AGENDA

1. Consider Adoption of its July 1, June 12, May 15 and March 26 Minutes —Commissioner Scott A. White (VA)  
   Attachment One

2. Consider Adoption of its Task Force and Working Group Reports —Commissioner Scott A. White (VA)
   a. Accounting Practices and Procedures (E) Task Force  
      Attachment Two
   b. Capital Adequacy (E) Task Force  
      Attachment Three
   c. Receivership and Insolvency (E) Task Force  
      Attachment Four
   d. Reinsurance (E) Task Force  
      Attachment Five
   e. Valuation of Securities (E) Task Force  
      Attachment Six
   f. Group Capital Calculation (E) Working Group  
      Attachment Seven
   g. Group Solvency Issues (E) Working Group  
      Attachment Eight

3. Consider Adoption of INT 20-08: COVID-19 Premium Refunds, Limited-Time Exception, Rate Reductions and Policyholder Dividends —Commissioner Scott A. White (VA)  
   Attachment Nine

4. Discuss Any Other Matters Brought Before the Committee—Commissioner Scott A. White (VA)

5. Adjournment

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The Financial Condition (E) Committee met via conference call July 1, 2020. The following Committee members participated: Scott A. White, Chair, Doug Stolte and David Smith (VA); Eric A. Cioppa, Vice Chair (ME); Michael Conway (CO); David Altmaier (FL); Robert H. Muriel represented by Kevin Fry (IL); Stephen W. Robertson and Roy Eft (IN); Steve Kelley represented by Kathleen Orth (MN); Mike Chaney represented by David Browning (MS); Marlene Caride (NJ); Russell Toal (NM); Raymond G. Farmer (SC); Kent Sullivan represented by Doug Slape and Jamie Walker (TX); James A. Dodrill represented by Jamie Taylor (WV); and Jeff Rude (WY). Also participating were: Trinidad Navarro (DE); Chlora Lindley-Myers (MO); and Jillian Froment (OH).

1. **Adopted its Feb. 27, 2020, and 2019 Fall National Meeting Minutes**

Commissioner White said the agenda for the conference call is focused on considering actions taken by the Committee’s technical groups that provide annual updates to various solvency-related publications. He said, before doing that, the Committee should consider adoption of the Committee’s minutes from the 2019 Fall National Meeting and the Feb. 27, 2020, conference call in which the Committee adopted two model law development requests and an extension to the Mortgage Guaranty Insurance (E) Working Group, which has been working on its own model law changes for mortgage insurers.

Commissioner Toal made a motion, seconded by Commissioner Caride, to adopt the Committee’s Feb. 27, 2020 (Attachment One) and Dec. 9, 2019 (see NAIC Proceedings – Fall 2019, Financial Condition (E) Committee) minutes. The motion passed unanimously.

2. **Adopted Technical Edits to Model #787**

Commissioner White said the next item is to consider adoption of technical edits to the Term and Universal Life Insurance Reserve Financing Model Regulation (#787). He noted how NAIC staff identified a small number of purely editorial items during a Jan. 29 conference call of the Reinsurance (E) Task Force, where these were adopted. He said similar technical edits were also being made by the Life Insurance and Annuities (A) Committee to Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48), noting that both Model #787 and AG 48 will be presented to the Executive (EX) Committee and Plenary for consideration at the Summer National Meeting.

Commissioner Caride made a motion, seconded by Commissioner Toal, to adopt the technical edits to Model #787 (Attachment Two). The motion passed unanimously.

3. **Adopted Reports from Select Task Forces**

Commissioner White said the Committee received summary reports from the Accounting Practices and Procedures (E) Task Force (which met June 22), the Capital Adequacy (E) Task Force (which met June 3) and the Valuation of Securities (E) Task Force (which met May 14), noting that—with the exception of INT 20-08: COVID-19 Premium Refunds, Rate Reductions and Policyholder Dividends (INT 20-08), which would be considered separately—the intent is to adopt each Task Force’s actions and include such items that are technical, non-controversial and/or considered to be of a routine nature in maintaining the insurance financial solvency framework in a Financial Condition (E) Committee Technical Changes Report sent to all NAIC members. He noted that, under the process previously adopted by the Plenary, NAIC members will have 10 days to comment; otherwise, the technical changes will be considered adopted by the NAIC membership and effective immediately.

Commissioner Robertson made a motion, seconded by Ms. Orth, to adopt the actions taken by the Accounting Practices and Procedures (E) Task Force, the Capital Adequacy (E) Task Force and the Valuation of Securities (E) Task Force, with the exception of INT 20-08. The motion passed unanimously.
4. **Discussed INT 20-08**

Commissioner White said the last item is to consider INT 20-08, which was adopted by the Accounting Practices and Procedures (E) Task Force during its June 22 conference call, with more than 75% of the Task Force voting in favor of the adoption. Under this interpretation, the refunds and rate reductions that have been issued by many property/casualty insurers and some health insurers in response to COVID-19 and decreased exposure are treated as a reduction of premium.

Commissioner White said he participated on the Task Force’s June 22 conference call, and described how there was a lot of debate and not total agreement on the issue, as some of the regulators believed it would more be appropriate to treat these refunds as an underwriting expense. He stated that the interpretation as adopted utilizes the same accounting approach that has existed for years on premium refunds, which is a reduction of premium. He also noted the opinions of consumer representatives, who had emphasized the substance of these refunds being economically the equivalent of a return of premium, because it was due to a reduction in exposure and not an expense to the company.

Commissioner White described how the reduction also comes up in discussing the concerns of others related to the impact on premium taxes, because, in many cases, the tax law on premium taxes may be reduced for premiums returned. He explained that, in Virginia, matters dealing with premium taxes are outside of the insurance code and noted that, for Virginia, it really does not matter what guidance the NAIC issues for solvency purposes; Virginia taxes are determined by state taxation laws and paragraph 24 of the interpretation makes this point.

Commissioner White described how the interpretation retains the fundamental concepts of consistency and comparability, and specifically allows the use of prescribed and permitted practices to be issued by any insurance commissioner, with disclosure of that difference in Note 1. By doing so, non-domestic regulators can consider such accounting practice in their review of such insurers’ financial statements and will know that the loss ratios for those companies would be understated. He said he believes all of these points are what played into why the Task Force adopted the interpretation with 75% of the states voting in favor. For this reason, and due to the underlying policies of the Statutory Accounting Principles (E) Working Group, this guidance is actually considered adopted unless overturned by the Task Force with a two-thirds vote in opposition; however, only nine states dissented, so it was passed easily over what was required. He concluded by noting that this policy exists specifically to allow the NAIC membership to issue accounting interpretations quickly, noting how that same policy has already allowed the NAIC membership to provide guidance to many insurers on various COVID-19 issues.

Commissioner Robertson asked if the Committee could prevent this interpretation from moving forward if the Committee were to vote in opposition to INT 20-08. Commissioner White said this is a good question, because there would be no available accounting for the issue for the second quarter statements coming due. He described how, if that is the result, it would be best if the Committee sends the issue back to the Task Force to come to a decision supported by two-thirds of the members of that Task Force, because the current interpretation was adopted by more than two-thirds of the states.

Dan Daveline (NAIC) indicated that the Committee has the authority to overrule the issue. Commissioner White noted that the intent is to take a vote and, if the interpretation is not adopted, it would go back to the Task Force. Commissioner Robertson asked how many members are needed to overturn the Task Force’s adoption; specifically, if a two-thirds vote or a majority vote is required. Mr. Daveline responded that a majority vote would be sufficient to send the issue back to the Task Force.

Commissioner Robertson noted that a letter was distributed to the members of the Committee from the American Property Casualty Insurance Association (APCIA), which requests flexibility in accounting for the monies returned or credited to policyholders. He stated his preference that no company be allowed to use this as a reduction of premium and described how, in Indiana, the state would lose $1,250,000, which would equate to 20 jobs, or 20 people who would lose their jobs to make up that amount of money. He noted that while the Task Force emphasized comparability, he believes the Committee has a different duty, noting that the members have never experienced anything like this. He suggested that the Committee use more flexibility and not be so rigid and bureaucratic, and he warned against listening to the industry that the states regulate, noting that he believes the APCIA’s request is reasonable. He said he is not willing to tell his governor that he lost $1,250,000 in revenue due to a technicality vote that he does not think is necessary. He said each member must make their own decision, but the 28 people who voted not to honor the request of the APCIA will likely all have safe jobs, and a lot of people will lose their jobs if this goes through as-is. He described the need to take advantage of every opportunity to collect revenue for the state. He encouraged those voting to take a “bigger picture” perspective.

