

Interpretation of the Statutory Accounting Principles (E) Working Group

INT 18-02: ACA Section 9010 Assessment Moratoriums

GUIDANCE DETERMINED TO BE NO LONGER RELEVANT

INT 18-02 Dates Discussed

March 24, 2018; May 24, 2018; July 30, 2020

INT 18-02 References

Current:

SSAP No. 106—Affordable Care Act Section 9010 Assessment

INT 18-02 Issue

1. Section 9010 of the Patient Protection and Affordable Care Act (ACA), *Imposition of Annual Fee on Health Insurance Providers*¹ (“HIPF”), imposes a fee on each covered entity engaged in the business of providing health insurance for United States health risks. The HIPF is also known as the Affordable Care Act Section 9010 assessment which is addressed within *SSAP No. 106—Affordable Care Act Section 9010 Assessment*. Public Law No: 115-120 was signed into law on January 22, 2018, and imposes a moratorium on the HIPF for calendar year 2019.

2. The existing authoritative literature in SSAP No. 106 includes accounting and reporting guidance prior to the issuance of the HIPF moratoriums for 2017 and 2019. The accounting guidance within SSAP No. 106 does not change with the 2019 ACA Section 9010 assessment moratorium; however, this interpretation is to promote consistent application of SSAP No. 106 and provide guidance for the years before, during and after the 2019 moratorium and any similar future moratoriums of the ACA Section 9010 fee.

3. The following terms, will be applied throughout this discussion:

- a. The term “data year” means the calendar year immediately before the fee year. For example, 2017 is the data year for fee year 2018.
- b. The term “fee year” means the calendar year in which the assessment must be paid to the U.S. Treasury.
- c. Data year premium includes net premium written in the data year, including calendar year premium and the portion of fiscal year premium applicable to the data year.
- d. The term moratorium year is a “fee year” in which the fee is not payable according to federal law. Note that a moratorium year can be a data year for the subsequent fee year.

4. SSAP No. 106 accounting issues to be addressed are as follows:

- a. Issue 1 - Fee Year Accruals - Should the liability for the ACA Section 9010 fee be accrued on January 1, of any fee year that the ACA Section 9010 fee is payable?

¹ Public Law No: 114-113, Division P, Title II, Section 2

- b. Issue 2 - Data Year Prior to a Fee Year Moratorium - If the ACA Section 9010 assessment does not apply to a particular data year's net premiums written because the subsequent fee year is subject to a moratorium, how does the fee year moratorium impact accounting and disclosure for data year statutory financial statements?
- c. Issue 3 - Moratorium Year Fee Accrual - What is the accounting for the amount related to the ACA Section 9010 assessment payment that was originally due on September of a moratorium fee year, but is no longer required?
- d. Issue 4 - Moratorium Year Accrual for Subsequent Fee Year - Is there an accrual of the ACA Section 9010 assessment payment based on a data year in which there is an amount due on September 30 of the subsequent fee year?
- e. Issue 5 - Fee Accrual on a Year Subsequent to a Moratorium Year - Does fee year accrual resume on a year subsequent to a moratorium year?

INT 18-02 Discussion

5. The Working Group's consensuses are included in the responses below.

Issue 1 - Fee Year Accruals and Response

6. Issue 1 - Fee Year Accruals - Should the liability for the ACA Section 9010 fee be accrued on January 1, of any fee year that the ACA Section 9010 fee is payable?

7. Yes, accrual of the fee year liability on January 1 for ACA Section 9010 assessment based on prior data year net written premiums shall be consistent with SSAP No. 106. Amounts that were segregated in special surplus at the prior data year-end should be reflected as a liability in the year of payment (fee year). For example, 2018 is a fee year and the liability based on 2017 data year premium shall be accrued on January 1, 2018.

Issue 2 - Data Year Before a Fee Year Moratorium and Response

8. Issue 2 - Data Year Prior to a Fee Year Moratorium - If the ACA Section 9010 assessment does not apply to a particular data year's net premiums written because the subsequent fee year is subject to a moratorium, how does the fee year moratorium impact accounting and disclosure for data year statutory financial statements?

