTA) in accordance with SSAP No. 101.

b. State tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested-assets (not reported net).

10. Use of carried forward tax credits in a future period shall be reflected as an offset to the corresponding income or premiums tax in the tax reporting year in which the tax credit is utilized.

~~8. Transferable and non-transferable state tax credits shall be established gross of any related state tax liabilities and reported in the category of other-than-invested assets (not reported net).~~

~~9. As transferable and non-transferable state tax credits are redeemed, the carrying value of the tax credits is reduced dollar for dollar by the amount of state tax credits applied toward the reporting entity's applicable state tax liability.~~

~~Income Statement Treatment~~

~~10. Gains on transferable and non-transferable state tax credits are deferred until the value of the state tax credits utilized exceeds the cost of the state tax credits or until the state tax credits are sold to other entities and the payment received is greater than the book value.~~

~~11. Losses on transferable and non-transferable state tax credits are recognized when known.~~

11. Gains and losses on ~~transferable and non-transferable state~~ tax credits are reflected in other income when realized.

Admittance

12. ~~Transferable and non-transferable t~~Tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits are subject to SSAP No. 101.

Impairment

~~12.~~13. An impairment shall be considered to have occurred if it is probable that the reporting entity will be unable to recover the book adjusted carrying value ~~amount~~ of the ~~transferable or non-transferable state~~ tax credits. T~~State t~~ax credits should be evaluated for impairment at each reporting date.

~~13.~~14. When there is a decline in the realizability of a ~~transferable or non-transferable state~~ tax credit owned by the reporting entity that is other than temporary, the asset shall be written down to the expected realizable amount and the amount of the write down shall be accounted for as a realized loss. The expected realizable value is the new cost basis.

~~14.~~15. The new cost basis shall not be changed for subsequent recoveries in realizability.

Disclosures

~~15.~~16. The following disclosures shall be made in the financial statements. For purposes of this disclosure, total unused ~~transferable and non-transferable state~~ tax credits represent the entire ~~transferable and non-transferable state~~ tax credits available:

a. Carrying value of ~~transferable and non-transferable state~~ tax credits, disaggregated by transferable and non-transferable, gross of any related ~~state~~ tax liabilities by ~~state~~ jurisdiction and in total.~~,~~

b. Total unused ~~transferable and non-transferable state~~ tax credits by ~~state~~jurisdiction, disaggregated by transferable and non-transferable.~~;~~

c. Method of estimating utilization of remaining ~~transferable and non-transferable state~~ tax credits or other projected recovery of the current carrying value.

d. Impairment amount recognized in the reporting period, if any.

e. Identify ~~state~~ tax credits by transferable and non-transferable classifications~~,~~ and identify the admitted and ~~N~~nonadmitted portions of each classification.

Effective Date and Transition

17. This statement is effective for reporting periods ending on or after December 31, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3. Substantive revisions to 1) revising the title; 2) incorporating the criteria for non-transferable state tax credits as described in paragraphs 7 and 8; 3) adding a disclosure; and 4) updating terminology throughout the document as appropriate, are effective for reporting periods ending on or after December 31, 2011.

18. In XXX, 20XX, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective XXX, 20XX, expanded the scope of SSAP No. 94R to include all state and federal tax credits and provide new guidance on the accounting, recognition, and reporting for state and federal tax credits. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credits within the scope of this statement to reflect the guidance in the conceptual revisions. For unutilized tax credits which were carried forward from prior to the effective date:

a. Federal tax credits in other-than-invested assets are to be transferred and reported net of deferred tax asset (DTA) in accordance with SSAP No. 101.

~~a.~~b. Tax credits previously recorded at acquisition cost should be adjusted to reflect the face value of the acquired tax credits with the corresponding loss immediately recognized or the gain deferred.

REFERENCES

Relevant Issue Papers

- Issue Paper No. 126—Accounting for Transferable State Tax Credits
- Issue Paper No. 145—Accounting for Transferable and Non-Transferable State Tax Credits
- Issue Paper No. XXX—XXX

EXHIBIT A – ACCOUNTING FOR TRANSFERABLE ~~STATE~~ TAX CREDITS

On 1/1/X1 SAM Insurance Company purchased transferable state tax credits for a cost of $100,000. The transferable state tax credits are redeemable for $160,000 and expire at the end of 12/31/X4. SAM initially expects to utilize the tax credits before expiration in their state of domicile in the amount of $40,000 per year. In year X4, SAM sells the remaining $30,000 in transferable state tax credits for $20,000.

1/1/x1	Transferable state tax credits	~~100~~160,000	
	Deferred gains on acquired tax credits		60,000
	Cash		100,000
	To record the purchase of the tax credits		
6/30/x1	Premium tax expense	40,000	
	Premium taxes payable to domiciliary state		40,000
	To record premium tax expense and accrue the liability in Year 1.		
10/1/x1	Premium tax payable	40,000	
	Transferable state tax credits		40,000
	To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.		
6/30/x2	Premium tax expense	60,000	
	Premium taxes payable to domiciliary state		60,000
	To record premium tax expense and accrue the liability in Year 2.		
9/30/x2	Premium tax payable	60,000	
	Transferable state tax credits		60,000
	To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.		
6/30/x3	Premium tax expense	30,000	
	Premium taxes payable to domiciliary state		30,000
	To record premium tax expense and accrue the liability in Year 3.		
9/30/x3	Premium tax payable	30,000	
	Transferable state tax credits~~Other income~~		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		30,000
	To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.		
6/30/x4	Cash	20,000	
	Other income	10,000	
	Transferable state tax credits		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		~~20~~30,000
	To record the sale of the remaining tax credits.		

EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE ~~STATE~~ TAX CREDITS

On 7/1/X1 LJW Insurance Company purchased non-transferable ~~state~~ federal tax credits for a cost of $100,000. The ~~state~~ federal tax credits are redeemable for $110,000~~, are not transferable~~ and expire on, April 15, 20x2. LJW expects to utilize the tax credits before expiration ~~in their state of domicile~~ in the amount of $110,000.

7/1/x1	~~State~~ Federal tax credits	11~~0~~0,000	
	Deferred gains on acquired tax credits		10,000
	Cash		100,000
	To record the purchase of the tax credits		
9/30/x1	Premium tax expense	200,000	
	Premium taxes payable to domiciliary state		200,000
	To record premium tax expense and accrue the liability.		
3/15/x2	Premium tax payable	110,000	
	Deferred gains on acquired tax credits	10,000	
	Other Income		10,000
	Federal tax credits		~~100~~110,000
	To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. (The additional $90,000 of premium taxes payable would still be due.)		