

Statutory Issue Paper No. 172

Qualifying Statutory Trusts

STATUS

Finalized May 18, 2026

Current Authoritative Guidance: SSAP No. 2, SSAP No. 37, and SSAP No. 40

Type of Issue:

Common Area

SUMMARY OF ISSUE

1. The purpose of this issue paper is to document for the historical record the conceptual changes to statutory accounting guidance detailed in agenda item 2025-13: Residential Mortgage Loans Held in Statutory Trusts.
2. The conceptual revisions are primarily to *Statement of Statutory Accounting Principles (SSAP) No. 37—Mortgage Loans* which established new accounting guidance for residential mortgage loans held within qualifying statutory trusts effective January 1, 2027. The adopted revisions to *SSAP No. 2—Cash, Cash Equivalents, Drafts, and Short-Term Investments*, *SSAP No. 37*, and *SSAP No. 40—Real Estate Investments* are illustrated as tracked changes in Exhibit A, respectively.
3. Agenda item 2025-13 was drafted in response to interested parties' comments on agenda item 2024-21: Investment Subsidiaries. Comments from interested parties noted that a significant portion of the increase in investment subsidiaries is primarily due to increased usage of Delaware Statutory Trusts (DSTs). DSTs are distinct from common-law trusts as they are established under Delaware statutory laws, which allows for significant flexibility in structuring the trust. There are several reasons for reporting entities to hold residential mortgage loans in statutory trusts rather than through direct investment, but one of the main reasons communicated by industry is that the use of statutory trust to hold residential mortgages eliminates certain administrative issues. Were an insurer to invest directly in residential mortgages, they would have to maintain a state lending license for each state where they hold residential mortgage loan investments. However, if the insurer uses a statutory trust to hold its residential mortgage loan investments, a national or federal savings bank can be appointed as the trustee. Federal preemption exempts national banks and federal savings banks from state lending license requirements. When such an institution serves as trustee of a statutory trust, the origination, holding, and administration of residential mortgage loans by the trust are conducted in the bank's fiduciary capacity. Because the statutory trust holds legal title to the mortgage loans and the trustee bank exercises its federally authorized powers in administering those assets, the bank's activities are subject to federal banking law rather than state law.

DISCUSSION

Initial Draft

4. The initial draft of this project was directed by the Working Group at the 2025 Spring National Meeting and was initially specific to DSTs. The primary objective was to create a narrow exception within SSAP No. 37 that would allow reporting entities to hold residential mortgage loans in certain kinds of trusts. Regulators emphasized the need for sufficient guardrails to prevent this exception from inadvertently creating new regulatory challenges or allowing risk-based capital (RBC) arbitrage involving risky or nonadmitted assets held in qualifying statutory

trusts. These guardrails led to the development of the qualifying statutory trust concept, which places restrictions on the types of assets and mortgage loans permitted within qualifying statutory trusts and prohibits both activities unrelated to the ownership and management of the residential mortgages and nested subsidiaries (the trust owning limited liability companies (LLCs) within LLCs). The goal and purpose of the qualifying statutory trust concept is to ensure that only statutory trusts meeting strict structural and operational criteria fall under the scope of SSAP No. 37.

5. The revisions initially proposed to SSAP No. 37 were developed through research and discussions with both the Working Group and interested parties. This draft allowed for certain statutory trusts holding exclusively residential mortgage loans to be within scope of SSAP No. 37 and reported on Schedule B - Mortgage Loans. While performing research, it was noted that several states have statutory trust laws with varying levels of similarity to Delaware. In consideration of this, the proposed guidance was expanded to include statutory trusts domiciled in other U.S. states. The initial draft also introduced the concept of a qualifying statutory trust, under which a statutory trust must meet and maintain specific qualifying characteristics to be within the scope of SSAP No. 37.