Commissioner Robertson made a motion to adopt the position of the APCIA as the method to treat the funds.
Commissioner White clarified that flexibility is allowed within the interpretation and simply needs to be disclosed in Note 1 of the financial statements. Commissioner Robertson asked if he only has authority over domestic companies or all companies doing business in Indiana. Commissioner White responded that his authority would only cover domestic insurers. Mr. Daveline agreed but noted that the commissioner may also have authority to prescribe certain tax treatment. Mr. Stolte said the Commissioner could issue a prescribed practice for all licensed companies. Commissioner Robertson stated his appreciation for Mr. Stolte’s comment but will make his motion later.

Commissioner Caride said it is her understanding that it only takes one state to not grant the same prescribed or permitted practice for the entire situation to be stalled. She said all states have been impacted by COVID-19, noting that New Jersey has asked its insurance companies to be flexible with consumers and give them the benefit of the doubt, even if it should not have been given. She described how New Jersey’s companies have worked with the state and taken its request to heart with regard to consumers in New Jersey and have worked to put consumers first at a time when there is high unemployment, health issues, health insurance being cancelled, and little money to pay rent, let alone car insurance. She said the industry has shown good faith, noting that the companies have been good corporate citizens and agree that the NAIC should show some flexibility during this period. She said this is something we have never seen before in our lifetime. She described the benefits of using consistent accounting but noted at the same time this is not a normal, everyday event; therefore, flexibility is needed. She said the accounting may not be pretty in terms of how the companies have to account for this, but her understanding from her carriers is that if they do it according to the interpretation, they would have to go back and deal with commissions paid and other issues. She said the least that can be done right now is to show flexibility. She said she abstained during the Task Force’s vote on the interpretation, but would vote against it if the Committee were to consider its adoption today.

Director Farmer expressed his appreciation for the work of the Task Force, but he could not say it any better than Commissioner Caride. He said regulators have asked companies to go outside of their comfort zone to give forbearance, and companies have made decisions to give refunds or dividends or whatever method they choose, noting that the companies have done this on their own. He said this was commendable and because we had asked them to be flexible, we should be as well. He noted that the states have not been down this road before and all states have had to be flexible on a number of issues.

Director Farmer made a motion to send the issue back to the Task Force and to provide flexibility to regulators and insurers.

Director Froment agreed with what has been said by the other Committee members, noting that Ohio has concerns with the interpretation. She discussed how Ohio worked with companies to provide relief and every company did something different in their offerings as a means to get monies into the hands of consumers, even though each company crafted things differently compared to the next. She described that in Ohio, not in one instance was a rate filing required; therefore, Ohio did not approve a reduction of premium but, rather, allowed the companies to offer relief. She said little upfront guidance was provided. She said Ohio would not be following the interpretation and will be providing flexibility to Ohio domestics, but she also has concerns about things not being done uniformly nationwide.

Director Lindley-Myers expressed her support for the positions taken by Ohio, South Carolina and New Jersey. She said she agrees that companies have sprung into action to do the best they could during this pandemic, and she wants to make sure Missouri is as flexible as possible to the companies.

Commissioner Conway said he would like to make sure he understands why the states do not want to provide the flexibility. He asked if there was something to consider besides consistency.

Commissioner White said one thing he hears often is the need for transparency, so that a non-domestic can look at Note 1. He said he believes there is flexibility through permitted and prescribed practices. He stated there is also concern that this could create a bad precedent. He noted that while everyone agrees with the way the industry has handled the issue, 28 “yes” votes at the Task Force was based on the principles of consistency and comparability, and using the same methodology that has been used in the past through Note 1 disclosure.

Commissioner Toal complimented the chair for explaining this appropriately. He described that he voted for INT 20-08 at the Task Force and would support it today. He said if he believed the states were not granted flexibility, he would not support it.

Commissioner Conway asked for a greater explanation of the permitted practices.
Superintendent Cioppa agreed with that request because Maine voted in favor of INT 20-08, but if, at the end of the day, another step is needed to get where things are desired, he is somewhat concerned. He stated that for that reason he is in favor of hearing more.

Mr. Stolte described the historical work completed by the Statutory Accounting Principles (E) Working Group to develop an accounting model that works and emphasized how it was never meant to overrule a state’s authority, and that is how prescribed and permitted practices were created. Footnote 1 shows both the state’s basis used in the financial statements and the NAIC’s basis to allow comparability, which has served its purpose for a long period of time. He said he does not understand the stigma or problem with the prescribed or permitted practices.

Commissioner White said he believes the question is the extra burden on the companies and the states, noting that the concern is more with the prescribed practices as it pertains to non-domestic companies. Mr. Stolte described that if a state issues a prescribed practice for all licensed companies, then that is the manner in which the item would have to be reported in all companies’ financial statements for the business in Virginia.

Robin Marcotte (NAIC) read from the Accounting Practices and Procedures Manual (AP&P Manual) and, more specifically, Question and Answer #2, which describes a permitted practice as an accounting practice requested by an individual insurer that departs from statutory accounting principles and has received approval from the domestic state. She said the AP&P Manual defines a prescribed practice as an accounting practice that is incorporated directly by state law, regulation or general administrative rule applicable to all applicable insurers. She said the AP&P Manual is not intended to preempt a state’s legislative and regulatory authority. In a prescribed practice, a state could tell all its licensed companies to follow a particular practice. She explained that it is possible for two states to decide to tax these refunds differently and it would apply to all carriers licensed in their respective state. She said, for example, Virginia could have a different practice for filing premium taxes than Missouri, and both would be disclosed in Note 1 if either differed from the accounting practice outlined in the AP&P Manual.

Commissioner Conway asked Ms. Marcotte if the non-domiciliary state issues a prescribed practice that disagrees with the domestic state, would the same result be the case. Ms. Marcotte said the company files the annual financial statement in accordance with its domiciliary state requirements. Ms. Marcotte noted that the distinction she made is related to premium and related premium taxes because those are driven by state law; therefore, domestic companies are required to follow all the rules in that state. So, for example, Virginia does not control premium and premium taxes for companies domiciled in Missouri.

Commissioner White asked if Colorado wants it to be treated as an expense for Colorado-licensed companies, if that would be allowed. Ms. Marcotte noted that for purposes of premium and related premium taxes, all Colorado licensed companies would be required to follow Colorado law.

Mr. Slape said he would like to make the distinction on the interpretation related to accounting and transparency through disclosure, noting that the accounting could have an impact on loss ratios but that is a completely different conversation than taxes. He stated that no matter what the NAIC says, it has no impact on how this is handled for premium taxes; he stated this needs to be clear because that is controlled by state law on how premium tax is determined. He noted that the state statute may define the terms generally, noting for example, in Texas, the Department of Insurance is not the premium tax agent; it is the comptroller. He said the members of the Committee should not think this has any impact on premium for premium tax purposes.

Commissioner White agreed with Mr. Slape, noting that paragraph 24 of the interpretation makes this same point.

Mr. Fry discussed the negative moniker that comes with permitted practices and how, for this particular interpretation, comes with an additional degree of administrative duties. He noted that the states need flexibility, given the transparency is also built in with the disclosure and, therefore, supports such flexibility.

Mr. Navarro said he believes Indiana made a motion and either a second must be made or the motion must be withdrawn, or at least that is normally the case.

Commissioner White said he believes a couple of motions were made, one by Commissioner Robertson and another by Director Farmer, noting that he would like to receive comments first.

Commissioner Robertson said he would withdraw his motion and instead second Director Farmer’s motion.
Commissioner White said Director Farmer’s motion was to send the issue back to the Task Force. Commissioner White asked if Director Farmer would like to proceed with the motion and take a vote at this time or if Director Farmer is supportive of hearing from the industry and interested parties, and then returning back to the motion to take a vote. Director Farmer said he is supportive of hearing further discussion and then returning back to the motion.

Philip Carson (APCIA) said the commissioners have raised the APCIA’s issues, noting that what the APCIA offered was a compromise that many of the commissioners seem to support. He said flexibility and fairness to policyholders was requested and the APCIA believes the commissioners should do the same thing. He stated that the discussion related to permitted and prescribed practices is one that creates a lot of confusion, noting that there would be a lot of burden on permitted practices, especially for those companies that operate in multiple states. He said there would be confusion if the states adopt different positions on the request for permitted practices, which would add a complication, stating that if the interpretation is adopted as it reads now, the companies would have no recourse if they were not allowed to obtain permitted practices in all the states in which they operate. He said the APCIA’s proposal harms no one, respects the good faith effort the companies put forth, and would be the fairest and cleanest way to proceed with the issue.

Jonathan Rodgers (National Association of Mutual Insurance Companies—NAMIC) echoed the comments made by the APCIA and noted the unprecedented times. He described how the discussion on permitted and prescribed practices demonstrates the complexity of the issue and noted how flexibility seemed to be the preference of the Committee, noting that it is just a matter of how that flexibility is granted. He said NAMIC believes the transparency exists with the APCIA’s proposal, regardless of whether it is recorded as a reduction of premium or as an expense.

