Draft date: 7/28/25

2025 Summer National Meeting
Minneapolis, Minnesota

FINANCIAL CONDITION (E) COMMITTEE
Wednesday, August 13, 2025
8:00 – 9:00 a.m.
Minneapolis Convention Center—Ballroom—Level 1

ROLL CALL

Nathan Houdek, Chair	Wisconsin	Vicki Schmidt	Kansas
Justin Zimmerman, Co-Vice Chair	New Jersey	Michael T. Caljouw	Massachusetts
Michael Wise, Co-Vice Chair	South Carolina	Mike Chaney	Mississippi
Mark Fowler	Alabama	Adrienne A. Harris	New York
Michael Conway	Colorado	Judith L. French	Ohio
Michael Yaworsky	Florida	Cassie Brown	Texas
Holly W. Lambert	Indiana	Scott A. White	Virginia
Doug Ommen	Iowa		

NAIC Support Staff: Dan Daveline/Julie Gann/Bruce Jenson

AGENDA

1. Consider Adoption of its June 28 and Spring National Meeting Minutes — Attachment One
   —*Commissioner Nathan Houdek (WI)*

2. Consider Adoption of the Reports of its Task Forces and Working Groups
   —*Commissioner Nathan Houdek (WI)*
   - A. Accounting Practices and Procedures (E) Task Force — Pending
   - B. Capital Adequacy (E) Task Force — Pending
   - C. Financial Stability (E) Task Force — Pending
   - D. Examination Oversight (E) Task Force — Attachment Five
   - E. Receivership and Insolvency (E) Task Force — Attachment Six
   - F. Reinsurance (E) Task Force — Pending
   - G. Valuation of Securities (E) Task Force — Pending
   - H. Group Solvency Issues (E) Working Group — Attachment Nine
   - I. NAIC/American Institute of Certified Public Accountants (AICPA) (E) Working Group — Attachment Ten
   - J. National Treatment and Coordination (E) Working Group — Attachment Eleven

3. Receive a Status Report from the Valuation of Securities (E) Task Force —*Carrie Mears (IA)*

4. Receive a Status Report from the Risk-Based Capital Investment Risk and Evaluation (E) Working Group—*Philip Barlow (DC)*

5. Consider Formation of a Reciprocal Exchanges (E) Working Group —*Commissioner Nathan Houdek (WI)* Attachment Twelve

6. Consider Adoption of a Model Law Request Form—*Commissioner Nathan Houdek (WI)* Attachment Thirteen

7. Receive Proposal to Rename Risk Retention Group (E) Task Force and Related 2026 Proposed Charges—*Commissioner Nathan Houdek (WI) & Sandra Bigglestone (VT)* Attachment Fourteen

8. Discuss Any Other Matters Brought Before the Committee —*Commissioner Nathan Houdek (WI)*

9. Adjournment

Draft: 7/30/25

Financial Condition (E) Committee
Virtual Meeting
July 28, 2025

The Financial Condition (E) Committee met July 28, 2025. The following Committee members participated: Nathan Houdek, Chair (WI); Michael Wise, Co-Vice Chair (SC); Justin Zimmerman, Co-Vice Chair (NJ); Mark Fowler (AL); Michael Conway represented by Rolf Kaumann (CO); Michael Yaworsky represented by Jane Nelson (FL); Doug Ommen and Carrie Mears (IA); Holly W. Lambert (IN); Vicki Schmidt represented by Tish Becker (KS); Michael T. Caljouw (MA); Mike Chaney represented by Mark Cooley (MS); Adrienne A. Harris represented by Bob Kasinow (NY); Judith L. French (OH); Cassie Brown (TX); and Scott A. White (VA). Also participating was Laura Clements (CA).

1. Discussed Comments on the Restructuring of the Valuation of Securities (E) Task Force

Commissioner Houdek said the purpose of the meeting was to receive comments (Attachment One-A) on the June 6 memorandum (Attachment One-B), which proposes the restructuring of the Valuation of Securities (E) Task Force. The proposal includes renaming the Task Force to the Invested Assets (E) Task Force and adding new working groups as the Investment Analysis (E) Working Group; Securities Valuation Office and Structured Securities (E) Working Group; and the Credit Rating Provider (E) Working Group. After considering the comments, the Committee can either choose to adopt the changes or, if the Committee wants to address some of the comments by making edits, consider a vote at the Summer National Meeting. He said that the letter from the American Academy of Actuaries (Academy) indicated broad support of the restructuring. The California Department of Insurance comment letter encouraged keeping the new groups small, especially the Investment Analysis (E) Working Group, which will require more hands-on development, and also keeping the newly created groups smaller would avoid increasing the amount of work on members of the current Task Force. Commissioner Houdek asked the Committee leadership that these considerations be kept in mind toward the end of 2025, so preparations can begin to have the groups ready by year's end.

Clements noted that her comments were seeking clarification on whether the groups would be similar in size. Mears responded that while group size and membership are still to be determined, outreach to interested regulators later this year will help ensure strong engagement, and size limits can be used to create effective environments for each group. Commissioner Houdek confirmed the new Investment Analysis (E) Working Group would focus on individual companies, similar to the Financial Analysis (E) Working Groups.

Commissioner Houdek said that the next comment letter was from S&P Global Ratings, which commented on its due diligence framework that will be developed in the future.

Joe Engelhard (Alternative Credit Council—ACC) said that he leads the policy work of the Council in the U.S. and the Americas. He noted that ACC believes the restructuring is timely and appropriate given the evaluation of markets over the last several decades and, particularly, the increasing recognition that certain types of assets can offer cash flow pattern installments and risk return characteristics that are better suited to supporting the longer-term obligations insurers have to policyholders. The ACC comment letter is largely supportive of the proposal and highlights a few areas where the ACC either has concerns or recommendations. He noted concerns with the Investment Analysis (E) Working Group's meetings being primarily regulatory-only and encouraged some transparency without breaking confidentiality so that stakeholders can better understand the direction of regulatory thinking. This is especially important when decisions are going to be made that effectively create new supervisory interpretations of policy that will impact emerging market trends.