Foundational Concepts

6. The following are concepts foundational to understanding statutory trusts and the adopted guidance:
- a. **Statutory Trusts** – A statutory trust is an unincorporated association created pursuant to a state trust statute operating within a defined statutory framework governing formation, governance, liability limitations, and fiduciary oversight. Statutory Trusts typically involve three principal parties: the Trust itself, the Trustee who administers the trust, and Beneficial Owners who hold beneficial interests in the trust. Statutory trust may also have another separate party involved, the sponsor. The sponsor forms the trust and selects properties for acquisition, and while the trustee and sponsor are often the same entity, this is not always the case. One important consideration is that statutory trusts are highly flexible structures that may be customized through their governing instruments. The specific rights, powers, and obligations of the trustee and beneficial owners are determined by the trust agreement, subject to compliance with applicable statutory requirements. As a result, trust structures and governing provisions may vary significantly from one statutory trust to another. In a typically statutory trust structure, the Trust itself owns its assets, while the Trustee holds title only in a representative capacity on behalf of the Trust. Income generated by the Trust's are allocated and distributed to Beneficial Owners of the Trust in accordance with the terms of the trust agreement.
 - b. **Beneficial Interest/Ownership** – Beneficial ownership refers to an investor's interest in a statutory trust and their associated right to share in the economic benefits of the trust's assets, including profits, losses, and distributions. As provided in the trust agreement, beneficial owners are entitled to receive allocations of profits and losses, distributions, and other economic returns in proportion to their beneficial interests. Beneficial ownership confers economic and contractual rights only and does not include legal title to, or direct control over, the statutory trust's assets, which are owned by the trust and administered by the trustee in a fiduciary capacity.
 - c. **Series Statutory Trusts** – Some statutory trusts may be formed with designated separate series, where each series is intended to operate distinctly from the statutory trust as a whole and from other series within the same trust. Typically, the creation, rights, and limitations of series statutory trusts are to be expressly established in the statutory trust agreement, and each series is required to maintain separate and distinct records, assets, and liabilities, segregated from those of the

overall trust and from other series. One of the key features of a series statutory trust is its ability to insulate each of the series from liabilities incurred by other series.

It should be noted that inter-series limitation of liability is a conditional feature of a statutory trust. To be valid, series statutory trusts must be in compliance with applicable state statutory requirements, including explicit authorization in the governing instrument and maintenance of segregated books, records, and asset accounting. Statutory trust statutes vary by state, so investors and other stakeholders should review the specific statutory provisions and any additional requirements in the jurisdiction of domicile to determine what conditions must be met for a series to have enforceable liability segregation.

SSAP No. 37, footnote 3, provides the criterion which must be met and maintained for a series statutory trust to be considered qualifying.

Scope of Adopted Revisions

7. In the initial draft of the exposed revisions to SSAP No. 37, the proposed guidance limited qualifying statutory trusts to holding only fully owned first lien residential mortgage loans. Interested parties provided comments noting that the same requirements that apply to residential mortgage loans directly held and accounted for under SSAP No. 37 should apply to the residential mortgage loans (RMLs) owned through a trust. As all the risks and rewards related to ownership of the RMLs pass through to the insurer, this makes the most sense from a reporting perspective. Therefore, second lien loans should be allowed and RML participations of less than 100% should be allowed as well, consistent with SSAP No. 37. The Working Group agreed with this change and updated the draft revisions to allow that qualifying statutory trusts may hold any kind of RML which is already allowed under the scope of SSAP No. 37 as long as the residential mortgage loans are legally separate and divisible.

8. Interested parties requested at various points in the public comment process that the Working Group expand the scope of the proposed guidance to allow for both common law trusts and statutory trusts as both types can be used to hold RMLs on behalf of the insurer. The Working Group disagreed with this recommendation and did not incorporate this revision into the proposed guidance. The following was part of the Working Group discussion points regarding these comments:

- a. Statutory trusts are created under and governed by specific state statutes, are recognized as separate entities, and typically require formal registration or filing with a state authority, such as the Secretary of State. These trusts operate within a clearly defined legal framework that establishes governance, liability protections, and oversight requirements. This statutory structure provides greater legal certainty, consistency across jurisdictions, and more reliable protections for both the trust and its beneficiaries or investors.
- b. In contrast, common law trusts are established under general legal principles derived from case law and judicial precedent. Formation does not require registrations with state agencies and can be formed simply through a trust agreement or declaration. Common law trusts are also often not treated as separate entities, but rather as a fiduciary relationship depending on the jurisdiction. Common law trusts offer broader structural flexibility, but this comes at the cost of legal certainty, consistency, and enforceability. Liability protections are less robust, and courts in other jurisdictions may not recognize the trust as a distinct entity or uphold provisions such as limited liability for investors.
- c. The primary concern with allowing common law trusts is the potential for regulatory uncertainty and increased risk. Their flexible nature and lack of standardized governance could result in

inconsistent treatment, complicate oversight, and increase the risk profile of the assets held in trust. There is also a material risk that certain jurisdictions may refuse to recognize the trust structure entirely or may not enforce key provisions, undermining regulatory safeguards and investor protections.

9. During discussions it was noted that there was no specific guidance for RMLs held in trusts that do not meet the qualifying statutory trust criteria or any indication of which SSAP the insurer should reference. The draft revisions were updated to clarify that non-qualifying statutory trusts must comply with the applicable SSAP; however, no single SSAP was referenced as trust structures and their uses vary widely. As a result, referencing only one SSAP would be inappropriate, and it would be impractical to address every possible trust type with a specific SSAP reference.