9. For a data year before a fee year moratorium, there will be multiple reporting elements impacted.
- a. Fee Year Accrual - As noted in Issue 1, a liability will be recognized on January 1, related to the preceding data year premiums that will be paid in September of the fee year. For example, 2017 is the data year for the ACA Section 9010 fee due in September 2018 (fee year) and a liability shall be accrued on January 1, 2018 for the amount due in September 2018.
 - b. Data Year Accrual - Data years in which there is not an ACA Section 9010 fee based on premium written in the data year will not have a monthly segregation of special surplus based on the data year's net written premium. For example, 2018 is the data year for the 2019 fee year moratorium, therefore at year-end 2018 there will not be an amount accrued in special surplus.
 - c. Data Year Disclosures - At data year-end the disclosures related to the fee payable immediately in the fee year in which there is a moratorium and the related impact on Total Adjusted Capital (TAC) and Authorized Control Level (ACL) will report "zero" as

the fee payable in the moratorium fee year. For example, 2018 is the data year for the 2019 fee year moratorium and accordingly at 2018 year-end the disclosure of the impact to TAC and ACL will reported as “zero” as the fee payable in 2019.

Issue 3 - Moratorium Year Fee Accrual and Response

10. Issue 3 - Moratorium Year Fee Accrual - What is the accounting for the amount related to the ACA Section 9010 assessment payment that was originally due on September of a moratorium fee year, but is no longer required?

11. Because there is not an ACA Section 9010 fee due in September of a moratorium fee year, there is not an accrual of a liability on January 1, of a moratorium fee year based on the preceding data year net written premiums. For example, there is not a fee due September 2019 based on 2018 data year premiums, therefore, on January 1, 2019 there is not a fee liability accrued.

Issue 4 - Moratorium Year Accrual for Subsequent Fee Year and Response

12. Issue 4 - Moratorium Year Accrual for Subsequent Fee Year - Is there an accrual of the ACA Section 9010 assessment payment based on a data year in which there is an amount due on September 30 of the subsequent fee year?

13. Yes, monthly segregation of amounts in special surplus for ACA Section 9010 assessment based on data year net written premiums for which an amount is due in the subsequent fee year resumes. This segregation in special surplus is accrued monthly throughout the data year. For example in 2019, there is not a HIPF fee due, but 2019 is data year for 2020. Therefore, in 2019, the reporting entity is required to reclassify from unassigned surplus to special surplus an amount equal to its estimated subsequent fee year assessment.

Issue 5 - Fee Accrual on a Year Subsequent to a Moratorium Year and Response

14. Issue 5- Fee Accrual on a Year Subsequent to a Moratorium Year - Does fee year accrual resume on a year subsequent to a moratorium year?

15. Accrual of liabilities on January 1 of any fee year (including the year following a moratorium) for ACA Section 9010 assessment based on preceding data year net written premiums will continue to follow the accounting prescribed in SSAP No. 106. For example, the special surplus amount from year-end 2019 is reversed and the full current fee year assessment liability shall be accrued as a liability on January 1, 2020 for any ACA Section 9010 fee amount payable in September 2020.

16. Monthly reclassification of amounts from unassigned surplus to segregation in special surplus related to data year amounts to be paid in the subsequent fee year will continue.

17. The following table provides a visual representation of the known moratoriums and the responses:

| Year | 9010 Fee Due? | January 1, Liability accrual for fee due | Data Year Special Surplus Accrual for Subsequent Fee Year |
|-------------|----------------------|---|--|
| 2017 | No - Moratorium | No | Yes |
| 2018 | Yes | Yes | No |
| 2019 | No- Moratorium | No | Yes (if there is a 2020 fee due) |

INT 18-02 Status

18. The consensuses of the Working Group in this interpretation were adopted to promote consistent reporting of the ACA 9010 Assessment in reporting periods before, after and during a moratorium and to be consistent with SSAP No. 106. On July 30, 2020, the Working Group adopted revisions to SSAP No. 106 due to the federal repeal of the Section 9010 assessment, which superseded SSAP No. 106 and nullified this interpretation, effective for January 1, 2021.

19. No further discussion is planned.