In addition, given the highly technical nature of the work, the ACC believes the Investment Analysis (E) Working Group would benefit from informational sessions or other technical input from industry stakeholders who have significant experience in the relevant investments under discussion, and, ideally, thematic updates would be provided publicly.

Regarding the Securities Valuation Office (SVO) and Structured Securities (E) Working Group, Engelhard said that it would be helpful to understand how the 2024 discretion policy will be operationalized in practice, especially when there is disagreement between the SVO and an insurer. The ACC requests that the Credit Rating Provider (E) Working Group have clear boundaries and consistent application across rating providers, whether they are large or small.

Dan Daveline (NAIC) noted that the Task Force has a charge for educational items that suggests those types of discussions take place as open meetings instead of in a regulatory-only session. He also said the non-NAIC Lease-Backed Securities Working Group was not able to participate in the meeting, but it noted that it did not have any further comments. Shannon Jones (American Council of Life Insurers—ACLI) commended the NAIC for its efforts to modernize its structure in response to the evolving nature of insurer investment portfolios and capital markets. Jones encouraged the Committee to consider mechanisms for public transparency around thematic trends and emerging issues. Jones also noted the ACLI looks forward to seeing how the work of the NAICs consultant for its due diligence project, Price Waterhouse's, will be operationalized within the structure and how disagreements will be resolved. Commissioner Houdek noted the Committee would take these comments into consideration as the work under this initiative moves forward.

Tom Sullivan (Sullivan Strategy & Advisory Services), speaking on behalf of himself and not an interested party, noted his support for the intent behind the proposal, but only the intent. He said the NAIC's nature is to strive toward continuous improvement, and that is one of its most enviable and laudable values. Further, the goal of modernizing and streamlining oversight and ensuring investments is appropriate, especially as insurer investment portfolios change. He noted that investing in capital markets is not static, so neither should the regulatory regime be. Consolidating analytical expertise and clarifying roles within the NAIC has the potential to improve regulatory responsiveness and consistency. He urged the Committee to consider several important refinements to safeguard integrity, transparency, and public trust in the process. This includes added transparency with SVO designations and related methodologies. Creating a third regulatory-only working group raises concerns since it appears to involve broad policy topics that do not justify exclusion from public deliberations. This also includes clarifying the structure and governance of the new credit rating provider working group—specifically its composition, how it will operate alongside the discretion proposal, and the measures that will ensure its independence, objectivity, and broad participation. In particular, there is a need to avoid reinforcing any reliance on the big three rating agencies and create an atmosphere where competition and innovation thrive in this space.

Sullivan encouraged earlier stakeholder input rather than releasing near-final proposals, such as stakeholder workshops at earlier stages. Finally, Sullivan recommended a phased implementation with checkpoints in addition to the formal one-year checkpoint to assess the real-world impact of these changes. He encouraged the Committee to defer further action until these considerations can be built into the proposal.

Commissioner Houdek reminded the Committee of previous comments about conducting a review after one full year. If further review is deemed necessary at that point, it can be added, along with any potential changes. He noted that the SVO and Structured Security (E) Working Group will not change its responsibilities or processes but agreed that if more general discussions take place within the Investment Analysis (E) Working Group, reporting may be appropriate to add more transparency. However, any policy decisions will continue to be considered in

public and with the use of public exposures. Finally, discussions regarding individual companies will be held in regulatory-only settings in accordance with the NAIC open meetings policy, and it will not be under the SVO.

Director Wise made a motion, seconded by Commissioner Caljouw, to adopt the proposed renaming and restructuring of the current Valuation of Securities (E) Task Force and adopt the revised charges included in the 2026 proposal, incorporating them into the Committee's charges. The motion passed unanimously.

Commissioner Ommen added that he supported this proposal and was incredibly pleased with the work done by all involved. He said that he believes it is on a good track, and the comments reflect that sentiment and express appreciation for the work already done.

Having no further business, the Financial Condition (E) Committee adjourned.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/2024_3Fall/Fall National Meeting Materials/102424 E Minutes.docx

Draft Pending Adoption

Draft: 03/31/25

Financial Condition (E) Committee
Indianapolis, Indiana
March 26, 2025

The Financial Condition (E) Committee met in Indianapolis, IN, March 26, 2025. The following Committee members participated: Nathan Houdek, Chair, and Amy Malm (WI); Michael Wise, Co-Vice Chair (SC); Justin Zimmerman, Co-Vice Chair (NJ); Mark Fowler (AL); Michael Conway (CO); Michael Yaworsky represented by Virginia Christy (FL); Doug Ommen and Carrie Mears (IA); Holly W. Lambert (IN); Vicki Schmidt (KS); Michael T. Caljouw (MA); Mike Chaney represented by Chad Bridges (MS); Adrienne A. Harris represented by Bob Kasinow (NY); Judith L. French (OH); Cassie Brown represented by Jamie Walker (TX); and Scott A. White (VA). Also participating were: Philip Barlow (DC); and Fred Andersen (MN).

1. Adopted its 2024 Fall National Meeting Minutes

Commissioner Ommen made a motion, seconded by Commissioner Fowler, to adopt its Nov. 19, 2024, minutes (*see NAIC Proceedings – Fall 2024, Financial Condition (E) Committee*). The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

Commissioner Houdek stated that the Committee usually takes one motion to adopt its task force and working group reports that are considered technical, noncontroversial, and not significant by NAIC standards (i.e., they do not include model laws, model regulations, model guidelines, or items considered to be controversial). He reminded Committee members that after the adoption of its votes, all the technical items included within the reports adopted will be sent to the NAIC Members for review shortly after the conclusion of the 2025 Spring National Meetings as part of the Financial Condition (E) Committee's technical changes report. Pursuant to the technical changes report process previously adopted by the Executive (EX) Committee and Plenary, the members will have 10 days to comment. Otherwise, the technical changes will be considered adopted by the NAIC and effective immediately.