10. The revisions adopted to SSAP No. 37 require reporting entities to apply the guidance to all qualifying statutory trusts. In other words, application of the adopted guidance is not optional for statutory trusts which meet the qualifying criteria. This is consistent with the approach used for real estate held in LLCs in scope of SSAP No. 40. In addition, the adopted revisions also effectively remove qualifying statutory trusts from the subsidiary audit requirement that exists for SSAP No. 48 investments; however, the investments and related activity are required to be reported as if directly held by the reporting entity and would be subject to audit testing procedures as part of the reporting entity's audit.

Allowable Assets

11. During discussions, industry provided both formal and informal comments on which assets should be permitted in a qualifying statutory trust and on the appropriate reporting for real estate foreclosed upon by the statutory trust. Industry's position was that any real estate, cash and cash equivalents, or other assets related to investing in the RMLs, such as receivables and associated liabilities, should be reported as if held directly by the reporting entity since the investor bears all risks and rewards of ownership. The Working Group agreed that the assets allowed within a qualifying statutory trust should be expanded beyond those proposed in the initial draft, but emphasized that the guidance should reflect that qualifying statutory trusts are not to be used for purposes beyond holding and servicing RMLs and related activities. Accordingly, the Working Group made revisions to the proposed guidance to permit qualifying statutory trusts to hold cash equivalents (expanded from cash only) and to allow real estate to be held but only if it was acquired via foreclosure from a mortgage loan held by the trust (expanded from fully disallowed).

12. Additionally, the Working Group did not incorporate revisions proposed by industry to allow other assets to be received as income from RMLs held by the qualifying statutory trusts. The concern was that such language could effectively permit almost any type of asset to be held and reported within a qualifying statutory trust, so long as it is originated from RML proceeds.

13. The criterion described in SSAP No. 37, paragraph 2.b.v. prohibits a qualifying statutory trust from engaging in activities unrelated to the ownership and management of the residential mortgages. While foreclosed real estate may be held within qualifying statutory trusts, the trust's direct ownership of real estate is intended to be a temporary arrangement lasting only as long as is necessary to dispose of the property. Holding and operating a real estate property within the trust for an extended period of time would almost certainly generate operational and financial activity that would cause the statutory trust to lose its qualifying status.

14. One topic discussed at length by industry and the Working Group was whether qualifying statutory trusts should be allowed to hold foreclosed real estate within wholly owned LLCs. Interested parties noted that it is common practice for statutory trusts to set up an LLC to own foreclosed real estate. Since SSAP No. 40 permits single, wholly-owned real estate held in an LLC to be directly reported on Schedule A – Real Estate, the argument

was made that a similar look-through provision should apply here, with the insurer reporting the real estate as directly owned. While bank trustees are generally comfortable holding legal title to mortgage loans and serving as lender of record, some are reluctant to hold title to foreclosed real estate due to potential property-related liabilities. As a result, trustees commonly transfer title of such assets to a single-member LLC 100% owned by the trust prior to foreclosure. Initially, regulators rejected this proposal due to the concerns that allowing LLCs within a qualifying statutory trust would increase complexity and reduce transparency. There were also concerns that companies could nest LLCs within a qualifying statutory trust, making it difficult to determine the actual assets held.

15. Following further discussions with regulators and industry after the 2025 Summer National Meeting, it was determined that restricting qualifying statutory trusts to only direct ownership of foreclosed real estate would lead to several legal and operational challenges, including lack of liability protection, trustee restrictions on holding real estate directly, and potential state transfer taxes and fees. While the Working Group recognized that allowing wholly-owned LLCs within qualifying statutory trusts adds complexity, it concluded that using wholly-owned LLCs to hold foreclosed real estate was the most practical approach to mitigate these risks and avoid costs that could otherwise undermine the statutory trust structure's purpose. The adopted revisions allow qualifying statutory trusts to utilize wholly owned LLCs solely to hold foreclosed real estate and expressly prohibit nested LLCs by requiring that LLCs be owned directly by the statutory trust.

