

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

Issue: Premium Adjustments Allocated to Jurisdictions

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
New Issue or SSAP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpretation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Description of Issue:

This agenda item has been drafted to propose blanks instructional changes primarily to Schedule T which reflects premiums, allocated by states and territories. NAIC staff received inquiries from 3 states in the fourth quarter of 2021 regarding a minor number of entities that primarily wrote health business related to the Affordable Care Act (ACA) which are believed to have not properly allocated premium adjustments by jurisdiction on the statutory financial statement. The states identified that a minority of entities reported some portion of their U.S.-based premium in the category of “aggregate other alien.” The aggregate other alien line is for non-U.S. premium therefore, reporting U.S.-based ACA premium as alien is problematic. The purpose of this agenda item is to add additional annual statement instructions to address this reporting inconsistency. Regardless of the cause of this specific issue, the proposed revisions intend to clarify that premium adjustments (both increases and decreases) shall be reflected in the appropriate jurisdiction. This proposal is to address this current issue as well as future situations.

The specific premium identified is understood to be ACA premium written in the U.S. and its territories. Based on the descriptions provided, most of the amounts are presumed to be from premium redistribution as a result of the risk adjustment program of the ACA. All of the premium adjustments from the ACA risk adjustment program, and the risk corridor program, are noted as premium in *SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act*. (Although the risk corridor program ended in 2016, distributions related to 2015-2016 plan years have been received in the last two years due to a U.S. Supreme Court decision.)

The ACA risk adjustment premium redistribution calculations are calculated by plan and by jurisdiction. Therefore, the jurisdictions are known. The ACA risk adjustment program redistributes premium from plans that have relatively healthier insureds and gives to plans with relatively less healthy insureds based on risk scores. SSAP No. 107 directs reporting the premium adjustments in the ACA risk adjustment program as premium subject to redetermination, which requires accruing the adjustments based on policy experience as described in the authoritative literature section below.

NAIC staff understanding is that most states would treat the premium after adjustments (both increases and decreases) as the amount subject to premium tax. However, preliminary conversations some health entities have asserted that they believe their state only subjects the premium prior to adjustment to premium tax. In the statutory annual statement, the premium including adjustments should be reported as premium subject to redetermination as identified in SSAP No. 107. If a jurisdiction treats premium differently for tax purposes, that would be addressed on the jurisdiction’s premium tax return.

Because of the way the ACA risk adjustment program premium adjustments calculation works, an insurer can have both payables and receivables in different plans in the same jurisdiction. For example, they could be a receiver in the bronze plan in state A and a payor in the silver plan in state A. Total premium in the state is redistributed among plans at the same level in the state, no new funds are added. In the examples below the total premium columns are what is reported in the state A and B lines of Schedule T.

State A	Initial Premium	Premium Adjustments/Redistribution	Total Premium	State B	Initial Premium	Premium Adjustments/Redistribution	Total Premium
Bronze	\$ 100	\$ 40	\$ 140	Bronze	\$ 100	\$ 20	\$ 120
Silver	\$ 100	\$ (25)	\$ 75	Silver	\$ 100	\$ (25)	\$ 75
<u>Gold</u>	<u>\$ 100</u>	<u>\$ -</u>	<u>\$ 100</u>	<u>Gold</u>	<u>\$ 100</u>	<u>\$ (15)</u>	<u>\$ 85</u>
total	\$ 300	\$ 15	\$ 315	total	\$ 300	\$ (20)	\$ 280

Existing Authoritative Literature (bolding added for emphasis):

- ***Uniform Deposit Law Model 300:***

“Alien insurer” means an insurer incorporated or organized under the laws of any country other than the United States.

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

8.b.iv. Investments in foreign insurance SCA entities shall be recorded based on the underlying U.S. GAAP equity from the audited U.S. GAAP basis financial statements, adjusted to a limited statutory basis of accounting in accordance with paragraph 9, if available. If the audited U.S. GAAP basis financial statements are not available, the investment can be recorded on the audited foreign statutory basis financial statements of the respective entity adjusted to a limited statutory basis of accounting in accordance with paragraph 9 and adjusted for reserves of the foreign insurance SCA with respect to the business it assumes directly and indirectly from a U.S. insurer using the statutory accounting principles promulgated by the NAIC in the *Accounting Practices and Procedures Manual*. The audited foreign statutory basis financial statements must include an audited footnote that reconciles net income and equity on the foreign statutory basis of accounting to the U.S. GAAP basis. **Foreign insurance SCA entities are defined as alien insurers formed according to the legal requirements of a foreign country.**

- ***SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act:***

Risk Adjustment Program – Accounting Treatment

14. Premium adjustments pursuant to the risk adjustment program will be based upon the risk scores (health status) of enrollees, participating in risk adjustment covered plans rather than the actual loss experience of the insured. This program bears some similarities to the Medicare Advantage risk adjustment program¹ under which the plan receives additional funding (or pays additional amounts) based on adjustments to risk scores of enrollees (see *INT 05-05: Accounting for Revenues Under Medicare Part D Coverage*).