With respect to the task force and working group reports, Commissioner Houdek asked the Committee: 1) whether there are any items that should be discussed further; and 2) whether there are other issues not up for adoption that are currently being considered by task forces or working groups reporting to the Committee that require further discussion. The response to both questions was no.

In addition to presenting the reports for adoption, Commissioner Houdek noted that the Financial Analysis (E) Working Group met March 23, Feb. 19, and Jan. 21 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss letter responses and financial results. Additionally, the Valuation Analysis (E) Working Group met March 23 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss valuation items related to specific companies.

Director French made a motion, seconded by Kasinow, to adopt the following task force and working group reports: Accounting Practices and Procedures (E) Task Force, Capital Adequacy (E) Task Force, Financial Stability (E) Task Force, Receivership and Insolvency (E) Task Force, Reinsurance (E) Task Force, Valuation of Securities (E) Task Force, and Risk-Focused Surveillance (E) Working Group (Attachment One).

3. Received a Report on Privately Rated Securities Missing Rational Reports

Mears noted that the Securities Valuation Office (SVO) reported to the Valuation of Securities (E) Task Force the status of the private letter rating (PLR) report filings for 2024. Since Jan. 1, 2024, all PLR securities, other than waved submissions, have required a private rating rational report to be filed with the SVO to be eligible for the filing exemption process. This was the first year that the SVO systems were sufficiently enhanced to make the filing exemption classification changes. The SVO reported at the 2024 NAIC Fall National Meeting that it had identified 1,636 privately rated securities missing a required rationale report. At that time, the Task Force decided to defer any action and, instead, look at the reasoning behind the missing reports to ensure that the data was complete, and regulators met with members of the industry to work through the process. By March 5, 2025, when the policy to remove securities with missing rating rational reports was applied, the number had decreased to 346 securities. These securities can be reinstated if the insurer submits the missing rational report for 2024 or provides one for 2025, as they are needed each year. The SVO also reported that private rating volume has continued to increase, with 112% more filings in 2024 (8,229) than in 2023 (3,879). Mears noted that the SVO director reported that this increase is straining NAIC resources with a carryover ratio of 13% and explained that a carryover ratio above 10% indicates that there is an analytical resource constraint. The Task Force will continue to look into this.

4. Received an Update on the Draft Reinsurance Asset Adequacy Actuarial Guideline

Andersen provided an update on the development of an actuarial guideline by the Life Actuarial (A) Task Force. The guideline is intended to address reinsurance activity that may lead to a decline in transparency regarding the amount and types of assets supporting the reserves of ceded business. There have been cases where, due to reinsurance, the total reserves supporting business—comprising those held by both the ceding company and the assuming company—are less than the original reserves held by the direct writing company. It is highly likely that, in the vast majority of cases, the reserve decrease would be explainable with reasonable assumptions on factors such as asset returns, mortality, and policyholder behavior. But it is also possible that in some cases, the reserve decrease may be based upon questionable assumptions in these areas. The guideline would provide this information to state regulators regarding life and annuity business for U.S. policyholders.

The Life Actuarial (A) Task Force has been working to develop this proposed guideline for over a year following a referral from members of the Reinsurance (E) Task Force. Goals were developed that seemed to have widespread consensus, and so the guideline would provide U.S. state regulators with what is needed to review the reserves and solvency of U.S. life and annuity companies. It would avoid covered agreement issues, and it would prevent work by ceding companies where there was immaterial risk. A key decision to make the 2025 guideline disclosure only was made by the Life Actuarial (A) Task Force at the 2024 Fall National Meeting. This means that regardless of the results of assets adequacy testing, there are no specifics that additional reserves must be posted. However, a company may view its results and decide to post additional reserves, and domestic regulators may come to the same conclusion. Additionally, depending upon the results of the first year, public discussions could be reopened to determine appropriate next steps. It is expected that even with disclosure only, it will assist with transparency and consistency regarding the ceding amount and assumptions supporting reserve adequacy.

It is important to note that the guidelines being developed are similar in substance and structure to the recently developed *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51) and *Actuarial Guideline LIII—Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53). While those resulted in quite a bit of work, there is widespread satisfaction that those have assisted regulators in understanding reserve adequacy following the transaction and helpful dialogue between insurers and regulators.

In terms of a timeline, the last version was recently exposed for a public comment period ending April 4. After this exposure period, there will be two more meetings, with potential adoption in late May or early June by the Task

Force and possible adoption by the Life Insurance and Annuities (A) Committee in early summer and the Executive (EX) Committee and Plenary at the 2025 Summer National Meeting with first reports provided in April 2026.

Andersen noted that an estimate of how many treaties will eventually fall within the scope of this cash flow analysis requirement will be around 100. Another issue is aggregation, which would allow a combined analysis when a ceding company has multiple treaties with one assessment. It is also decided that the higher the risk, the more analysis will be expected, while the lower the risks, the less analysis will be appropriate. Another decision was that for the year-end 2025, only disclosures will be added as a new requirement. The alternative would be to have the guideline specify that unfavorable cash flow testing would require the insurer to hold additional reserves. The guideline adopted for the year-end 2025 will not include this requirement. However, the disclosure-only requirement does not impact on a state's authority to collaborate with its company to require additional reserves. Updated documents were exposed at the Fall National Meeting until the middle of January, and discussion is expected around the end of January.