Reporting and Disclosures

16. During the initial drafting process, consideration was given to whether residential loans held in qualifying statutory trusts should be reported separately or on an aggregate basis on Schedule B. Aggregate reporting (i.e., by trust) was initially considered due to the high volume of residential mortgage loans and the relatively low individual loan balances compared to the mortgage loans typically purchased by reporting entities. However, it was ultimately determined that aggregate reporting would require significant structural changes to Schedule B. Even if the substantial reporting changes identified were implemented, the discussion identified unresolved questions which remained regarding whether individual mortgage additions and subtractions within a trust would still need to be reported separately. Regulators also expressed concerns that, while more streamlined, aggregate reporting would provide limited actionable information, potentially requiring routine requests for detailed mortgage activity listings to adequately evaluate activity within the trust. Based on this analysis, the initial draft required separate reporting of mortgage loans held within qualifying statutory trusts on Schedule B. This approach offers two major benefits in that regulators will have ready access to detailed mortgage loan information, and separate reporting does not require major structural changes to Schedule B.

17. The initial draft exposure included a disclosure of the fees paid to the servicer, which was intended to allow regulators to easily identify excessive fees. Interested parties noted that this information is confidential and could impact competitive market practices among servicers and that such a disclosure was not required for RMLs/CMLs directly owned and managed by a third-party servicer. The Working Group agreed that the disclosure was not necessary and removed it from the proposed revisions. The Working Group also noted that the potential for excessive fees would be most likely in situations where the servicer was an affiliate or related party, in which case the expenses would already be subject to the related party and affiliate disclosure required by SSAP No. 25. To clarify this point, the following paragraph was added to the draft revisions:

“Revenue and expenses shall be accounted for as if they were directly incurred by the insurer and, accordingly, are subject to the same reporting and disclosure requirements that would normally apply. This includes, but is not limited to, the related party and affiliate disclosures required under SSAP No. 25, Affiliates and Other Related Parties.”

Admittance and Pledging

18. Under the adopted guidance, assets held within a qualifying statutory trust would generally be reported as admitted. However, if the statutory trust itself pledges or otherwise encumbers trust assets to a third party, not on behalf of the insurer, the insurer's investment in those assets is nonadmitted. This guidance is intended to prevent situations in which a third party could obtain a claim on trust assets. Accordingly, reporting entities should carefully consider the qualifying statutory trust admittance guidance when choosing between a leveraged statutory trust structure and an all-cash statutory trust structure. In practice:

- a. If the qualifying statutory trust pledges its assets as collateral to obtain financing for the trust, the insurer's interest in the trust's assets would be nonadmitted.
- b. If the insurer reporting entity pledges its beneficial interest in the qualifying statutory trust's assets as collateral for its own borrowings (for example, pledging residential mortgage loans pledged as collateral for Federal Home Loan Bank borrowings), the trust assets remain admitted but are required to be reported as restricted assets.

Effective Date of Adopted Guidance

19. Interested parties recommended that the adopted guidance have an effective date of January 1, 2027, but also requested that early adoption be permitted. They noted that statutory trusts holding residential mortgage loans are already held by some reporting entities, and for reporting entities entering into these investments, early adoption would allow reporting on Schedule B, thereby avoiding future transfers between schedules to comply with statutory reporting requirements. This recommendation was discussed by the Working Group, and ultimately regulators agreed that since these investments are already being inconsistently reported by insurers, allowing early adoption is appropriate. This would enable balances to be reported and accounted for consistently among early adopters.

While the adopted revision includes changes to the Blanks to improve reporting of mortgage loans and foreclosed real estate held within qualifying statutory trust, no new reporting lines or columns were added. The proposed Schedule B reporting codes could not be added to the Blanks until the 2026 year-end reporting period; however, the Working Group does not anticipate any structural issues for companies electing early adoption in 2025 or throughout 2026. Once a reporting entity adopts the guidance, the qualifying statutory trust investments must be moved from their prior reporting location, such as Schedule BA for trusts structured as SSAP No. 48 entities or from Schedule D-2-2 for those structured as SCAs. The adopted revisions include transition guidance specifying movement at book adjusted carrying value (BACV) to avoid a gain or loss when transferring the investments.

ACTIONS OF THE STATUTORY ACCOUNTING PRINCIPLES (E) WORKING GROUP

20. On May 22, 2025, the Statutory Accounting Principles (E) Working Group exposed revisions *SSAP No. 37—Mortgage Loans* to expand the scope to include qualifying investment trusts holding residential mortgage loans for reporting on Schedule B – Mortgage Loans.

21. On July 8, 2025, the Statutory Accounting Principles (E) Working Group received formal comments from interested parties on the draft exposed on May 22. These comments were in addition to informal interim discussions on the draft prior to the comment letter. A summary of those comments and responses from NAIC staff are detailed within the agenda item.