Keith Bell (Travelers) said Travelers went through this issue and initially determined it was properly accounted for as a return of premium, even though companies have filed amendments to change their policies. Staff at Travelers wondered if they had missed something but when they went back and reviewed the guidance, it confirmed that they believe it is more properly reported as a return of premium, as it does not meet the definition of an expense and actually violates the Level 5 guidance in the Preamble of the AP&P Manual. Mr. Bell noted, however, in stepping back and looking at it, the amount charged to customers as premiums is one of the most important measures to insurer companies because it is a measure of risk and is used in several leverage ratios, but other financial measures used by insurers. Additionally, because the payments being made back to policyholders are the result of reduced possibility of loss, Travelers believes it should be recorded as a reduction of premium, because premium should represent the amount charged to take on the risk. He said he does not believe the accounting is that difficult when treated as a contra-revenue, recording the original premium and then the return premium would be reported separately as a contra amount, allowing the company to track the original premium so that they could pay agents and brokers on the appropriate original amount, but would also allow the track of the gross and net amount so they can pay the correct premium tax based on the differences in state law or state requirements. He said Travelers’ lead state is having its Department of Revenue issue a bulletin to apply the premium tax to the gross amount and not the net amount on this matter.

Commissioner White thanked everyone for their comments, noting that there was not consensus, either among the industry or among regulators. He returned to the motion by Director Farmer to send the issue back to the Task Force to have INT 20-08 revised in a way that is still supported by two-thirds of the Task Force members. Director Farmer concurred that was his motion but added that he strongly urges the Task Force to incorporate flexibility so that the permitted practice burden does not have to be utilized. The motion was seconded by Commissioner Robertson. The motion passed, with New Mexico dissenting.

Having no further business, the Financial Condition (E) Committee adjourned.
The Financial Condition (E) Committee met via conference call June 12, 2020. The following Committee members participated: Scott A. White, Chair, Doug Stolte and David Smith (VA); Eric A. Cioppa, Vice Chair (ME); Michael Conway represented by Rolf Kaumann (CO); David Altmaier and Carolyn Morgan (FL); Robert H. Muriel represented by Kevin Fry (IL); Stephen W. Robertson and Roy Eft (IN); Steve Kelley represented by Constance Peterson (MN); Russell Toal (NM); Raymond G. Farmer (SC); Kent Sullivan represented by Jamie Walker (TX); and Jeff Rude (WY).

1. **Adopted the Draft Memorandum from Committee Regarding LIBOR**

Commissioner White reminded the Committee of a May 15 educational session on the topic of the London Interbank Offered Rate (LIBOR) in which the Committee took no action on a proposal (Attachment ?) from the American Council of Life Insurers (ACLI). Commissioner White said the proposal requests two things: 1) a safe harbor to address the fact that all state laws essentially limit the type of derivatives insurers can engage in; and 2) deem these types of derivatives as effective hedges. He said the proposal was received, but action was deferred since it was an educational-focused conference call. He said under the LIBOR transition, insurance companies will be receiving certain swaps that do not easily fit into those allowable categories. He noted that the only way an insurance company would not be forced to sell these swaps the day they were received, and potentially incur losses, would be to receive a clarification issued by the insurance commissioner that allows these as permissible investments. Commissioner White said he thinks that issuance of such a clarification is appropriate because the issue is not something the insurers have any control over and when coupled with the potential for an insurer losing what he would consider policyholder money from this LIBOR transition, it is the correct position to take in his state. He stated for that reason, and because he did not hear any pushback from the Committee members during the May 15 conference call, he prepared a memorandum that summarizes his views on this issue. Mr. Smith recommended that the word "forbearance" in the subject line of the memorandum be replaced with the word "clarification" ((Attachment ?). Commissioner White agreed, and so did the other Committee members.

Commissioner White said issuing a clarification on state law is an issue each individual commissioner would have to decide. He stated that the accounting issue embedded in the original request from the ACLI should be referred to the Statutory Accounting Principles (E) Working Group. Michael Lovendusky (ACLI) stated the ACLI appreciates the action from the Committee and supports the clarification that these should be permissible. However, he said the ACLI questioned the referral. He stated the ACLI did discuss the issue briefly and did not believe the issue needed to be addressed by the Statutory Accounting Principles (E) Working Group. Commissioner White reiterated his previous views regarding the accounting issue and said it is appropriate to break out the accounting issue separately.

Commissioner Toal made a motion, seconded by Superintendent Cioppa, to adopt the draft memorandum and refer the accounting issue to the Statutory Accounting Principles (E) Working Group. The motion passed unanimously.

2. **Adopted an Extension on Mortgage Forbearance**

Commissioner White directed the Committee to the previously issued March 27 guidance from the Committee on this issue, and the question was whether this guidance should be extended. Bruce Oliver (Mortgage Bankers Association) said there were several moving parts, including their most recent letter (Attachment ?) to the Committee, being considered at this time. He referenced the previously issued guidance that lasts until the end of June and referenced subsequent clarifications. Mr. Oliver said the Mortgage Bankers Association has since sent a letter to the Life Risk-Based Capital (E) Working Group making specific changes to the guidance for year-end, including addressing various issues it identified in a previous letter. Mr. Oliver introduced John Waldeck (Pacific Life Insurance Company), speaking on behalf of the ACLI. Mr. Waldeck stated that members of the ACLI have been working with borrowers regarding possible loan modifications without knowing how long things would last and when things may begin to reopen. He said that many decisions have been made by insurance companies on this forbearance issue in a prudent manner. He said some insurers may decide that such agreements should be extended. Therefore, working with guidance in the federal Coronavirus Aid, Relief and Economic Security (CARES) Act or to the banks, they still need time to work with borrowers since reopening is just beginning to occur. He said that the request to the Life Risk-Based Capital (E) Working Group had been until the end of the year and for year-end and, therefore, requested an extension until such time, or at least until September. Mr. Waldeck said the request to the Life Risk-Based Capital (E) Working Group issues were
broader, but the extension issue before the Committee was the most pressing issue at this time. He said the intent of this request was not to forestall impairments but rather prudently work with borrowers, and he noted that the ACLI believes the extension is appropriate.

Commissioner White noted the Committee believes the original guidance is appropriate to help assist in addressing this broader issue for borrowers throughout the country when done so prudently. He stated he supports the Life Risk-Based Capital (E) Working Group discussing the broader guidance before the Committee takes any further action after today but that extending this guidance until the end of September seems appropriate to him.

Commissioner Robertson made a motion, seconded by Commissioner Dodrill, to extend the original forbearance guidance until Sept. 30 and update the guidance posted to the NAIC website. The motion passed unanimously.

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

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The Financial Condition (E) Committee met via conference call May 15, 2020. The following Committee members participated: Scott A. White, Chair, and Doug Stolte and David Smith (VA); Eric A. Cioppa, Vice Chair (ME); Michael Conway represented by Rolf Kaumann (CO); David Altmaier, Carolyn Morgan and Virginia Christy (FL); Robert H. Muriel represented by Kevin Fry, Shannon Whalen and Susan Berry (IL); Stephen W. Robertson represented by Roy Eft (IN); Steve Kelley represented by Constance Peterson (MN); Mike Chaney represented by David Browning (MS); Marlene Caride and John Sirovetz (NJ); Russell Toal represented by Mark Jordon (NM); Raymond G. Farmer and Daniel Morris (SC); Kent Sullivan represented by Jamie Walker (TX); and Jeff Rude represented by Linda Johnson (WY).

1. **Heard an Educational Session on LIBOR**

Commissioner White described that the purpose of the conference call is educational on the topic of the London Interbank Offered Rate (LIBOR), which will no longer be supported past 2021. He described how insurance companies would be affected as early as October 2020 and the reason for a proposal from the industry to alleviate the potential adverse impact away from LIBOR. He described how the core issue is ultimately how some of the derivatives that are delivered to insurers may not be in conformance with state law since derivatives are usually only allowed to be one of one of three types—hedging, income generation and replication—and that those derivatives that derived from the LIBOR exchange may not fit into one of those three buckets.