5. Received an Update from the Risk-Based Capital Investment Risk and Evaluation (E) Working Group

Commissioner Houdek noted that the last agenda item is directly related to work on the Investment Framework and, therefore, provided a general update on that work. In line with one of the key action items of the framework, the Committee adopted a request for proposal (RFP) last year to hire a consultant to develop a due diligence framework for oversight of ratings provided by credit rating providers (CRPs). It is the NAIC's intention to announce the hiring of that consultant, and for the work to begin on developing the CRP due diligence framework under the direction of the Valuation of Securities (E) Task Force. Additionally, the NAIC intends to announce proposed changes to certain aspects of the subcommittee structure and a change in some of the roles of NAIC staff in assisting regulators. The goal is to have an update on those proposed changes by the Summer National Meeting. For insight into these planned changes, individuals should look at the Investment Framework Workplan that was exposed last year, specifically action item no. 5. Finally, the NAIC formed the Risk-Based Capital Model Governance (EX) Task Force. Although this is a separate Executive Committee task force, the work will align with the initiatives of the Investment Framework, as stated in the memo to interested parties from February, as well as the Investment Framework Workplan.

Barlow noted that the Risk-Based Capital Investment Risk and Evaluation (E) Working Group had recently met and heard an update from the American Academy of Actuaries (Academy) on its work on collateralized loan obligations (CLOs) and, more generally, asset-backed securities (ABS). The Academy is currently trying to use the C1 bond factor model, which was developed by Moody's for the American Council of Life Insurers (ACLI), and it is currently collaborating with both parties to obtain access to the model. The Academy wants to use the model for collateral modeling and scenario compression. It is also working on CLO cash flow modeling, and it still needs to turn those into risk-based capital (RBC) factors. The Academy is also looking at diversification and concentration.

Barlow said that he stressed to the Academy that the Working Group wants the work done as quickly as possible but also done correctly. He added that if there is anything holding the work up, to let the Working Group know, and it would assist the Academy. Barlow also noted that NAIC staff had put together an analysis of the reporting and RBC of residual tranches, and they plan to have a regulator-only meeting to discuss the result of the analysis, which includes specific company results. Finally, work has begun on the next project, which deals with bond fund treatment and where there are differences. As all the work develops, they are also thinking about applying the methodology of similar types of assets.

Commissioner Houdek asked about the interaction between the NAIC Structured Securities Group (SSG) and the coordination with the Academy. Barlow noted that the Academy and Eric Kolchinsky (NAIC) are working together to ensure that the NAIC's work can be used by the Academy. The Academy is focused on using attributes that can

be used for an RBC charge, such as ratings along with other information. If that cannot be done, other information will be used.

Having no further business, the Financial Condition (E) Committee adjourned.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/E CMTE/2025_1Spring/032625 E Minutes.docx

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

EXAMINATION OVERSIGHT (E) TASK FORCE
July 31, 2025

Summary Report

The Examination Oversight (E) Task Force met July 31, 2025. During this meeting, the Task Force:

1. Adopted its 2024 Fall National Meeting minutes.

2. Adopted Working Group Reports for the following groups: Electronic Workpaper (E) Working Group; Financial Analysis Solvency Tools (E) Working Group; Financial Examiners Handbook (E) Technical Group; Financial Examiners Coordination (E) Working Group; and Information Technology (IT) Examination (E) Working Group.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE
Wednesday, July 30, 2025

Summary Report

The Receivership and Insolvency (E) Task Force met July 30, 2025. During this meeting, the Task Force:

1. Adopted its 2025 Spring National Meeting minutes.

2. Adopted 2026 proposed charges for the Task Force and its Working Groups. The charges were exposed for a 14-day public comment period ending July 23. No comments were received.

3. Heard an update on international resolution activities. The U.S. representatives on the IAIS Resolution Working Group are participating in a drafting group to update the *Application Paper on Recovery Planning* and the *Application Paper on Resolution Powers and Planning.* The IAIS Resolution Working Group will meet in September in Basel, Switzerland. The second Targeted Jurisdictional Assessment (TJA) of six jurisdictions has been completed. The final report on the TJA is expected soon.

4. Received the report of the Receivership Financial Analysis (E) Working Group, which met March 23 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership and related topics. The Working Group plans to meet Aug. 10 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership and related topics.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

JOINT MEETING OF THE GROUP SOLVENCY ISSUES (E) WORKING GROUP
AND THE OWN RISK AND SOLVENCY ASSESSMENT (ORSA) IMPLEMENTATION (E) SUBGROUP
Tuesday, July 29, 2025

Summary Report

The Group Solvency Issues (E) Working Group and the Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup met in joint session July 29, 2025. During this meeting, the Working Group and Subgroup:

1. Discussed comments received from the American Academy of Actuaries (Academy) on the exposure of proposed revisions to the *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* (ORSA Guidance Manual).

2. Adopted an updated draft of the ORSA Guidance Manual, to be effective Jan. 1, 2026, that includes the following revisions:
   A. The lead state may request and review information on international premium volume to assess the applicability of the insurance group exemption outlined in the *Risk Management and Own Risk and Solvency Assessment Model Act* (#505).
   B. Captives should be included in the scope of the ORSA Summary Report.
   C. Insurers/groups should file their first ORSA Summary Report no later than two years after the year-end in which they first exceed the premium threshold.
   D. The ability of the group to service existing debt should be considered when assessing group-wide capital adequacy.

3. Agreed to conduct a survey to identify additional questions or topics to be addressed in the ORSA Guidance Manual in future years.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

NAIC/AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (AICPA) (E) WORKING GROUP
Monday, July 28, 2025

Summary Report

The NAIC/AICPA (E) Working Group met July 28, 2025. During this meeting, the Working Group:

1. Conducted its annual review of *Annual Financial Reporting Model Regulation* (#205) premium thresholds and agreed that no modifications to the existing thresholds are necessary at this time.