22. On August 11, 2025, the Statutory Accounting Principles (E) Working Group exposed an updated draft of revisions to expand the scope of SSAP No. 37 to include qualifying investment trusts holding residential mortgage loans to be reported Schedule B – Mortgage Loans. Key revisions include:

- a. Proposed updates to permit qualifying statutory trusts to hold cash and cash equivalents, and real estate obtained through foreclosure, along with clarification on the applicability of SSAP No. 2 and SSAP No. 40.
- b. Replacement of the restriction to first-lien mortgages with broader language permitting any single residential mortgage loan eligible under SSAP No. 37 to be held in a qualifying statutory trust, and removal of the requirement for statutory trust series to hold the entire tranche of each residential loan.
- c. Additional criteria for a qualifying statutory trust series which requires the qualifying trust to maintain separate and distinct records from the overall statutory trust and other series.
- d. Clarification that an insurer may pledge qualifying statutory trust assets as collateral; however, assets encumbered or pledged to a third party by action of the statutory trust itself are nonadmitted.
- e. Eliminated the management fee disclosure as this information was determined to not be of significant importance to regulators.
- f. New requirement to disclose a summary of assets and liabilities held within qualifying statutory trusts. Since such balances are to be reported as if directly held by the insurer, this disclosure is intended to provide regulators with a high-level overview of the balances held within the trust(s).

23. On October 22, 2025, the Statutory Accounting Principles (E) Working Group received formal comments from interested parties on the draft exposed on Aug. 10. All of the revisions recommended by interested parties in these comments were incorporated into the proposed revisions.

24. On December 9, 2025, the Statutory Accounting Principles (E) Working Group adopted revisions to broaden the scope of SSAP No. 37 to include qualifying investment trusts that hold RMLs and require reporting of RMLs held in qualifying statutory trusts on Schedule B – Mortgage Loans. Additional revisions to SSAP No. 2 and SSAP No. 40 establish guidance for the reporting of cash and cash equivalents and foreclosed real estate held within a qualifying statutory trust. The adopted guidance included the following key revisions:

- a. Added guidance to SSAP No. 37 and SSAP No. 40 permitting real estate acquired through foreclosure to be held within an LLC that is wholly and directly owned by a qualifying statutory trust. The proposed revisions to SSAP No. 40 further clarify that real estate must be owned by an LLC directly and wholly owned by either the reporting entity or a qualifying statutory trust. This means LLCs must be held directly by the qualifying statutory trust and cannot be layered (for example, an LLC wholly-owned by an LLC wholly-owned by the qualifying statutory trust).
- b. Added an additional reporting code to Schedule A to indicate whether a real estate investment is directly held by a qualifying statutory trust or an LLC directly held by a qualifying statutory trust.
- c. The proposed Schedule B reporting column for “State of Domicile” was deleted. Upon further review, NAIC concluded that this detail is more appropriately included as a note in the financial statements, rather than being required for each residential mortgage loan on Schedule B.

- d. Transition guidance was added for statutory trusts held prior to the effective date and considered qualifying by the guidance proposed by this agenda item. The transition guidance requires that reporting entities with qualifying statutory trusts transfer all trust activities, assets, and liabilities at book value and ensure each is properly reported in accordance with SSAP No. 37.

25. On **March 23, 2026**, the Statutory Accounting Principles (E) Working Group exposed a draft of the Statutory Trusts Issue Paper.

26. On March 5, 2026, the Blanks (E) Working Group adopted 2025-28BWG Modified which contained recommendations for the annual statement instructions for Schedule A and Schedule B.

27. On May 18, 2026, the Statutory Accounting Principles (E) Working Group adopted Issue Paper No. 172 Qualifying Statutory Trusts.

RELEVANT STATUTORY ACCOUNTING AND U.S. GAAP GUIDANCE

Statutory Accounting

- *SSAP No. 2—Cash, Cash Equivalents, Drafts, and Short-Term Investments*
- *SSAP No. 37—Mortgage Loans,*
- *SSAP No. 40—Real Estate Investments*

<https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/NationalMeetings/A.NationalMeetingMaterials/2026/05-18-2026/Adoptions/25-13a-StatutoryTrustsIssuePaper#172.docx>

EXHIBIT A - ADOPTED REVISIONS TO STATEMENTS OF STATUTORY ACCOUNTING PRINCIPLES:

SSAP No. 2—Cash, Cash Equivalents, Drafts, and Short-Term Investments

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles and related reporting for cash, cash equivalents, drafts and short-term investments. Cash and cash equivalents, which are beneficially owned by the insurer through an investment in a qualifying statutory trust, as defined under SSAP No. 37—Mortgage Loans, fall within the scope of this statement and shall be reported as if directly held by the reporting entity. If the qualifying statutory trust is part of a trust series where cash is held in a joint account and each series holds a beneficial interest, only the portion beneficially owned by the insurer through the qualifying statutory trust shall be reported.