15. **The risk adjustment payables and receivables shall be accounted for as premium adjustments subject to redetermination as specified in this statement.** Effective beginning with 2018 benefit plan years, the risk adjustment assessments and distributions are calculated including the high-cost risk pool aspect of this program and should be reported on a net basis.

¹ The ACA program also has significant differences from the Medicare Advantage risk adjustment program, which is retrospective, administered as a single national program, with most enrollees administered by the federal government. By contrast, the ACA risk adjustment is not retrospective, and is administered by each entity by state and by plan.

- a. Risk adjustment payables meet the definition of liabilities as set forth in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*. Risk adjustment receivables meet the definition of an asset and are admissible to the extent that they meet all of the criteria in this statement.
- b. Risk adjustment payables and receivables shall be estimated based on experience to date. The method used to estimate the payables and receivables shall be reasonable and consistent between reporting periods. Reporting entities shall be aware of the significant uncertainties involved in preparing estimates and be both diligent and conservative in their estimations. In exercising the judgment required to prepare reasonable estimates for the financial reporting of risk adjustment program payables and receivables, the statutory accounting concept of conservatism shall be followed. In addition, reporting entities are required to have sufficient data to determine a reasonable estimate. Ensuring sufficient data requires that the reporting entity's estimate is based on demonstrated knowledge of the marketplace and annual information which includes patient encounter and diagnosis code data to determine the differences in the actuarial risk profile of the reporting entity's insureds versus the market participants in the particular market and state risk pool. Sufficient data shall incorporate patient default scores, if applicable, under the terms of the risk adjustment program. In addition, the estimates shall be consistent with other financial statement assertions and the pricing scenarios used by the reporting entity.
- c. Premium revenue adjustments for the risk adjustment program are estimated for the portion of the policy period that has expired and shall be reported as an immediate adjustment to premium. Accrued risk adjustment receivables shall be recorded in premium and considerations receivable, with a corresponding entry to written premiums. Accrued risk adjustment payables shall be recorded as a liability² with a corresponding entry to written premiums. Reporting entities shall record additions or reductions to revenue resulting from the risk adjustment program in the period in which the changes in risk scores of enrollees result in reasonably estimable additions or reductions. The risk adjustment program receivables shall be reported gross of payables.
- d. The risk adjustment receivables are administered through a federal governmental program. Once amounts are collected by the governmental entity, there is an obligation to distribute the funds. Amounts over 90 days due shall not cause the receivable to be treated as a nonadmitted asset based solely on aging.
- e. Provided that the risk adjustment receivables due the reporting entity are determined in a manner that is consistent with the requirements of this statement, the receivables are admitted assets until determination of impairment or payment denial is received from the governmental entity or government-sponsored entity administering the program. Upon notification that payments to be paid to the reporting entity will be less than the recorded receivables, any amount in excess of the confirmed amount shall be written off and charged to income, except for amounts that are under appeal. Any receivable for risk adjustment amounts under appeal shall be reflected as a nonadmitted asset.
- f. Evaluation of the collectibility of all amounts receivable from the risk adjustment program shall be made for each reporting period. If, in accordance with *SSAP No. 5R*, it is probable that the risk adjustment receivables are uncollectible, any uncollectible receivable shall be written off and charged to income in the period the determination is made. If it is reasonably possible that a portion of the balance determined in

² The annual statement liability lines will vary by the type of annual statement the reporting entity files. Managed care/accident and health reporting entities report as aggregate health policy reserves; life and accident and health reporting entities report as aggregate reserves for accident and health contracts; and property and casualty reporting entities report as aggregate write-ins for liabilities.

accordance with this paragraph is not anticipated to be collected and is therefore not written off, the disclosure requirements outlined in SSAP No. 5R shall be followed.

Risk Adjustment Program – High-Cost Risk Pool – Accounting Treatment

16. The individual and small group high-cost risk pools of the ACA risk adjustment program shall be accounted for consistent with the rest of the ACA risk adjustment program. Reporting entity issuers in the individual or small group markets need to account for the following risk adjustment payables and receivables including the impairment and aging guidance reflected in paragraph 15 and paragraph 16:

- a. **The high-cost risk pool assessment payable by the reporting entity, which is the percent-of-premium charge to the issuer in order to fund reimbursements across all issuers of claims above the high cost risk pool threshold, shall be accounted for as decreases to written premium subject to redetermination.**
- b. **High-cost risk pool distributions, which represent proportionate reimbursement for the issuer’s claims above the high cost risk pool threshold, would be accounted for as increases to written premium subject to redetermination.**
- c. As the risk adjustments and distributions described in paragraphs 4-9 are calculated after excluding the percentage of costs above the threshold specified in the high-cost risk pool aspect of this program, the payments described in paragraphs 4-9 will continue to be accounted for consistent with guidance in paragraph 15 and paragraph 16 (i.e., as a premium adjustment subject to redetermination).