2. Discussed a referral received from the Chief Financial Regulator Forum on access to external audit workpaper issues. Issues discussed included: 1) the timing of workpaper availability; 2) workpaper security restrictions; and 3) access to audit programs. As a result of these discussions, the Working Group agreed to form a drafting group of state insurance regulators and audit firm representatives to update the existing best practices in this area.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Virtual Meeting

National Treatment Coordination (E) Working Group
Thursday, June 26, 2025

Summary Report

The National Treatment Coordination (E) Working Group met June 26, 2025. During this meeting, the Working Group:

1. Discussed comments on a new corporate amendment change type. This proposal incorporates a new corporate amendment change type that will allow an authorized jurisdiction to review similar expansion requirements for companies that were licensed and either never wrote new business (shell companies) or companies with a suspended license to have their license reinstated or updated with a corporate structure. This proposal was paused to focus first on current improvements to the existing Uniform Certificate of Authority Applications (UCAAs).

2. Discussed the status of the biographical subgroup. This subgroup was formed to review the biographical affidavit process and discuss the potential inclusion of that process as part of the UCAA electronic system. With the focus on enhancements to the UCAA electronic system for existing applications, it was noted that current discussion on this workstream would be paused. The subgroup will proceed once the discussions on the biographical affidavit are ready to move forward.

3. Discussed the new UCAA Appian portal. The Working Group discussed issues and desired improvements to the new UCAA electronic system. Comments received will be considered as enhancements to improve the regulator review and company submission process.

NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

TO: Commissioner Houdek (WI), Chair of the Financial Condition (E) Committee
FROM: Amy Malm (WI), Chair of the Risk-Focused Surveillance (E) Working Group
DATE: May 7, 2025
RE: Application of Model #440 Requirements to Reciprocal Exchanges and Attorneys-in-Fact

On November 16, 2024, the Risk-Focused Surveillance (E) Working Group (RFSWG) received a referral from the Chief Financial Regulator Forum following a discussion on reciprocal exchanges at the NAIC's 2024 Fall National Meeting (see **Attachment A**). The Chief Financial Regulator Forum discussed the recent increase in the number of reciprocal exchanges being formed and that many of the newer exchanges seemed to be unfamiliar with the requirements of the NAIC *Insurance Holding Company System Regulatory Act* (Model #440) and more specifically states authority to assess the fairness and reasonableness of management fees charged to the newly formed reciprocals by their attorneys-in-fact. A chart showing the recent increase in the number of active reciprocal exchanges filing with the NAIC is provided below for additional context.

	% Change	Change	2024	2019
# of Active Reciprocals	36.84%	21	78	57
Reciprocal DPW	55.35%	$ 18,227,084	$ 51,159,614	$ 32,932,530
as a % of Total P&C DPW	N/A	N/A	4.82%	4.63%
Total P&C DPW	49.05%	$ 349,008,339	$ 1,060,521,559	$ 711,513,220

Source: NAIC Financial Data Repository
Dollar values represented in thousands

As the RFSWG recently completed a project to update guidance on regulatory review of affiliated services in the NAIC's *Financial Analysis Handbook* and *Financial Condition Examiners Handbook*, the Forum referred this issue to the RFSWG for further consideration. During its Feb. 26, 2025, virtual meeting, the RFSWG discussed the referral and agreed to form a drafting group to consider the development of additional handbook guidance in this area.

The drafting group held a call on March 31, 2025, to discuss issues highlighted in the referral. While a number of issues were discussed, this memorandum requests the Committee, or another group reporting to the Committee, be assigned the following charge as it falls outside of the purview of the Risk-Focused Surveillance (E) Working Group.

> Modify the NAIC *Insurance Holding Company System Regulatory Act* (Model #440) to clarify that regardless of definitions of control and affiliation, fees charged insurers from the attorney in fact are subject to fair and reasonable standards and subject to approval by the Commissioner and under no circumstances should they exceed the cost of such services plus a modest profit.

Also attached is a comment letter from an industry group (see **Attachment B**) that presents arguments relevant to the determination of the affiliate/related-party status of attorneys-in-fact to reciprocal exchanges.

If there are any questions regarding the referral, please contact either me or NAIC staff (Bruce Jenson at bjenson@naic.org) for clarification. Thank you for your consideration of this important issue.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Attachment A

MEMORANDUM

TO: Amy Malm, Chair of the Risk-Focused Surveillance (E) Working Group
FROM: Diana Sherman, Facilitator of the Chief Financial Regulator Forum
DATE: November 16, 2024
RE: Reciprocal Attorney in Fact Compensation

During its November 16, 2024, meeting, the Chief Financial Regulator Forum discussed the recent increase in the number of reciprocal exchanges being formed and challenges in assessing the fairness and reasonableness of attorney-in-fact fees being charged to the newly formed reciprocals.

The fee structure for management services is often based on a percentage of gross premiums written, which may be difficult to evaluate for fairness/reasonableness by comparing against market rates or obtaining detail on the costs of services provided. In addition, by basing the management service fees on a percentage of premium volume, there is the potential incentive for the attorney-in-fact to increase its fee revenue by underpricing or accepting risk that may be above its typical underwriting guidelines. Management service fees are also often included in the power of attorney agreement, as opposed to a separate service agreement, which can make the fees less transparent.

Given these potential issues and concerns, the Chief Financial Regulator Forum is referring this topic to the Risk-Focused Surveillance (E) Working Group to consider the development of additional guidance for use in reviewing service agreements between a reciprocal exchange and its attorney-in-fact.

If there are any questions regarding the referral, please contact either me or NAIC staff (Bruce Jenson at *bjenson@naic.org*) for clarification. Thank you for your consideration of this important issue.