SSAP No. 40—Real Estate Investments

SUMMARY CONCLUSION

3. Real estate investments also include:

a. ~~_____~~ €Certain acquisition, development and construction arrangements (ADC) as defined in SSAP No. 38—Acquisition, Development and Construction Arrangements;

~~a.b.~~ Real estate held within a qualifying statutory trust(s), as defined in SSAP No. 37—Mortgage Loans, that was acquired through an in-substance repossession or foreclosure in accordance with SSAP No. 37, paragraph 18.

4. A single real estate property investment that is wholly owned by an LLC that is directly and wholly owned either by the reporting entity or a qualifying statutory trust shall be captured within this statement and reported on Schedule A, Real Estate, if all of the following criteria are met. Real estate owned through an LLC that meets the stated criteria shall follow all statutory requirements within this statement. Real estate owned through an LLC that does not meet the criteria shall be reported on Schedule BA, Other Long-Term Invested Assets. Regardless of whether reported on Schedule A or Schedule BA, all LLC's owned by the reporting entity shall be detailed in Schedule Y.

DISCLOSURES

27. An entity that holds real estate investments through an LLC, which qualifies for inclusion in this statement because all the criteria in paragraph 4 are met, shall separately report each investment on Schedule A, and code the real estate as wholly-owned through an LLC. A reporting entity that holds real estate investments through a qualifying statutory trust in accordance with SSAP No. 37 shall separately report each investment on Schedule A.

38. The guidance on residential mortgage loans within qualifying statutory trusts adopted in SSAP No. 37—Mortgage Loans also addresses certain types of foreclosed real estate within such trusts that are held, either directly or through an LLC that is directly and wholly owned by a qualifying statutory trust. The effective date and transition guidance for impacted real estate within these structures shall follow the guidance detailed in SSAP No. 37.

SSAP No. 37—Mortgage Loans

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for the accounting and reporting of mortgage loans and related fees.

SUMMARY CONCLUSION

2. A mortgage loan is defined as a debt obligation that is not a security, which is secured by a mortgage on real estate. In addition to mortgage loans directly originated, a mortgage loan also includes mortgage loans acquired or obtained through assignment, syndication or participation,¹ [or mortgage loans acquired through an investment in a qualifying statutory trust as defined in paragraph 2.b.](#) Investments that reflect “participating mortgages,” “mortgage loan fund,” “bundled mortgage loans”² or the “securitization of assets” are not considered mortgage loans within scope of this SSAP. [Nonqualifying statutory trusts shall be accounted for and reported in accordance with the applicable statement of statutory accounting principles. Regardless of whether reported on Schedule B or another schedule, all statutory trusts beneficially or directly owned by the reporting entity shall be detailed in Schedule Y. The accounting, reporting, and admittance guidance reflected for qualifying statutory trusts should not be inferred to apply to nonqualifying statutory trusts or any other type of trust.](#)

¹ Examples of agreements intended to be captured within this statement:

- a. Reporting entity is a “co-lender” in a single mortgage loan agreement that identifies more than one lender (which includes the reporting entity) with the real estate collateral securing all lenders identified in the agreement. For these single-mortgage loan agreements, each lender is incorporated directly into the loan documents. The key differentiating characteristic of a mortgage loan provided under a group “mortgage loan co-lending agreement” rather than a solely owned mortgage loan is that no one lender of the lending group may unilaterally foreclose on the mortgage. With these agreements, the lenders must foreclose on the mortgage loan as a group.
- b. Reporting entity has a “participation agreement” to invest in a single-mortgage loan. The reporting entity is not the lender of record named as a payee on the mortgage loan, but the lender of record sells a portion of the mortgage loan to the reporting entity through an assignment or participation interest under the participation agreement. Under a participation agreement, the reporting entity acquires an undivided interest in the single mortgage loan proceeds to be received by the lender of record. Under a participation agreement, single mortgage loan proceeds include the periodic mortgage loan principal and interest payments received by the lender of record, and all rights and proceeds received in the foreclosure of a mortgage, deed of trust, deed in lieu of foreclosure, or other similar proceeding by the lender of record. The amount of the proceeds to be received by the reporting entity is based on the ratio of its participation interest to the then-outstanding single mortgage loan balance. To qualify as a mortgage loan under the scope of this statement, the reporting entity must have a signed participation agreement with the lender of record named in the mortgage loan, the financial rights and obligations of the reporting entity under the participation agreement are the same as the lender of record, the reporting entity’s participation interest in the single mortgage loan proceeds must be pari-passu with the lender of record named on the mortgage loan agreement, and the participation agreement must be properly and promptly recorded on the lender or record’s books and records. For the purposes of this footnote, “financial rights” may include the right to take legal action against the borrower, or participate with the other lenders in determining whether legal action should be taken, but typically does not include the right to solely initiate legal action, foreclosure, or under normal circumstances, communicate directly with the borrower.