Michael Lovendusky (American Council of Life Insurers—ACLI) introduced member companies that would collectively facilitate the educational session. The presenters included Kathleen O’Neill, Associate General Counsel at New York Life Insurance Company and Vice Chairwoman of the ACLI Derivatives Policy Working Group; Joseph J. Demetrick, Managing Director, Derivatives & Liquid Markets at MetLife Investment Management and Chairman of the ACLI Derivatives Policy Working Group; and Chris McAlister, Managing Director at Prudential Financial. Ms. O’Neill presented most of the information in the written presentation (Attachment ?). During the presentation, she emphasized how as the clearinghouse, which is a large financial player, changes its valuation rate, it is expected to generate a lot of liquidity across the Secured Overnight Financing Rate (SOFR) term structure, which is expected to facilitate the transition of new transactions away from LIBOR. She describes this as a technical move that had a large impact, and she referenced how the mechanics were described in the appendix of the written presentation. Essentially, the clearinghouses will make a one-time move to change their valuation process on a single day on Oct. 16. Ms. O’Neill described how there are two steps involved in this process. First, the clearinghouses will conduct a standard end-of-day valuation cycle using federal funds, just like any other day, and the clearinghouses will run a special valuation cycle on the same positions using the SOFR. The two sets of data will be compared, and they will make a one-time adjustment that includes a cash component that adjusts each account that offsets the value transfer as a result of these discounting changes. Second, the clearinghouses book mandatory federal funds SOFR basis swaps that have one leg in federal funds and then one leg in the SOFR. This will restore the accounts’ original risk profile. These accounts will have the same risk profile at the end of the day as the beginning of the day by having these derivatives distributed to them on a mandatory basis. This is where the tension with state insurance law occurs since in many states, insurers can only enter for hedging, replication or income generation, and it is not clear where these would fit into those categories. Ms. O’Neill pointed out that the clearinghouses are planning to put in an auction process for those that do not want to hold the basis swaps, but those processes have not been finalized; therefore, it creates further issues. She also noted that it is not possible for insurers to move away from clearinghouses since under the federal Dodd Frank Wall Street Reform and Consumer Protection Act, many of these are mandated to be cleared under these clearinghouses.

Ms. Berry asked about the duration of these swaps. Mr. McAlister responded how the proposals from the clearinghouses are to give swaps across several durations—two, five, seven, 10, 20 and 30-year swaps—so that it is across a wide number of durations. Commissioner White asked why the clearinghouses used 2020 given that LIBOR does not go away until 2021. Mr. Demetrick stated that part of this is designed to create additional SOFR liquidity and activate transition portfolios. He stated that this will help liquidity to build in the SOFR. Commissioner White asked if state law was considered in determining this approach. Mr. McAlister indicated that he was not sure that it was considered, but he noted that banks used federal funds across their franchise and manage it holistically. This is just part of their federal funds risk, and they are concerned that what is at these clearinghouses will offset something else they have in their franchise, and banks requested that these basis swaps be granted. Mr. McAlister indicated that Prudential voiced that this is not something they preferred, but he implied that the banks...
are more influential in the clearinghouses. Mr. Demetrick added that it is important to know that the clearinghouses have to remain in a balanced risk position; therefore, if they are going to offer basis swaps to one party, they automatically have to deliver them to the people on the other side of the transaction. Otherwise, they would be taken on market risk by the clearinghouse itself. Commissioner White asked hypothetically if insurers were not allowed a full year to dispose of these basis swaps what would occur. Mr. Demetrick described how this was a one-off event and that the differential between the LIBOR and SOFR rates are close, but if insurers are required to unwind early, that could drive a technical widening and therefore disadvantage life insurers. Dan Daveline (NAIC) requested information on the rationale behind the derivatives being effective hedges and whether they could be classified as something else. Ms. O'Neill stated that while state laws differ, her understanding is that under New York state law, the insurer is required to show that the hedge is effective; therefore, it is hard to understand how the effectiveness testing would operate. Consequently, the ACLI is looking for clarification on whether it is both a hedge and an effective hedge so that insurers would not have to make that determination. Ms. O’Neill stated that she would like to think through this more, but she noted that having a hedge would be helpful, but the effective hedge aspect of this could be worked around.

Having no further business, the Financial Condition (E) Committee adjourned.
The Financial Condition (E) Committee conducted an e-vote that concluded March 26, 2020. The following Committee members participated: Scott A. White, Chair (VA); Eric A. Cioppa, Vice Chair, (ME); Michael Conway represented by Rolf Kaumann (CO); David Altmaier (FL); Robert H. Muriel represented by Kevin Fry and Kevin Baldwin (IL); Stephen W. Robertson and Roy Eft (IN); Steve Kelley represented by Fred Andersen (MN); Mike Chaney represented by David Browning (MS); Raymond G. Farmer (SC); Kent Sullivan represented by Doug Slape and Jamie Walker (TX); and Jeff Rude (WY).


The Financial Condition (E) Committee conducted an e-vote to consider adoption of the guidance. A majority of the members voted in favor of adopting the guidance ([Attachment Four-A](#)). The motion passed.

Having no further business, the Financial Condition (E) Committee adjourned.
The Accounting Practices and Procedures (E) Task Force met Aug. 3, 2020. During this meeting, the Task Force:

1. Adopted its July 22, June 22, and 2019 Fall National Meeting minutes, which included the following action:
   a. During its July 22 meeting, the Task Force adopted revisions to Interpretation (INT) 20-08: COVID-19 Premium Refunds, Limited-Time Exception, Rate Reductions and Policyholder Dividends. These revisions were requested by the Financial Condition (E) Committee to add flexibility, which allows a limited-time exception to apply other underwriting expense treatment for certain policies.
   b. During its June 22 meeting, the Task Force took the following action:
      2. Adopted INT 20-08 as adopted by the Statutory Accounting Principles (E) Working Group on June 15. This was adopted by a separate vote of the Task Force.

2. Adopted its 2021 proposed charges, which include one change to the charges for each Working Group.
   a. For the Blanks (E) Working Group, a charge regarding changes to the investment schedules was updated to reference that Capital Adequacy (E) Task Force and all of its working groups instead of a single working group.
   b. For the Statutory Accounting Principles (E) Working Group, a charge to update accounting and reporting to reflect the changes to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) is complete and was deleted.

3. Adopted the report of the Statutory Accounting Principles (E) Working Group, which met July 30 and took the following action:
   a. Adopted its minutes for the following conference calls and e-votes: July 15, June 15, May 20, May 5, April 17, April 15, March 26 and March 18
   b. Adopted the following substantive revisions to statutory accounting guidance:
      2. Revisions supersede SSAP No. 106—Affordable Care Act Section 9010 Assessment and nullify Interpretation (INT) 18-02: ACA Section 9010 Assessment Moratoriums. These revisions address the federal repeal of this assessment in 2021. With this adoption, a blanks proposal will be sponsored to incorporate reporting changes for 2021 reporting and recommend guidance for 2020 year-end reporting.
   c. Adopted the following nonsubstantive revisions to statutory accounting guidance:
      1. Revisions update the reporting line for qualifying cash pools and make clarifying edits.
2. Revisions eliminate references to the NAIC Bond Fund List (Bond List) in SSAP No. 26R—Bonds and add reference to the “NAIC Fixed Income-Like SEC Registered Funds List” in SSAP No. 30R—Unaffiliated Common Stock.

3. Revisions clarify that the accounting and reporting of investment income and capital gain/loss, due to early liquidation either through a called bond or a tender offer, shall be similarly applied. This adoption has a Jan. 1, 2021, effective date with early adoption permitted.

4. Revisions specify that voluntary decisions to choose one allowable reserving methodology over another, which requires commissioner approval under the Valuation Manual, shall be reported as a change in valuation basis.

5. Revisions add disclosure elements for reported goodwill. The additional disclosures will improve the validity and accuracy of the financial statements, and they will assist with state insurance regulators’ review of reported assets that are not readily available for policyholder claims. These disclosure revisions will be effective for the 2021.

6. Revisions ensure reporting consistency in that derivatives are reported “gross;” i.e., without the inclusion of financing components. Additionally, amounts owed to/from the reporting entity from the acquisition or writing of derivatives shall be separately reflected. The revisions are effective of Jan. 1, 2021.

7. INT 20-09: Basis Swaps as a Result of the LIBOR Transition basis swaps are compulsory derivatives issued by central clearing parties (CCPs) in response to the market-wide transition away from the London Interbank Offered Rate (LIBOR). The interpretation directs that the basis swaps be reported as “hedging - other” and at fair value, thus qualifying for admittance. To be considered or reported as an "effective" hedging, the instrument must qualify as a highly effective hedge under SSAP No. 86.

d. Exposed the following nonsubstantive revisions to statutory accounting guidance:

1. Revisions require the identification/disclosure of cash equivalents, or substantially similar investments, that remain on the same reporting schedule for more than one consecutive reporting period. This is an expansion of the current disclosure requirements that only referenced short-term investments and to clarify that the disclosure is satisfied through the use of the code on the investment schedules.

2. Revisions update the amortization guidance for leasehold improvements. The updated language will allow leasehold improvements to have lives that match the associated lease term, which agrees with U.S. Generally Accepted Accounting Principles (GAAP).

3. Revisions clarify that non-controlling ownership over 10% results in a related party classification regardless of any disclaimer of control or disclaimer of affiliation, a disclaimer of control does not eliminate the classification as a related party, and disclosure of material transactions are required under SSAP No. 25. The revisions also propose rejection of several U.S. GAAP standards addressing variable interest entities and update disclosures.

4. Revisions clarify that perpetual bonds shall be reported at fair value, not to exceed any currently effective call price, with a proposed effective date of Jan. 1, 2021, with early application permitted.