Note that Schedule T, part 1 has slightly different names by annual statement type, but it reflects premiums, allocated by states and territories. Schedule T, Part 2 Interstate Compact- Exhibit of Premiums Written Allocated By States and Territories is the same name for all annual statement types.

- **Annual Statement Instructions Schedule T, Part 1 – Premiums and Other Considerations Allocated By States and Territories – Health:**

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

- **Annual Statement Instructions Schedule T, Part 1 – Premiums and Annuity Considerations Allocated By States and Territories Life and Fraternal:**

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” **All U.S. business must be allocated by state regardless of license status.**

Details of Write-ins Aggregated on Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as "Other Alien." Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany). For premium that can be aggregated and reported as "Other Alien" as stated in the previous paragraph, use "ZZZ" for the country code and "Other Alien" for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

- **Annual Statement Instructions Schedule T , Part 1 – Property and Casualty:**

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in Schedule Details of Write-ins Aggregated at Line 58 for Other Alien.

All U.S. business must be allocated by state regardless of license status.

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as "Other Alien." Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as "Other Alien" as stated in the previous paragraph, use "ZZZ" for the country code and "Other Alien" for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

Include summary of remaining write-ins for Line 58 from the Overflow page on the separate line indicated.

Schedule T, Part 2 Uniform instructions:

Line 58 – Aggregate Other Alien

Enter the total of all alien business in the appropriate columns. Details by countries are not required.

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 Recommendation: NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and concurrently expose an annual statement blanks proposal for 2022 annual reporting. The sponsored blanks proposal has been forwarded to the Blanks (E) Working Group to modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments to ensure that entities are reporting premium by jurisdiction. This agenda item does not result in SSAP revisions. The proposed additions to the blanks instructions are shown below.

1. Schedule T, part 1 annual statement instructions for Health (This revision will make Health instructions consistent with the property casualty and life fraternal annual statement instructions.)

[Line 58 – Aggregate Other Alien](#)

[Enter the total of the write-ins listed in schedule “Details of Write-ins Aggregated at Line 58 for Other Alien.” All U.S. business shall be allocated by state regardless of license status.](#)

Details of Write-ins Aggregated at Line 58 for Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

If the premium from an alien jurisdiction is due to relocation of current policyholders, the amount may be aggregated and reported as “Other Alien.” Premiums from jurisdictions in which there is active writing must be reported by jurisdiction and include premium from relocated policyholders residing in the respective jurisdiction.

Identify each alien jurisdiction by using a **three-character (ISO Alpha 3) country code followed by the name of the country (e.g., DEU Germany)**. For premium that can be aggregated and reported as “Other Alien” as stated in the previous paragraph, use “ZZZ” for the country code and “Other Alien” for the country name. A comprehensive listing of country codes is available in the appendix of these instructions.

2. Schedule T, part 1 annual statement instructions for Health; Life and Fraternal and Property and Casualty

Add to general instructions:

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

3. Schedule T, Part 2 Uniform instructions:

Line 58 – Aggregate Other Alien

Enter the total of all alien business in the appropriate columns. Details by countries are not required.

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

4. Add additional instructions to line 58 - Aggregate Other Alien to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

5. State Page - general instructions to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

6. Accident and Health Policy Experience Exhibit (AHPEE) to the annual statement instructions for Health; Life and Fraternal and Property and Casualty

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Staff Review Completed by: Robin Marcotte– NAIC Staff, February 2022

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and concurrently expose an annual statement blanks proposal for 2022 annual reporting. The sponsored blanks proposal has been forwarded to the Blanks (E) Working Group to modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments. This agenda item does not result in SSAP revisions. The proposed additions to the blanks instructions are shown in the agenda item, but the primary instructional revision is as follows:

[All premium adjustments \(both increases and decreases\), including but not limited to Affordable Care Act \(ACA\) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.](#)

Status:

On April 4, 2022, the Statutory Accounting Principles (E) Working Group moved this item to the active listing and exposed proposed revisions to be incorporated into a Blanks (E) Working Group proposal (2022-10BWG) which would modify the instructions for Schedule T, the State Page and Accident and Health Policy Experience Exhibit (AHPEE). The proposed revisions clarify that all premium adjustments shall be allocated as premium in each respective jurisdiction. This agenda item did not propose statutory revisions. This item was exposed with a shortened comment period ending May 6 to permit consideration for a year-end 2022 effective date of the reporting revisions.

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