² The scope of this SSAP is limited to single mortgage loan agreements. Although single mortgage loan agreements can potentially have more than one lender (e.g., co-lenders/participations) and more than one borrower (such as in a tenancy-in-common arrangement), the concept of a “single mortgage loan” does not include arrangements in which a reporting entity acquires more than one mortgage loan in a sole transaction. (For example, if a reporting entity was to acquire an interest in a “bundle” of mortgage loans with various unrelated borrowers and collateral, this agreement would be outside of the scope of this SSAP. However, a bundle of mortgage loans does not include a “bulk purchase” where the reporting entity’s interest in each mortgage loan is legally separate and divisible and the purchase just facilitates the acquisitions of multiple single mortgage loan agreements.)

- a. A security is a share, participation, or other interest in property or in an entity of the issuer or an obligation of the issuer that has all of the following characteristics:
- i. It is either represented by an instrument issued in bearer or registered form, or if not represented by an instrument, is registered in books maintained to record transfers by or on behalf of the issuer.
 - ii. It is of a type commonly dealt in on securities exchanges or markets or, when represented by an instrument, is commonly recognized in any area in which it is issued or dealt in as a medium for investment.
 - iii. It either is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.
- b. A statutory trust is an unincorporated association created as a trust under state statute, a common example of which would be Delaware statutory trusts. To be considered a qualifying statutory trust and reported as a mortgage loan within scope of this statement, the statutory trust being invested in must have and maintain all of the following characteristics:
- i. The statutory trust must be domiciled in a U.S. state.
 - ii. The reporting entity must hold a 100% undivided beneficial ownership interest in all assets of the statutory trust, or in all assets of a specific series of a statutory trust that has separate series.³ Such beneficial ownership interest must be evidenced by a certificate or registered as an uncertificated interest within the statutory trust register.
 - iii. Assets of the statutory trust may only consist of single residential mortgage loan agreements (meaning each to be legally separate and divisible) of a type that could otherwise be directly held by the reporting entity under SSAP No. 37; residential real estate ~~of~~ which the statutory trust has acquired in accordance with paragraph 18 through an in-substance repossession or foreclosure; or cash and cash equivalents that constitute proceeds of such mortgage loans or are required for the acquisition, ownership, and management of such mortgage loans. The insurer shall also report and account for assets and liabilities of the statutory trust as if they were directly held by the insurer:
 - (a) Mortgage loans held by the qualifying statutory trust shall be reported on Schedule B in accordance with this statement.

³ Some statutory trusts are formed with designated separate series where each series maintains distinct and separate records, assets, and liabilities—either directly or indirectly (including through a nominee or otherwise)—from those of the overall trust and any other series. For ownership in a series of a statutory trust to meet the criterion described in paragraph 2.b.ii., the trust agreement must explicitly provide that the liabilities of each series are enforceable only against the assets of that series, the reporting entity must hold 100% undivided beneficial ownership interest in all assets of that series, the reporting entity's ownership and ability to divest its interest in the series must not be contingent upon its ownership interest in any other series of the statutory trust, and the series trust must maintain distinct and separate records from those of the overall trust and other series.

For example, if a statutory trust has Series A through C and the reporting entity has a 100% beneficial ownership interest in Series A but only a 50% ownership interest in Series B, only the investment in Series A would meet this criterion.

- (b) Cash and cash equivalents held by the qualifying statutory trust shall be reported in accordance with SSAP No. 2—Cash, Cash Equivalents, Drafts and Short-Term Investments.
- (c) Real estate held by the qualifying statutory trust shall be reported on Schedule A and classified as “Held for Sale” in accordance with SSAP No. 40—Real Estate Investments. Such properties must either be directly owned by the qualifying statutory trust or held by the qualifying statutory trust as single residential real estate investments that are directly and wholly owned through a limited liability company (LLC), provided they meet all requirements outlined in SSAP No. 40, paragraph 4.
- (d) Liabilities of the qualifying statutory trust shall be reported in accordance with the applicable statement of statutory accounting principles.
- (e) Revenue and expenses of the qualifying statutory trust shall be accounted for as if they were directly incurred by the insurer and, accordingly, are subject to the same reporting and disclosure requirements that would normally apply. This includes, but is not limited to, the related party and affiliate disclosures required under SSAP No. 25—Affiliates and Other Related Parties.