5. Revisions clarify that a participant’s financial rights in a mortgage participation agreement may include the right to take legal action against the borrower or participate in the determination of legal action, but they do not require that the participant has the right to solely initiate legal action; foreclosure; or to communicate with the borrower.


7. Exposed agenda item to solicit comments on two options for the accounting of credit tenant loans (CTLs). The Valuation of Securities (E) Task Force will be notified of this exposure with a request for further confirmation that a Securities Valuation Office (SVO)-Listing could be developed to capture the CTLs that meet the SVO’s structural and legal analysis and possess bond characteristics.
8. Exposed agenda item to solicit comments on the development of more explicit guidance for policyholder refunds and other premium adjustments. Assistance from industry was requested in developing principles-based guidance, particularly for the varieties of data-telematics policies.

9. Exposed revisions clarify existing levelized commissions guidance in SSAP No. 71—Policy Acquisition Costs and Commissions, which requires full recognition of the funding liabilities incurred to date for commission expenses prepaid on behalf of an insurer. The revisions also clarify that the recognition of commission expense is based on experience to date. The exposed revisions are consistent with the 2019 Fall National Meeting exposure, with the inclusion of guidance to clarify that reporting entities that have not complied with the original intent shall reflect the change as a correction of an error, in accordance with SSAP No. 3—Accounting Changes and Corrections of Errors, in the year-end 2020 financial statements.

10. Revisions update the subsidiary, controlled and affiliated entities (SCA) review process descriptive language and the procedures for availability and delivery of completed SCA reviews.

11. Revisions remove the statement that guarantees or commitments from the insurance reporting entity to the SCA can result in a negative equity valuation of the SCA.

12. Exposed revisions to extend the following interpretations issued in response to COVID-19 to the third quarter 2020 financial statements. With these revisions, these interpretations will expire Dec. 30, 2020; therefore, they will not be applicable for year-end 2020. The exposure has a shortened comment period ending Aug. 14. Adoption of these extensions may be considered by an e-vote if there are no concerns with the extensions received:
   i. INT 20-02: Extension of the Ninety-Day Rule for the Impact of COVID-19
   ii. INT 20-04: Mortgage Loan Impairment Assessment Due to COVID-19
   iii. INT 20-05: Investment Income Due and Accrued

13. The following U.S. GAAP standards were rejected as not applicable to statutory accounting:
   i. ASU 2015-10, Technical Corrections and Improvements.
   ii. ASU 2019-09, Financial Services—Insurance (Topic 944): Effective Date.
   iii. ASU 2020-01, Investments—Equity Securities (Topic 321), Investments—Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815), Clarifying the Interactions between Topic 321, Topic 323, and Topic 815.
   iv. ASU 2020-05—Effective Dates for Certain Entities.

14. Exposed the following editorial revisions to statutory accounting:
   i. Deleted redundant paragraph references in SSAP No. 5R—Liabilities, Contingencies and Impairment of Assets.
   ii. Added a table that lists the questions addressed in Exhibit A - Implementation Questions and Answers in SSAP No. 62R—Property and Casualty Reinsurance:

   e. Rejected agenda item 2020-13: Health Industry Request on 2020 Health Insurance Assessment without statutory revisions. (Note that the sponsor requested withdrawal)

   f. Received an update on the following projects and referrals:

      1. Determined that the following two interpretations, issued in response to COVID-19, are specifically tied to the timeframes described in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). As such, an extension was not deemed necessary at this time.
         i. INT 20-03: Troubled Debt Restructuring Due to COVID-19
         ii. INT 20-07: Troubled Debt Restructuring of Certain Debt Investments Due to COVID-19

      2. Ref #2019-21: Received an update that the issue paper to consider substantive revisions to SSAP No. 43R was exposed through July 31, and a subsequent conference call will be scheduled to consider comments and continue
the discussion. It was also noted that NAIC staff have had ongoing conversations with industry representatives and investment providers to discuss differing structures during the exposure period.

3. Deferred discussion of the following agenda items for a subsequent call or meeting:
   
i. Ref #2018-07: Surplus Note Accounting – Referral from the Reinsurance (E) Task Force
   ii. Ref #2019-12: ASU 2014-17, Business Combinations, Pushdown Accounting
   iii. Ref #2019-49: Retroactive Reinsurance Exception

4. Received a referral from the Valuation of Securities (E) Task Force regarding the accounting and reporting treatment of CTLs is being addressed in agenda item Ref #2020-24.

5. Received a referral from the Financial Condition (E) Committee regarding an American Council of Life Insurers (ACLI) request relative to the accounting treatment of certain “basis swaps” permitted under state law, as a result of the transition away from LIBOR. This referral was addressed with the adoption of INT 20-09.

6. Received an update on current U.S. GAAP Exposures / Invitations to Comment, noting that no comments by the Working Group are planned during the exposure periods.

   g. The comment deadline for new and exposed agenda items is Sept. 18, except for INT 20-02, INT 20-04 and INT 20-05, which have a comment deadline of Aug. 14.
The Capital Adequacy (E) Task Force met Aug. 5, 2020. During this meeting, the Task Force:

1. Adopted its June 30 minutes, which included the following action:
   a. Adopted its 2019 Fall National Meeting minutes.
   b. Adopted its Jan. 27 and April 30 minutes, which included the following action:
      1. Adopted the 2019 Catastrophe Event List.
   c. Adopted its working group proposals.
      1. Proposal 2020-05-CA (Table of Contents).

2. Adopted the Health Risk-Based Capital (E) Working Group’s July 30 report, which included the following action:
   a. Adopted its Dec. 17, 2019 minutes, which included the following action:
      1. Adopted its Fall National Meeting minutes.
      2. Discussed the Draft Health Bond Structure, specifically the bond portfolio adjustment; investment grade bond factors; investment income; and the time horizon.
   b. Approved the 2019 Health Risk-Based Capital (RBC) Statistics to be posted on the Working Group’s webpage.
   c. Discussed and referred the federal Affordable Care Act (ACA) Fee Sensitivity Test proposal to the Capital Adequacy (E) Task Force for exposure for all formulas.
   d. Adopted proposal 2020-04-H to add the MAX Function to the formula included in the RBC forecasting file for Line 17 of the excessive growth charge on page XR021 of the health RBC formula.
   e. Heard comments on the Health Bond Factors from the American Academy of Actuaries (Academy) to address questions raised regarding investment income and the time horizon used in the development of the factors.
   f. Adopted updates to the 2020 health RBC working agenda.
   g. Discussed the impact of COVID-19 and pandemic risk in the health RBC formula.
   h. Heard comments on the Health Care Receivable Guidance.
   i. Heard an update on the Health Test Ad Hoc Group.

3. Adopted the Life Risk-Based Capital (E) Working Group’s July 30 report, which included the following action:
   a. Adopted its July 10, June 30, June 11, and Spring National Meeting minutes, which included the following action:
      1. Adopted industry requested risk-based capital (RBC) mortgage reporting guidance for:
         a. Construction loans.
         b. Origination and valuation dates, property values, and 90 days past due.
         c. Contemporaneous property values.
      2. Deferred industry requested RBC mortgage reporting guidance for net operating income (NOI).
      3. Adopted the instruction and factors for 2020 longevity risk.
      6. b. Adopted proposal 2020-03-L (C-3 Instructional Changes and C-3 Guidance)
   b. Adopted the Life RBC Newsletter.
   c. Discussed the 2019 RBC statistics.
   d. Heard an update from industry on their request for RBC reporting guidance for NOI.
   e. Discussed the Working Group’s working agenda and upcoming conference calls.

4. Adopted the Investment Risk-Based Capital (E) Working Group’s Feb. 25 minutes, which included the following action:
   a. Discussed comments received on the bond proposal.
b. Re-exposed the bond proposal to include updates to the 2020 annual statement blanks.

5. Adopted the Property and Casualty Risk-Based Capital (E) Working Group’s July 30 report, which included the following action:
   a. Adopted its Feb. 3 minutes, which included the following action:
      1. Adopted its Fall National Meeting minutes.
      2. Adopted its Jan. 22 e-vote minutes.
      3. Adopted proposal 2019-19-P (Vulnerable 6 or Unrated Risk Charge) and agreed to refer the Schedule F proposal to the Blanks (E) Working Group.
      4. Received referrals from the Statutory Accounting Principles (E) Working Group and the Restructuring Mechanisms (E) Subgroup.
   b. Adopted the Catastrophe Risk (E) Subgroup’s July 29 report, which included the following action:
      1. Adopted its Feb. 3 minutes.
      2. Heard a presentation from Karen Clark & Company (DCC) on its catastrophe model.
      3. Discussed the possibility of allowing additional third-party commercial vendor models.
      4. Discussed the internal catastrophe model evaluation process.
   c. Adopted the 2020 property/casualty (P/C) RBC newsletter.
   d. Discussed 2020 P/C RBC statistics.
   e. Discussed the possibility of using the NAIC as a centralized location for reinsurer designations.
   f. Discussed the R3 credit risk and Rcat contingent credit risk charges.
   g. Discussed referrals from the Statutory Accounting Principles (E) Working Group
   h. Forwarded the request for extension to the Restructuring Mechanisms (E) Subgroup
   i. Discussed 2020 P/C RBC working agenda.
   j. Heard updates on current P/C RBC projects from the American Academy of Actuaries (Academy).
   k. Discussed Line 1 underwriting risk reserves and premium methodology.