Attachment B

RMC
Reciprocal Management Corp.

RECIPROCAL ATTORNEY-IN-FACT, INC.
(RAF)

March 21, 2025

Ms. Amy J. Malm
National Association of Insurance Commissioners
Chair of the Risk Focused Surveillance (E) Working Group
amy.malm@wisconsin.gov

Re: Referral of Attorney-in-Fact Compensation to Risk Focused Surveillance (E) Working Group

Ms. Malm:

As the Chief Executive Officer of both Reciprocal Management Corporation ("RMC"), the Attorney in Fact ("AIF") for Citizens United Reciprocal Exchange ("CURE"), and Reciprocal Attorney-In-Fact ("RAF"), the AIF for New Jersey Physicians United Reciprocal Exchange ("NJ PURE"), please accept this letter regarding the recent referral by Diana Sherman, Facilitator for the Chief Financial Regulator Forum ("Forum") to you as the Chair of the Risk-Focused Surveillance (E) Working Group ("Working Group").

As I understand it, participants in Forum discussed the increased formation of reciprocal Exchanges and how to evaluate the "fairness and reasonableness" of the fees charged by the AIFs for those reciprocals. The Forum apparently felt that it might be difficult for an individual subscriber to evaluate the reasonableness of fees charged for the services provided, and the Forum also expressed concern that the AIFs may try to increase their fees by underpricing or accepting too much risk.

Respectfully, I believe the Forum's concerns are unwarranted. First, the AIF fees are clearly stated in the respective Powers of Attorneys ("POAs") that are reviewed by the regulatory agencies and agreed to and signed by the individual subscriber. Second, the relationship between those individual subscribers and the AIFs are not related party transactions that require heightened scrutiny. Third, the business model of reciprocals is the exact opposite of that contemplated by the Forum. AIFs are incentivized to grow their reciprocals organically, not by engaging in schemes related to pricing or risk.

I request that the Working Group consider these comments, which are set forth in more detail below, and also permit RMC, RAF, and other AIFs to participate in the Working Group's discussions to allow the AIFs' necessary and important voice to be part of the discussion.

A. AIF FEES ARE CLEARLY STATED.

As a prerequisite for an individual to obtain insurance from a reciprocal, the subscriber must execute an unrelated party contract with the AIF—the POA—that segregates the AIF from the not-for-profit reciprocal Exchange. The subscriber's rights and obligations are: a) statutorily prescribed; and b) clearly set forth in the POA, a form which is filed with the respective Department of Insurance and which must be approved as a precondition to forming an Exchange in every state. If a regulator believes AIF Fees are not fair and reasonable during that thorough review process, they have the ability to take appropriate actions prior to licensing. A potential subscriber can easily compare the premium paid to the reciprocal and AIF Fee paid to the AIF, which is just a percentage of that premium, with the fees and premiums charged by insurance companies.

The AIF cannot unilaterally change the POA fees. If it changes the POA, each subscriber has the opportunity to decide whether or not to continue coverage. Moreover, with respect to each Exchange, the respective regulatory agency is well-aware of the amount of the AIF Fee, given that it is and always has been clearly set forth in the POA. There is nothing unclear or secretive about the process.

B. PAYMENT OF THE AIF FEES PURSUANT TO THE POA IS NOT A RELATED PARTY TRANSACTION.

As you know, Statement of Statutory Accounting Principal ("SSAP") No. 25 governs accounting and disclosures for transactions between affiliates and related parties, which it defines as "entities that have common interest as a result of ownership, control, affiliation or by contract." SSAP No. 25(4). Per SSAP No. 25, an AIF for a reciprocal Exchange is considered a related party to the Exchange,[1] and transactions between the Exchange itself and the AIF may be subject to SSAP No. 25. Thus, it is appropriate to review those fees to determine if they are fair or reasonable.

However, payment of the AIF Fee by the subscriber does not involve any transaction between the AIF and the Exchange itself. Only the subscriber and the AIF are parties to the POA; the Exchange is not a party to the agreement. The individual subscriber, not the Exchange, pays the AIF Fee to the AIF after signing the POA. In some situations, the Exchange simply collects and forwards the AIF Fee to the AIF; effectively acting as a passthrough clearinghouse. Regardless, the individual subscriber and the AIF remain independent.

[1] A given reciprocal's collective group of subscribers is referred to as the "Exchange."

Thus, the payment of the AIF Fee involves a transaction between the AIF and the individual subscribers—consumers looking for insurance coverage—who wish to obtain insurance through the Exchange. This is an arm's length transaction between two willing and unaffiliated entities. The AIF does not control the individual subscriber's decision to accept the terms, which are set forth in the POA. The subscriber decides if the fee is reasonable. No heighted scrutiny by regulators is needed.

This is key because such unilateral control is a fundamental trait of a related party transaction. See, e.g., SSAP No. 25, 4 (referring to common control, ownership or affiliation); Schering-Plough Corp. v. United States, 651 F. Supp.2d 291, 244-45 (D.N.J. 2001) (noting for tax purposes that parties are not acting at arm's length where one had the ability to control the other); Altor, Inc. v. Sec. of Labor, 498 Fed. Appx. 145, 148-49 (3d Cir. 2012) (noting that common operation, management and control refuted arm's length transactions). See Delaney v. Dickey, 244 N.J. 460, 488 (2020) (noting that in an arm's length transaction both parties are "free to negotiate mutually acceptable contractual terms pursuant to their individual best interests").

If the AIF controlled the Exchange and the terms to which each policyholder agreed, it could unilaterally alter the fees/other terms and simply impose a new POA on the Exchange. It cannot. Instead, the AIF would need to amend the form of the POA, submit it to the appropriate regulator, and obtain the individual subscribers' signatures. In other words, the individual subscriber is not and cannot be compelled to participate or commit to the new POA. Thus, the subscriber's payment of the AIF Fee bears none of the characteristics of transactions between related entities that are subject to SSAP No. 25.