- iv. The statutory trust must maintain all requisite documents and records in accordance with the applicable state statutes.
- v. The statutory trust has no transactions of its own other than transactions associated with an ownership structure utilized only for the ownership and management of the residential mortgages exclusively for the reporting entity (e.g., service fees, real estate taxes, facilitating financing arrangements, etc.). Transactions of the qualifying statutory trust shall be reported as transactions of the reporting entity pursuant to the guidance in this statement.
- vi. All cash flows from the single residential mortgage loan agreements must flow through the statutory trust directly to the reporting entity, with the exception of customary and reasonable fees to the statutory trust manager/servicer, trustee, custodian or similar third-party service providers, or to make payment on any financing secured by the residential mortgages.

3. Mortgage loans meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement.

- a. Assets of a qualifying statutory trust that are pledged as collateral or otherwise encumbered through action of the insurer, or by the trustee acting on the insurer’s behalf, shall be reported as restricted assets and are permitted for admittance subject to the provisions of *INT 01-31: Assets Pledged as Collateral*. Statutory trust assets that are pledged or otherwise encumbered to a third party due to actions taken by the qualifying statutory trust (including pledges of trust assets not on behalf of the insurer) shall be nonadmitted in accordance with SSAP No. 4, footnote 2.

Disclosures

27. The following disclosures shall be made for mortgage loans acquired through a qualifying investment in a qualifying statutory trust:

- a. A description of the qualifying statutory trust(s). Mortgage loans held in qualifying statutory trusts must be separately reported on Schedule B in accordance with the annual statement instructions.
 - i. If the qualifying statutory trust(s) holds any amount of subprime mortgages, the reporting entity must disclose this fact in the description of the qualifying statutory trust(s) and complete the subprime mortgage disclosures as detailed in SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures. Transactions of the qualifying statutory trusts within the scope of SSAP No. 25 shall also be disclosed.
 - ii. The description of each qualifying statutory trust must specify its state of domicile as well as each U.S. state(s) and/or foreign country, if applicable, in which the qualifying statutory trust holds residential mortgage loans.
 - iii. Summary of assets and liabilities held within qualifying statutory trusts; aggregated by total residential mortgage loans, real estate acquired through foreclosure, cash and cash equivalents, and liabilities (if any) to be shown by reporting line.
- b. Disclosure of material litigation and any kind of material state or federal regulatory review and/or action concerning the qualifying statutory trust(s).
- c. Disclosure of financing transactions of any sort which are secured, directly or indirectly, by statutory trust assets.
- d. Total of residential mortgages held in qualifying statutory trusts, disaggregated by loan standing: In Good Standing, Restructured, Overdue Interest Over 90 Days Not in the Process of Foreclosure, and In the Process of Foreclosure.

Effective Date and Transition

32. This statement is effective for years beginning January 1, 2001. Initial recognition of the impairment losses resulting from the application of this statement shall apply to mortgage loans held at January 1, 2001, and be based on management's best estimates as of that date. Insurers shall release all unamortized amounts included in IMR related to prepayment penalties upon adoption of Codification and recognize such change in accordance with SSAP No. 3—Accounting Changes and Corrections of Errors. 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 in this paragraph related to unamortized amounts included in IMR was originally contained within INT 99-04: Recognition of Prepayment Penalties Upon Adoption of Codification and was effective March 8, 1999.

33. The adoption of ASU 2014-14 and the adoption with modification of ASU 2014-04 (detailed in paragraphs 18-22 and 26.e.) shall be applied prospectively from the date of adoption (March 28, 2015). With this prospective application, guidance adopted from ASU 2014-14 applies to all foreclosures that occur after the date of adoption, and guidance from ASU 2014-04 applies to all instances of the reporting entity receiving physical possession of real estate property collateralized by mortgage loans that occur after the date of adoption.

34. The guidance for qualifying statutory trusts adopted on December 9, 2025, shall be applied prospectively as of January 1, 2027, with early adoption permitted. For statutory trusts held prior to the effective date and considered qualifying per this statement, the insurer shall transfer all trust activities, assets, and liabilities at book/adjusted carrying value and ensure each is reported in accordance with this statement. A change resulting from the adoption of this guidance shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—Accounting Changes and Corrections of Errors. Subsequent measurement of transferred assets and liabilities are subject to the applicable SSAPs as described in paragraphs 5.b.iii.(a) through paragraph 5.b.iii.(d).