6. Adopted its working agenda and voted to disband the Investment Risk-Based Capital (E) Working Group.

7. Exposed Proposal 2020-02-CA (ACA Fee Sensitivity Test Removal) for a 30-day public comment period ending Sept. 4.

8. Exposed its 2021 proposed charges for a 30-day public comment period ending Sept. 4.

9. Adopted proposal 2020-03-L (C-3 Instructional Changes and C-3 Guidance).
2020 Summer National Meeting
Virtual Meeting

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE
Friday, August 7, 2020
2:00 – 3:00 p.m. ET / 1:00 – 2:00 p.m. CT / 12:00 – 1:00 p.m. MT / 11:00 a.m. – 12:00 p.m. PT

Meeting Summary Report

The Receivership and Insolvency (E) Task Force met Aug. 7, 2020. During this meeting, the Task Force:

1. Adopted its March 4, Jan. 8, and 2019 Fall National Meeting minutes, which included the following action:
   a. Adopted a referral to the Financial Condition (E) Committee to request opening Insurance Holding Company System Regulatory Act (§440) and Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (§450) related essential services provided by affiliates in receivership.
   b. Discussed comments received on key provisions of receivership and guaranty fund laws.


3. Adopted the report of the Receivership Financial Analysis (E) Working Group, which met Aug. 4 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings. During this meeting, the Working Group discussed the status of individual receiverships.

4. Adopted the report of the Receivership Large Deductible Workers’ Compensation (E) Working Group, which included its March 2 minutes. The Working received comments and formed an ad hoc drafting group to develop revisions on a draft model guideline that provides alternative language for Insurer Receivership Model Act (§555) Section 712—Administration of Loss Reimbursement Policies. The drafting group and the Working Group plan to convene after the Summer National Meeting.

5. Exposed a request for responses to questions on a list of possible key provisions of receivership and guaranty fund laws that all states should have in law for a multi-state receivership and a request for options to encourage states to adopt these key provisions for a 30-day public comment period ending Sept. 8.

6. Heard a presentation from representatives of the National Conference of Insurance Guaranty Funds (NCIGF), the Western Guaranty Fund Services (WGFS), and the Illinois Insurance Guaranty Fund (IIGF) on the NCIGF’s white paper titled Insurance Resolution: Preparing for Cyber Claims. The presenters requested that state insurance regulators acknowledge potential issues with cyber claims in receivership and engage in early communication with guaranty funds in troubled company situations.

7. Heard an international resolution update that highlighted activities of the International Association of Insurance Supervisors (IAIS). The IAIS Resolution Working Group met in April to continue development of the Application Paper on Resolution Planning. The Working Group expects to finalize the draft when it meets in September. A draft for consultation is expected to be available in November.
The Reinsurance (E) Task Force met Aug. 6, 2020. During this meeting, the Task Force:

1. Adopted its June 9 minutes, which included the following action:
   b. Discussed whether Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48) should be considered to be “substantially similar” to the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) for purposes of accreditation.
   c. Adopted the Uniform Checklist for Reciprocal Jurisdiction Reinsurers and updates to the Uniform Application Checklist for Certified Reinsurers.

2. Adopted its 2021 proposed charges.

3. Adopted the report of the Reinsurance Financial Analysis (E) Working Group. The Working Group met March 11 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to adopt the new Uniform Checklist for Reciprocal Jurisdiction Reinsurers and updates to the Uniform Application Checklist for Certified Reinsurers.

4. Adopted the report of the Qualified Jurisdiction (E) Working Group. The Working Group has not met since the 2019 Fall National Meeting. The Working Group has been approached by three countries about becoming qualified jurisdictions and will begin initial reviews in the next several months.

5. Received a status report on the states' implementation of the 2019 revisions to the Credit for Reinsurance Model Law (#785) and Credit for Reinsurance Model Regulation (#786).
Meeting Summary Report

The Valuation of Securities (E) Task Force met Aug. 7, 2020. During this meeting, the Task Force:

1. Adopted its July 1 and May 14 minutes, which included the following action:
   a. Adopted an updated amendment to the *Purpose and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) to map financially modeled residential mortgage-backed securities (RMBS)/commercial mortgage-backed securities (CMBS) security NAIC designations to NAIC designation categories, including mapping the zero-loss bonds to the 1.A NAIC designation category. This amendment was exposed for a 30-day public comment period ending March 11.
   b. Adopted an amendment to the P&P Manual for principal protected securities (PPS), with an updated description, definition and instructions. This amendment removes PPS from filing exemption (FE) eligibility and requires all PPS, including those currently designated under the FE process, to be submitted to the Securities Valuation Office (SVO) for review under their Subscript S authority beginning Jan. 1, 2021, and filed with the SVO by July 1, 2021, if previously owned. This amendment was exposed for a 30-day public comment period ending March 5.
   c. Received an NAIC Investment Analysis Office (IAO) issue paper on NAIC staff concerns about bespoke securities and reliance on credit rating provider (CRP) ratings. The issue paper, along with the April 28, 2010, adopted recommendations of the Ratings Agency (E) Working Group, were exposed for a 90-day public comment period ending Aug. 16. The Task Force directed IAO staff to begin drafting incremental recommendations for the Task Force to consider addressing the risks identified in the issue paper.
   d. Received a proposed amendment to the P&P Manual with updated instructions for nonconforming credit tenant loan (CTL) transactions that relied upon credit ratings, along with an update to the Task Force policy on “The Use of Credit Ratings of NRSROs in NAIC Processes.” The amendment was exposed for a 30-day public comment period ending June 17, and it was also referred to the Statutory Accounting Principles (E) Working Group.
   e. Adopted an amendment to the P&P Manual for technical NAIC Designation Category Corrections. The amendment was exposed for a 30-day public comment period ending June 17.
   f. Discussed temporarily extending insurers’ 2020 initial filing deadline from 120 days to 165 days for newly acquired or in-transition securities. The Task Force decided this was a temporary change, and it directed SVO staff to include in the minutes instructions that the filing deadline for the initial filing of newly acquired or in-transition securities for 2020 would be 165 days instead of the usual 120 days.
   g. Heard reports from NAIC staff on: RMBS and CMBS structured securities, rating agency actions year-to-date (YTD), requirements for material credit events and issuer amendments or refinancing an existing issue, and SVO year-end process and carry-over filings.
   h. Adopted an amendment to the P&P Manual to rename the “U.S. Direct Obligations/Full Faith and Credit Exempt List” as the “NAIC U.S. Government Money Market Fund List” and discontinue the “NAIC Bond Fund List.” This amendment was exposed for a 45-day public comment period ending Dec. 16, 2019.
   i. Received a proposed amendment to the P&P Manual to map short-term CRP ratings to NAIC Designation Categories. This amendment was exposed for a 25-day public comment period ending July 27.
   j. Received a proposed amendment to the P&P Manual to add supranational entities filed with the SVO to the “Sovereign NAIC Designation Equivalent List.” This amendment was exposed for a 25-day public comment period ending July 27.
   k. Received a proposed amendment to the P&P Manual to update guidance for working capital finance investments (WCFIs) consistent with the Statutory Accounting Principles (E) Working Group adoption of changes to *Statement of Statutory Accounting Principles (SSAP) No. 105R—Working Capital Finance Investments*. This amendment was exposed for a 45-day public comment period ending Aug. 17.
   l. Received an NAIC SVO staff report on the use and regulation of derivatives in exchange-traded funds (ETFs). This report was exposed for a 45-day public comment period ending Aug. 17.

2. Adopted an amendment to the P&P Manual to map short-term CRP ratings to NAIC Designation Categories. This amendment was exposed for a 25-day public comment period ending July 27.
3. Adopted an amendment to the P&P Manual to add supranational entities filed with the SVO to the Sovereign NAIC Designation Equivalent List. This amendment was exposed for a 25-day public comment period ending July 27.

4. Received a proposed amendment to the P&P Manual to add instructions for ETFs that contain a combination of preferred stocks and bonds. This amendment was exposed for a 30-day public comment period ending Sept. 6.

5. Received a proposed amendment to the P&P Manual to update guidance on initial and subsequent annual filings, methodologies and documentation. This amendment was expose for a 30-day public comment period ending Sept. 6.