Here, the POA—by virtue of both the voluntary execution by each individual subscriber and its transparent terms, including the management fee—requires the mutual assent of two unrelated and uncontrolled parties. The subscriber and the AIF are both "willing parties" that are not under the compulsion to buy or sell and are willing to participate in the contract. That is the definition of an arm's length transaction. SSAP No. 25(13).

In summary, while the Exchange is a related party to the AIF, the POA is not an agreement in which the AIF binds the Exchange. It is a contract between the unrelated subscribers who voluntarily apply, pay and join the Exchange, entered into for the purpose of compensating the unrelated AIF to manage their risk *after* they enter the Exchange. This is simply *not* a related party transaction, where one party binds or controls both ends of a contract. Unrelated subscribers *always have* the free choice to find another insurance policy and are not controlled by the AIF to pay for the fully disclosed fees. If AIFs do a poor job and their AIF fees are too high, premiums become too high, and the open market dictates that such inefficiencies would lead subscriber policyholders to buy insurance elsewhere. The natural "checks and balances" of an arm's length transaction exist when there are bona fide, unrelated parties agreeing to contract.

C. THERE IS NO POTENTIAL TO INCREASE FEES BY DECREASING PRICES OR INCREASING RISK.

The Forum also expressed concern that an AIF may try to increase its fees by underpricing or accepting too much risk. This is unwarranted.

Reciprocal Exchanges cannot have outside stockholders who, in turn, can be enticed to profit from policyholders, because reciprocals are not-for-profit, and they generate additional capital organically from their insureds. In summary, a reciprocal Exchange operation is a fundamental self-help form of insurance, where a management company manages the operations of the Exchange on behalf of the unsophisticated policyholders who simply want a lower cost insurance policy to cover their risk.

As a result, the standalone financial solvency requirements for reciprocal Exchanges are more stringent than those required of traditional stock companies (i.e., liquidity ratio requirements for certain capital levels to be maintained above the standards required of other insurance entities). For example, New Jersey's Reciprocal Exchange Act contains intentionally arduous and demanding standards to ensure the financial health of the reciprocal and its subscribers. In addition to general solvency requirements, it subjects reciprocal Exchanges to a "liquidity test," which requires them to maintain a prescribed level of cash and investments compared to certain liabilities at all times. Any decrease below that level automatically requires the attorney-in-fact to contribute its own funds to make up the deficit, to avoid the immediate liquidation of the reciprocal. N.J.S.A. 17:50-5. No similar requirements exist for other insurance entities.

Thus, no incentive exists for the AIF to increase its fee revenue by underpricing or accepting too much risk. If the Exchange is not financially stable, the AIF must commit funds to stabilize it. Therefore, the AIF's financial incentive is simply to make the Exchange grow so the AIF can make profits. The only way to grow an Exchange is to provide better service or better rates than the competition. Both of these motives align with what a policyholder wants—better service and better rates. In this regard, the market serves as an important safeguard for Exchanges and their AIFs. An AIF that underprices or accepts too much risk will eventually be forced to raise rates to pay claims as they come due. If those rates are no longer favorable to the consumer, they will simply buy another insurance product. No person is "held hostage" by the AIF's actions. Indeed, the Forum should keep in mind that AIFs act as a fiduciary for both the Exchange and individual subscribers, meaning that AIFs have a legal duty to act in the best interest of subscribers and the Exchange as a whole. Exchanges are examined by regulators frequently and all fees, costs, and expenses are accounted for and fully known. Again, there is nothing unclear or secretive about the process. In contrast, in a traditional stock company, the executives of the company are primarily focused on one item for their compensation—namely profits. The desire to make profits from their policyholders does not always

align with the desires of the policyholders, which is why reciprocal Exchanges are considered the most altruistic forms of insurance. Thus, the Forum's concern about the motivation of the AIFs is unwarranted.

Despite the above, I am aware of significant concerns from AIFs and others in the regulated community that regulators—and now the NAIC—are aggressively pursuing AIFs over the alleged "fairness and reasonableness" of AIF fees under the guise of SSAP No. 25. By transforming SSAP No. 25 – a mere accounting reporting guideline for how each insurer must report "related party transactions" in a uniform manner – into a governing statute, regulators are not simply making a minor change to their regulatory powers. On the contrary, they are using SSAP No. 25 to create a new mandate requiring all AIF fees must be at reasonable and market rates. In other words, regulators are asserting they have a new unilateral right to determine what is "reasonable or market rate" for AIFs to charge for their fees regardless of the stated and explicitly agreed upon rate in the POA, which is freely entered into between unrelated subscribers and the AIF on an arms' length basis. These actions are not founded in statute, and interfere with AIFs' ability to contract with subscribers, in potential violation of federal and state laws. More importantly, regulators have sought to determine the "reasonable or market rate" for AIF fees AFTER the fiscal year is finalized, and have asserted the power to force an AIF to return AIF fees to the Exchange–threatening all profits of the AIF in a post-year of service environment. I believe such actions are unlawful and potentially violate the U.S. Constitution by, among other things, undoing a binding contract entered into between two unrelated parties and interfering with the rights of citizens to freely contract. As the NAIC is aware, regulators do not have the same authority to "claw back" the profits of stock insurance companies, yet have asserted this drastic expansion of authority over reciprocals and their AIFs. The appropriate implementation of SSAP No. 25 in this regard, as an *accounting reporting guideline*, would be to recategorize the reporting of a "related party transaction," not to demand the return of funds.

