



MEMORANDUM

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

From: Charles Therriault, Director, NAIC Securities Valuation Office
Robert Carcano, Esq., NAIC Consultant

Re: Proposed Amendment to the Purposes and Procedures of the NAIC Investment Analysis Office (P&P Manual) to Modify Guidance for Regulatory Transactions

Date: March 7, 2019

1. Introduction – The American Council of Life Insurers and the SVO propose an amendment to Part Three, Section 6 of the P&P Manual which would clarify the status of an Investment Security that is used as a component in a Regulatory Transaction. The proposed amendment is shown below as it would appear in the P&P Manual and is also shown in Appendix One as it would appear in the proposed 2019 format of the P&P Manual.

2. Proposed Amendment to 2018 P&P Manual – The proposed changes to the existing text are shown below in underline.

SECTION 6. REGULATORY TRANSACTIONS

a) Defined

“Regulatory Transaction” means a security or other instrument in a transaction submitted to one or more state insurance departments for review and approval under the regulatory framework of the state or states. The term Regulatory Transaction is more broadly defined as a transaction engineered to address a regulatory concern one or more insurers have or may have that should be submitted to a state insurance department for approval and that has as a component a security or other instrument which on a stand-alone version may be an Investment Security, as defined in this Manual, that is eligible for assignment of an NAIC Designation.

b) Intent

This Section provides guidance to the SVO and the SSG on how to manage requests for assistance made by a state insurance department under Part Two, Section 2 b) of this Manual. Insurance companies shall not report a Regulatory Transaction as a Filing Exempt security, and the NAIC staff shall not assign an NAIC Designation to a Regulatory Transaction or add them to the Filing Exempt Securities Process of the SVO List of Investment Securities. This does not preclude the SVO from working directly with a state insurance department and issuing an opinion to the department consistent with the instructions outlined in this Manual.

However, as defined above, a component of a Regulatory Transaction may be Filing Exempt. For example,

A. An insurance company entered into a coinsurance reinsurance transaction that requires regulatory approval and as part of that transaction, received an IBM bond. The IBM bond, when owned by an insurance company as a stand-alone investment, would be considered eligible for Filing Exemption but the whole regulatory transaction would not be eligible for Filing Exemption. In this example, the IBM bond is assumed to be an Investment Security, as defined in this Manual.

B. An IBM bond that was eligible for Filing Exemption was sold/transferred from an insurance company to an affiliated insurance company that requires regulatory approval. Such an IBM bond would still be considered eligible for Filing Exemption when owned by an insurance company as a stand-alone investment. In this example, the IBM bond is assumed to be an Investment Security, as defined in this Manual. Any other parts of the transaction requiring regulatory approval, if any, would not be eligible for Filing Exemption.

c) Guidelines

The SVO or SSG is authorized to conduct an analytical assessment on behalf of any state insurance department that requests such assistance.

If an insurance company files a Regulatory Transaction with the SVO via the ATF process or under the Regulatory Treatment Analysis Service (RTAS) process, the SVO shall first contact the state insurance department of the insurance company's state of domicile to disclose that a Regulatory Transaction has been submitted and inquire whether the state insurance department wants SVO analytical assistance.

If the state insurance department of the insurer's state of domicile requests such assistance, the SVO shall engage in the requested analytical assessments of the Regulatory Transaction. SVO determinations may include and refer to NAIC analytical benchmarks, such as NAIC Designations, valuation or classification assessments, and such determinations may be given by the SVO or SSG to the state insurance department.

SVO or SSG determinations given in connection with the assessment of a Regulatory Transaction may be given to and adopted by the state insurance department as part of that state's internal determination of the regulatory issues presented by the Regulatory Transaction. However, SVO assessments for a Regulatory Transaction will not be entered into NAIC computer systems reserved for Investment Securities, as defined in Part Two, Section 2 a) of this Manual or added to the SVO List of Securities as defined in Part One, Section 3 k) of this Manual.

Appendix

Showing the Amendment Discussed in the Memorandum as it would appear in the 2019 Reformatted P&P Manual

Excerpt from Page 210 of the 2019 Reformatted P&P Manual – Proposed Changes Undelined]

REGULATORY TRANSACTIONS

NOTE: See “Policies Applicable to Specific Asset Classes” in Part One for the policies governing this activity, as well as “Specific Populations of Securities Not Eligible for Filing Exemption” in “Procedure Applicable to Filing Exempt (FE) Securities and Private Letter (PL) Rating Securities” above.

Defined

285. Regulatory Transaction means a security or other instrument in a transaction submitted to one or more state insurance departments for review and approval under the regulatory framework of the state or states. The term Regulatory Transaction is more broadly defined as a transaction engineered to address a regulatory concern one or more insurers have or may have that should be submitted to a state insurance department for approval and that has as a component a security or other instrument which on a stand-alone version may be an Investment Security, as defined in this Manual, eligible for assignment of an NAIC Designation.

Intent

286. This section provides guidance to the SVO and the SSG on how to manage requests for assistance made by a state insurance department. Insurance companies shall not report a Regulatory Transaction as a Filing Exempt security, and the NAIC staff shall not assign an NAIC Designation to a Regulatory Transaction or add them to the Filing Exempt Securities Process of the SVO List of Invest Securities. This does not preclude the SVO from working directly with a state insurance department and issuing an opinion to the department consistent with the instructions outlined in this Manual.

However, as defined above, a component of a Regulatory Transaction may be Filing Exempt. For example,

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- B. An IBM bond that was eligible for Filing Exemption was sold/transferred from an insurance company to an affiliated insurance company that requires regulatory approval. Such an IBM bond would still be eligible for Filing Exemption when owned by an insurance company as a stand-alone investment. In this example, the IBM bond is assumed to be an Investment Security, as defined in this Manual. Any other parts of the transaction requiring regulatory approval, if any, would not be eligible for Filing Exemption.

Guidelines

287. The SVO or SSG is authorized to conduct an analytical assessment on behalf of any state insurance department that requests such assistance.

288. If an insurance company files a Regulatory Transaction with the SVO via the ATF process or under the Regulatory Treatment Analysis Service (RTAS) process, the SVO shall first contact the

state insurance department of the insurance company's state of domicile to disclose that a Regulatory Transaction has been submitted and inquire whether the state insurance department wants SVO analytical assistance.

289. If the state insurance department of the insurer's state of domicile requests such assistance, the SVO shall engage in the requested analytical assessments of the Regulatory Transaction. SVO determinations may include and refer to NAIC analytical benchmarks, such as NAIC Designations, valuation or classification assessments, and such determinations may be given by the SVO or SSG to the state insurance department.

290. SVO or SSG determinations given in connection with the assessment of a Regulatory Transaction may be given to and adopted by the state insurance department as part of that state's internal determination of the regulatory issues presented by the Regulatory Transaction. However, SVO assessments for a Regulatory Transaction will not be entered into NAIC computer systems reserved for Investment Securities or added to the SVO List of Securities.

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