6. Heard staff reports from:
   b. Structured Securities Group (SSG) on RMBS and CMBS modeling.

7. Received 2021 proposed charges for the Task Force and agreed to discuss and adopt it at a future interim meeting.
GROUP CAPITAL CALCULATION (E) WORKING GROUP
Wednesday, July 29, 2020
1:00 – 2:00 p.m.

Meeting Summary Report

The Group Capital Calculation (E) Working Group met July 29, 2020. During this meeting, the Working Group:

1. Adopted its July 21, June 2 and May 19 minutes. During these calls, the Working Group continued to make decisions on previously exposed aspects of the Group Capital Calculation (GCC), including the template, instructions and legislation authority.

2. Discussed comments received on exposed revised template and instructions and directed staff to make various changes as discussed during the meeting. Further discussion is expected.
The Group Solvency Issues (E) Working Group met July 29, 2020. During this meeting, the Working Group:

1. Adopted its 2019 Fall National Meeting minutes and noted that a regulator-to-regulator call was held on Feb. 11 in accordance with the NAIC’s Policy Statement on Open Meetings.

2. Heard an update on the ongoing work of the ORSA Implementation (E) Subgroup, which included the following action:
   b. Planning to schedule a call to discuss the impact of COVID-19 on ORSA.


4. Discussed a request received from the Group Capital Calculation (E) Working Group to quantify and evaluate the impact of XXX/AXXX reserves held by grandfathered captives on an insurance groups’ overall capital positions. Noted that a drafting group of state insurance regulators has been formed to address the request and present its results to the full Working Group.

5. Discussed comments received on the exposure of a gap analysis conducted by NAIC staff to compare elements of the IAIS’ Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) against existing practices in state solvency regulation. As a result of the discussions, the Working Group agreed to form drafting groups to develop targeted enhancements to NAIC handbooks and the ORSA Guidance Manual for further consideration by the Working Group in ComFrame implementation.
Interpretation of the Statutory Accounting Principles Working Group

INT 20-08: COVID-19 Premium Refunds, Limited-Time Exception, Rate Reductions and Policyholder Dividends

INT 20-08 Dates Discussed

Email Vote to Expose May 5, 2020; May 20, 2020; June 15, 2020, July 22, 2020

INT 20-08 References

SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets
SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items
SSAP No. 53—Property Casualty Contracts—Premiums
SSAP No. 54R—Individual and Group Accident and Health Contracts
SSAP No. 65—Property and Casualty Contracts
SSAP No. 66—Retrospectively Rated Contracts

INT 20-08 Issue

COVID-19

1. A previously unknown virus began transmitting between October 2019 and March 2020, with the first deaths in the U.S. reported in early March 2020. The disease caused by the virus is known as Coronavirus Disease 2019 (COVID-19). Several states and cities have issued “stay home” orders and forced all non-essential businesses to temporarily close. This led to a significant increase in unemployment and the potential permanent closure of many businesses. Total economic damage is still being assessed however the total impact is likely to exceed $1 trillion in the U.S. alone.

Refunds, Rate Reductions and Policyholder Dividends

2. The federal, state or local government orders requiring non-essential workers to “stay home” caused a significant reduction in commercial and non-commercial activity, including automotive usage. Some consumer groups wrote letters and issued press releases calling for insurance premium refunds or pricing decreases, which included specific comments directed toward consumer automotive lines. The comments presumed that the decrease in activity would result in fewer losses.

3. Many insurers began issuing voluntary premium refunds, future rate reductions or policyholder dividends because of the decreased activity. The majority of the refunds were related to automotive lines of business however, some accident and health products also provided payments. Insurers have provided the reductions in a variety of ways. Some of the rate reductions were specific for in-force policies, whereas some of the rate reductions would apply to future policy renewals. Insurers provided unprecedentedly large payments to policyholders in an expedited fashion. These payments were viewed by regulators and insurers as being in the best interests of policyholders.

Voluntary
4. The majority of the refunds or rate reductions are being offered voluntarily and are not amounts required under the policy terms. The aggregate monetary amount of the return of funds is considered materially significant.

Jurisdiction Directed

5. In addition, a few jurisdictions have issued bulletins directing refunds and rate reductions on accident and health insurance and varying lines of property and casualty insurance, including but not limited to: private passenger automobile, commercial automobile, workers’ compensation, commercial multiple peril, commercial liability and medical professional liability. In addition, some jurisdictions have indicated support for refunds or rate reductions, but also directed that payment of such amounts require either premium rate filings or policy form amendments.

Accounting Issues

6. This intent of this interpretation is to address questions related to refunds, rate reductions and policyholder dividends in response to the decreased activity related to COVID-19. Because there are a variety of ways that reporting entities are accomplishing a similar objective of returning money or reducing premiums, this interpretation provides guidance on the following issues:

- Issue 1: How to account for refunds not required under the policy terms.
- Issue 2: How to account for refunds required under the policy terms.
- Issue 3: How to account for rate reductions on inforce and renewal business.
- Issue 4: How to account for policyholder dividends.
- Issue 5: Where to disclose refunds, rate reductions and policyholder dividends related to COVID-19 decreases in activity.

INT 20-08 Discussion

7. As an overall guiding principle, the accounting shall follow existing statutory accounting principles and annual statement reporting where feasible with more specific accounting applicable for the issues within this interpretation.

INT 20-08 Consensus

Issue 1: How to Account for Refunds Not Required Under the Policy Terms

8. The Working Group reached a consensus that voluntary refunds, because of decreased activity related to COVID-19 and jurisdiction-directed refunds which are not required by the policy terms, are fundamentally a return of premium. Absent meeting the criteria for the limited-time exception to report as an aggregate write in for other underwriting expense as discussed in paragraphs 12-13, such refunds shall be accounted for as immediate adjustments to premium. The refunds shall be recognized as a reduction to written or earned premium and the unearned premium reserve adjusted accordingly.

9. Refunds shall be recognized as a liability when the definition of a liability in SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets is met. For example, the declaration of a voluntary dividend by the board of directors will trigger liability recognition. In cases where the
refunds are directed by a jurisdiction, the SSAP No. 5R definition of a liability shall be used to
determine timing of liability recognition.

10. Immediate adjustment to premium is consistent with the existing guidance in SSAP No. 53—Property Casualty Contracts—Premiums. SSAP No. 53 guidance requires adjustments to the premium charged for changes in the level of exposure to insurance risk. It is also consistent with the treatment of loss sensitive premium adjustments in SSAP No. 66—Retrospectively Rated Contracts. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply.

11. Immediate adjustments to premium for voluntary accident and health premium refunds is also consistent with the guidance in SSAP No. 54R—Individual and Group Accident and Health Contracts on contracts subject to redetermination. While some of the voluntary or jurisdiction-directed refunds may not be required by the explicit policy terms, the principle of reversing premium in the same way that the premium was originally recognized continues to apply. The liability for voluntary health premium refunds attributable to COVID-19 and which are not required under the policy terms shall be recognized in aggregate write-ins for other liabilities.

Limited-Time Exception – Expense Reporting

12. Reporting the voluntary or jurisdiction-directed refund as an expense is not consistent with statutory accounting guidance. However, due to the variety of ways that COVID-19 premium reductions were approved by the various jurisdictions, this interpretation grants a limited-time exception to the existing reporting guidance to allow underwriting expense reporting. This limited-time exception applies to property and casualty lines of business in which the reporting entity filed policy endorsements or manual rate filings prior to June 15, 2020 which allow for discretionary payments to policyholders due to the COVID-19 related issues. In these cases, the reporting entities disclosed to the jurisdictions where the policies are written their intention to report their payments to policyholders as expenses. These property and casualty lines of business are permitted to report such policyholder payments as other underwriting expenses. This interpretation intends to be clear that manual rate filings and policy endorsements are not a source of authoritative accounting and this limited-time exception should not be used as an analogy for application to other such filings.

13. Application of this limited-time exception shall also be subject to the additional disclosures provided in Issue 5 below. Reporting the COVID-19 premium reductions as an expense as provided for in this limited-time exception, shall be disclosed as if it were a permitted practice. The reporting entity shall complete the permitted practices disclosures required by SSAP No. 1—Accounting Policies, Risks & Uncertainties, and Other Disclosures in annual statement Note 1 and any other disclosures pursuant to Issue 5 of this interpretation. This interpretation provides a limited-time exception for reporting premium refunds, and does not require domiciliary jurisdiction approval as a permitted practice if the requirements of this interpretation are met. However, disclosure in Note 1 in a manner consistent with permitted practices is required because of the impact on premium which is a key measurement metric for insurers. If a domestic jurisdiction disapproved reporting as an underwriting expense, the limited-time exception does not apply.