Finally, I am also compelled to note that the Forum is reviewing the payment of fees to other, wholly unrelated management entities, such as TPAs, MGAs and program administrators, in a manner similar to its proposed scrutiny of AIF fees. Quite simply, this proposed course of action by the NAIC is improper and beyond the scope of regulatory authority. Regulators are empowered with a vast array of tools and methods to assess the solvency of insurers and are aware of the fees paid to such third-parties entities. Heightened regulatory scrutiny, and the potential clawing back of profits, will do nothing more than chill investment in the industry, leading to less options for consumers, less affordable insurance, and higher rates of uninsured individuals.

In conclusion, I appreciate the Working Group's consideration of RMC's and RAF's position on these issues, and welcome the opportunity to participate as part of the Working Group in responding to the Forum's unnecessary concerns.

Very truly yours,

Eric S. Poe, Esq., CPA
Chief Executive Officer
Reciprocal Management Corp.
Reciprocal Attorney-In-Fact

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: ☐ **New Model Law** **or** ☒ **Amendment to Existing Model**

1. **Name of group to be responsible for drafting the model:**

   Reciprocal Exchanges (E) Working Group

2. **NAIC staff support contact information:**

   Robin Marcotte, rmarcotte@naic.org

3. **Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.**

   The Risk-Focused Surveillance (E) Working Group has made a referral to the Financial Condition (E) Committee with respect to the recent increase in the number of reciprocal exchanges being formed and challenges in assessing the fairness and reasonableness of attorney-in-fact fees being charged to the newly formed reciprocals:

   1. The fee structure for management services is often based on a percentage of gross premiums written.

   2. Basing the management service fees on a percentage of premium volume creates a conflict of interest, i.e., a potential incentive for the attorney-in-fact to increase its fee revenue by underpricing or accepting risk that may be above its typical underwriting guidelines.

   3. Management service fees are also often included in the power of attorney agreement, as opposed to a separate service agreement, which can make the fees less transparent.

   4. Its worth noting that the definition of control within *Insurance Holding Company System Regulatory Act (#440)* specifically provides that "…the power to cause the direction of the management and policies" triggers control.

   Due to these concerns, the Working Group made the following referral to the Committee:

   Request a working group be formed to modify the NAIC *Insurance Holding Company System Regulatory Act* (#440) to clarify that regardless of definitions of control and affiliation, fees

charged insurers from the attorney-in-fact are subject to fair and reasonable standards and subject to approval by the Commissioner and under no circumstances should they exceed the cost of such services plus a modest profit.

4. **Does the model law meet the Model Law Criteria?** ☒ **Yes** **or** ☐ **No** **(Check one)**

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. **Does the subject of the model law necessitate a national standard and require uniformity amongst all states?** ☒ **Yes** **or** ☐ **No** **(Check one)**

If yes, please explain why

Model #440 is currently part of the Part A accreditation standards, and must be adopted by all NAIC member jurisdictions on a "substantially similar" basis. The requested modification to Model #440 would require all such transactions between reciprocal exchanges and similar affiliated organizations to meet fair and reasonable standards as it pertains to fees charged the insurer for services. This is considered a necessary change to these standards to prevent insurers from sidestepping these provisions which could be considered to be excessive if they failed to meet such standards.

b. **Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?**

☒ **Yes** **or** ☐ **No** **(Check one)**

5. **What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?**

☒ **1** ☐ **2** ☐ **3** ☐ **4** ☐ **5** **(Check one)**

High Likelihood **Low Likelihood**

Explanation, if necessary:

6. **What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?**

☒ **1** ☐ **2** ☐ **3** ☐ **4** ☐ **5** **(Check one)**

High Likelihood **Low Likelihood**

Explanation, if necessary:

7. **What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?**

☐ **1** ☒ **2** ☐ **3** ☐ **4** ☐ **5** **(Check one)**

High Likelihood **Low Likelihood**

Explanation, if necessary: Not all state legislatures meet annually, and states are normally afforded more time to complete a change to the Part A Accreditation Standards.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

Yes

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No

NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

To: Financial Condition (E) Committee

From: Risk Retention Group (E) Task Force

Date: July 18, 2025

Re: Proposed Reorganization of the Risk Retention Group (E) Task Force

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The Risk Retention Group (E) Task Force proposes to reorganize as the Risk Retention Group (E) Working Group.

The Task Force chair proposes the formation of the Risk Retention Group (E) Working Group, which would oversee all drafting, maintenance, and analysis work related to risk retention groups (RRGs). The Working Group would include no more than 12 members represented the key states where RRGs are domiciled and/or writing business.

Most meetings would be held in regulator-to-regulator session, as discussions will primarily focus on individual companies and best practices used by domestic states in similar situations. The Working Group would meet in open session when discussing public RRG topics and policy issues. The proposed effective date is Jan. 1, 2026.

The Working Group charges would be as follows:

- Operate in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, and in open session when discussing public RRG topics and policy issues.
- Monitor and evaluate the work of other NAIC committees, task forces, and working groups that may affect the filing requirements or compliance of RRGs (e.g., actions that affect compliance with the NAIC Financial Regulation Standards and Accreditation Program).
- Provide a forum for discussion of current and emerging RRG issues and topics.
- Interact with domiciliary regulators and registered states to assist and advise on the most appropriate regulatory strategies, methods, and action(s).
- Support, encourage, and promote efforts to address solvency concerns, including identifying adverse industry trends.
- Review and analyze annual and quarterly financial results.
- Provide ongoing maintenance and enhancements to the *Risk Retention and Purchasing Group Handbook* and related resources.
- Develop best practice guides on licensing and registering RRGs.
- Monitor federal activities related to RRGs, including legislation related to the Liability Risk Retention Act of 1986 (LRRA), and ensure all interested parties are informed.

- Develop or amend relevant NAIC model laws, regulations, and guidelines.