Issue 2: How to Account for Refunds Required Under the Policy Terms

14. While most of the premium refunds are voluntary or jurisdiction-directed and not required under the policy terms, some policies have terms that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses. If the policy terms change the
amount charged, existing guidance in SSAP No. 53, SSAP No. 54R or SSAP No. 66 continues to apply:

a. SSAP No. 53 provides guidance for policies in which the premium amount is adjusted for changes in the level of exposure to insurance risk. This is often seen in commercial lines of business such as workers’ compensation. The guidance notes that audits often occur after the policy term or mid-term in the policy. SSAP No. 53 refers to the adjustment to premium (either due to the customer or to the insurer) as earned but unbilled (EBUB) premium. SSAP No. 53 requires such adjustment to premium to be made immediately either through written premium or earned premium. SSAP No. 53 also requires recognition of the related liabilities and expenses such as commissions and premium taxes based on when the premium is earned.

b. SSAP No. 54R provides guidance for policies subject to redetermination in which the premium is subject to adjustments by contract terms. This is commonly seen in federal and state groups. The guidance notes that estimates are based on experience to date and premium adjustments are estimated for the portion of the policy that has expired. Accrued return premiums are recorded as a liability with a corresponding entry to written premium. Refunds required under the policy terms would continue to be reported as retrospective or redetermination premium liabilities if applicable.

c. SSAP No. 66 provides guidance for policies whose terms or legal formulas determine premium based on losses. SSAP No. 66 references other applicable statements based on contract type for the initial accrual of premium. Estimates of premium adjustments are accrued based on activity to date and result in immediate adjustments to premium. SSAP No. 66 guidance specifies the corresponding annual statement reporting lines for different entity types.

**Issue 3: How to Account for Rate Reductions**

15. Some reporting entities are offering rate reductions instead of premium refunds. Some of these rate reductions provide one-time price decreases to future payments on in-force policies. Other reporting entities have provided offers of rate reductions on future renewals. Some of the offers for future rate reductions are only applicable to in-force policyholders as of a specified date. Some reporting entities have offered one-time rate reductions for future renewals for both existing and new policyholders for 2020.

a. Rate reductions on in-force business, shall be recognized as immediate adjustments to premium.

b. Rate reductions on future renewals shall be reflected in the premium rate charged on renewal. This is because it is outside of the policy boundary to require the accrual before contract inception. While the amount of future rate reduction can be estimated, it is not a change to existing policy terms and policyholders are not obligated to renew at the reduced rate, therefore, payment of the amount is avoidable. Such amounts shall be disclosed as discussed in Issue No. 5.
Issue 4: How to Account for Policyholder Dividends

16. SSAP No. 65—Property and Casualty Contracts, paragraph 46 requires that dividends to policyholders immediately become liabilities of the reporting entity when they are declared by the board of directors and shall be recorded as a liability.

17. The Working Group noted that policyholder dividends are typically only provided on participating policies or policies issued by non-stock companies, such as mutual entities and other corporate entity types in which profits are shared with policyholders.

18. Research during the development of this item identified that a small number of jurisdictions have legal restrictions which only allow policyholder dividends to be provided after the expiration of the policy period for which the dividend was earned. This interpretation only addresses policyholder dividends which are permitted by the applicable jurisdiction.

19. The property and casualty annual statement blank provides specific reporting lines for policyholder dividends including, but not limited to a liability line and a line in the income statement and statement of cash flow. For those entities whose policies are participating or whose corporate shell type and/or membership structure allow for policyholder dividends, the accounting for policyholder dividends is unchanged by this interpretation.

20. This interpretation does not change the policyholder dividend disclosure or reporting but provides additional guidance that such policyholder dividends issued in response to COVID-19 decreases in activity shall also be disclosed as discussed in Issue 5.

Issue 5: Where to Disclose Refunds, Rate Reductions and Policyholder Dividends Related to COVID-19 Decreases in Activity

21. There are various places in the notes to the statutory annual statement where disclosures of various aspects of premium refunds, premium reductions or policyholder dividends are required. This interpretation does not recommend changes to those existing disclosures. This interpretation does, however, provides consistent annual statement disclosure for all such amounts to allow for comparable disclosures.

22. SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items requires disclosure of the nature and financial effects of each unusual or infrequent event or transaction. Gains or losses of a similar nature that are not individually material shall be aggregated. This disclosure shall include the line items which have been affected by the event or transaction considered to be unusual and/or infrequent. This disclosure is currently required to be reported in annual statement Note 21A. (Reporting entities shall maintain jurisdiction-specific information to be made available upon request from department of insurance or revenue regulators.)

23. To allow for aggregate, consistent assessment, the Working Group came to a consensus that all COVID-19 inspired premium refunds, rate reductions, and policyholder dividends shall be disclosed as unusual or infrequent items in annual statement Note 21A. This disclosure is in addition to other existing disclosures on various items related to the policyholder payments.

   a. For clarification, refunds required under policy terms in-force prior to the federal declaration of emergency for the COVID-19 pandemic as discussed in paragraph 13 (i.e., policies that require an adjustment to premium based on either the level of exposure to insurance risk or the level of losses) are not required to be aggregated.
in disclosures of COVID-19 inspired premium refunds, rate reductions and policyholder dividends.

b. Policies whose terms were modified after the declaration of emergency in response to COVID-19 are required to disclose the COVID-19 inspired premium refunds, rate reductions and policyholder dividends.

24. All reporting entities shall provide the following information regarding their COVID-19 premium refunds, limited-time exception payments, rate reductions and policyholder dividends as unusual or infrequent items:


b. The amount of COVID-19 “payments” to policyholders by major category (premium refunds, limited-time exception payments, rate reductions or policyholder dividends).

25. Reporting entities that utilize the limited-time exception expense reporting described in paragraphs 12 and 13 shall additionally provide the following to illustrate in annual statement Note 1 the impact of reporting the payments as an aggregate underwriting expense rather than a return of premium as if it were a permitted practice. As detailed in paragraph 13 domiciliary jurisdiction approval as a permitted practice is not required to apply the limited-time exception. Disclosure is required because of the impact on premium which is a key measurement metric for insurers:

a. A statement that the accounting practice is a limited-time exception to recognize such amounts as an aggregate underwriting expense rather than an return of premium. This disclosure shall include the financial statement reporting line(s) predominantly impacted by the limited-time exception. (Although most practices impact net income or surplus, direct reference to those lines should be avoided. The intent is to capture the financial statement line(s) reflecting the practice which ultimately impacts net income or statutory surplus.) Additionally, a reference to Note 1 shall be included in the individual notes to financial statements impacted by the limited-time exception as applicable.

b. The monetary effect on revenue and expense.

c. If a reporting entity’s risk-based capital would have triggered a regulatory event had it not used the limited-time exception, that fact should be disclosed.

d. The reasons the reporting entity elected to use the limited-time exception rather than as a return of premium.

e. Note 1 shall also identify the impact of not reporting such amounts as a return of premium on the operating percentages and other percentages reported in the Five Year Historical Data Exhibit and disclose the percentages/ratios as reported and as adjusted to report payments to policyholders as a return of premium.

i. The operating ratios to be reported include:

1. Premium earned,

2. Losses incurred,
3. Loss expenses incurred,
4. Other underwriting expenses incurred, and
5. Net underwriting gain or loss.

ii. The other ratios to be reported include:

1. Other underwriting expenses to net premiums written,
2. Losses and loss expenses incurred to premiums earned, and
3. Net premiums written to policyholder’s surplus.

26. If a domiciliary jurisdiction’s prescribed or permitted practices allow voluntary COVID-19 payments which are either consistent with the limited-time exception or different from a reduction in premium, the reporting entity shall complete the disclosures in Note 1 which identify that a permitted or prescribed practice was applied and in paragraphs 24 and 25 of this Interpretation. The disclosure in paragraph 25 in such instances shall reflect the impact on the ratios in paragraph 25 compared to the default premium treatment.

Does Not Address Premium Taxation

27. The Working Group noted that premium taxation requirements vary by jurisdiction and this interpretation is not intended to address premium taxation in any jurisdiction. Taxation is determined by the jurisdiction where the premium is written/returned to the policyholder according to the laws, regulations and general administrative rules applicable to all insurance enterprises licensed in that jurisdiction. This interpretation defers to each jurisdiction’s premium tax requirements for purposes of determining taxable amounts.

Effective Date

28. The limited-time exception allowance for expense reporting for endorsements and rate filings prior to June 15, 2020, applies only to these specific issues arising from COVID-19, is effective for second quarter reporting and will sunset January 1, 2021. This interpretation will be automatically nullified on January 1, 2021 and will be included as a nullified INT in Appendix H – Superseded SSAPs and Nullified Interpretations in the “as of March 2021” Accounting Practices and Procedures Manual.

INT 20-08 Status

29. This interpretation was amended on July 22, 2020 to include the limited-time exception and specific related disclosures by a two-thirds majority of the Accounting Practices and Procedures (E) Task Force membership. No further discussion is planned.