FINANCIAL CONDITION (E) COMMITTEE

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The Financial Condition (E) Committee met April 13, 2021. The following Committee members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair, represented by Rolf Kaumann (CO); Dana Popsh Severinghaus (IL); Stephen W. Robertson represented by Roy Eft (IN); Eric A. Cioppa (ME); Chlora Lindley-Myers represented by Shannon Schmoeger (MO); Mike Chaney represented by David Browning (MS); Marlene Caride (NJ); Russell Toal (NM); Linda A. Lacwell represented by My Chi To (NY); Judith L. French (OH); Raymond G. Farmer represented by Michael Shull (SC); Doug Slape, Jamie Walker and James Kennedy (TX); Mark Afsable (WI); and Jeff Rude (WY). Also participating were: Russ Galbraith (AR); James J. Donelon (LA); and Glen Mulready (OK).

1. **Adopted its March 8 and 2020 Fall National Meeting Minutes**

Commissioner White said the Committee met March 8 and took the following actions: 1) adopted a request for extension from the Mortgage Guaranty Insurance (E) Working Group; 2) adopted a new charge for the Qualified Jurisdiction (E) Working Group and a change to reposition the Working Group to report directly to the Committee; and 3) adopted proposed recommendations to the Financial Regulation Standards and Accreditation (F) Committee with respect to the group capital calculation (GCC) and the liquidity stress test (LST).

Commissioner Rude made a motion, seconded by Commissioner Caride, to adopt the Committee’s March 8 (Attachment One), and Dec. 8, 2020, (see NAIC Proceedings – Fall 2020, Financial Condition (E) Committee) minutes. The motion passed unanimously.

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

Commissioner White stated that items adopted within the Committee’s 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—will be considered for adoption by the Executive (EX) Committee and Plenary through the Financial Condition (E) Committee’s technical changes report process. Pursuant to this process, which was adopted by the NAIC in 2009, a listing of the various technical changes will be sent to NAIC members shortly after completion of the Fall National Meeting, and the members will have 10 days to comment with respect to those items. If no objections are received with respect to an item, the technical changes will be considered adopted by the NAIC membership and effective immediately.

Superintendent Toal made a motion, seconded by Commissioner Caride, to adopt the following task force and working group reports: Accounting Practices and Procedures (E) Task Force; Capital Adequacy (E) Task Force; Examination Oversight (E) Task Force; Financial Stability (E) Task Force; Receivership and Insolvency (E) Task Force; Risk Retention Group (E) Task Force; Valuation of Securities (E) Task Force; Group Capital Calculation (E) Working Group (Attachment Two); Group Solvency Issues (E) Working Group (Attachment Three); Mortgage Guaranty Insurance (E) Working Group (Attachment Four); and National Treatment and Coordination (E) Working Group (Attachment Five).

The Financial Analysis (E) Working Group met Jan. 27, Feb. 24, and March 17 in regulator-to-regulator sessions, 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 25 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. Finally, the Risk-Focused Surveillance (E) Working Group met March 24 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.

3. **Adopted the Guideline for Definition of Reciprocal State in Receivership Laws**

Mr. Kennedy noted that the Receivership and Insolvency (E) Task Force adopted the Guideline for Definition of Reciprocal State in Receivership Laws as a possible option to effectuate the recognition of receiverships that affect multiple states. He highlighted that this was one of the recommendations that was derived from the Macroprudential Initiative (MPI) on recovery and resolution from the referral from the Financial Stability (E) Task Force. He described how receivership laws typically...
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provide for a stay of actions on the attachment of assets of an insurance company when it is placed into liquidation in a reciprocal state. In many states, the definition of reciprocal state is based upon receivership language originally drafted in the late 1970s, and it is more restrictive than the Part A Accreditation Standards. As a result, in some cases, a court may not stay a litigation when an insurance company is placed into liquidation in another state. The Guideline’s definition of reciprocal state is consistent with the definition in accreditation standards; and because it is a guideline, it is optional and would not have to be adopted in all states but rather is for those states looking to update their laws in this area. Mr. Kennedy stated that in November 2020, it was exposed for public comment, and there were no comments submitted.

Commissioner Caride made a motion, seconded by Mr. Kaumann, to adopt the Guideline for Definition of Reciprocal State in Receivership Laws (Attachment Six). The motion passed unanimously.

4. **Adopted a Charge for the New Receiver’s Handbook (E) Subgroup**

Mr. Kennedy stated that the Receivership and Insolvency (E) Task Force adopted amended 2021 charges that include the formation of the new Receiver’s Handbook (E) Subgroup. He stated that it has been over 10 years since the Receiver’s Handbook for Insurance Company Insolvencies (Handbook) was formally reviewed for updates, and the state insurance regulators have identified several areas where it is outdated. He noted how the new Subgroup would be charged with reviewing and drafting revisions to the Handbook. The timeline would extend through the 2022 Fall National Meeting, as this project could take some time.

Superintendent Toal made a motion, seconded by Commissioner Caride, to adopt a charge for the new Receiver’s Handbook (E) Subgroup (Attachment Seven). The motion passed unanimously.

5. **Adopted Changes to SSAP No. 71**

Commissioner White stated that the last item on the agenda is an issue that has received a considerable amount of discussion within the Statutory Accounting Principles (E) Working Group over the last couple years. He stated that unlike the premium refund issue from 2020, where the Committee overturned the adoption of a position and suggested that the issue be redrafted, he does not believe that should occur for this particular issue. He stated that the reason for this was that it was his understanding that the vast majority of the life insurance industry is very much opposed to the practice that has apparently been used by what we think is a handful of companies. The reason being is they believe it gives those handful of companies an unfair competitive advantage over the rest of the industry that has been abiding by Statement of Statutory Accounting Principles (SSAP) No. 71—Policy Acquisition Costs and Commissions ever since its inception, as well as even dating back before at least the 1990s according to Commissioner White’s staff. He suggested that if the Committee does not adopt this item, his understanding is that it would force the Working Group to change the entire SSAP No. 71 to allow all commissions and related acquisition costs to be deferred and amortized over time. The reason this would be required is that essentially what the handful of companies are doing today, while the rest of the industry expenses these costs at the inception of the contract in accordance with statutory accounting principles (SAP). Commissioner White summarized that this would require the Working Group to go back and basically adopt U.S. Generally Accepted Accounting Principles (GAAP) for this particular issue, even though this is one of the biggest differences between SAP and U.S. GAAP. He noted that even if the Committee adopts the issue, it still needs to be adopted by the Executive (EX) Committee and Plenary. He also noted that he already recommended that this issue not be taken up by the Executive (EX) Committee and Plenary at the Spring National Meeting, but rather the Executive (EX) Committee and Plenary consider taking it up either at the Summer National Meeting or during an interim call of the Executive (EX) Committee and Plenary.

Ms. Walker noted that included in the materials is a document that provides an overview of the levelized commission agenda item 2019-24 from the Working Group, which modifies SSAP No. 71 through a clarification. She discussed how the Working Group began discussion on the issue in August 2019, and on March 15, 2021, the Working Group adopted nonsubstantive revisions illustrated at the end of the attachment, with an effective date of Dec. 31, 2021. The Working Group vote was 13 states in favor and one state opposed. On March 23, 2021, the Accounting Practices and Procedures (E) Task Force adopted the Working Group’s revisions without modification. The vote was 41 members in favor and two opposed (LA and OK).

Ms. Walker discussed that although U.S. GAAP and SAP calculate acquisition costs in a similar manner, one major financial reporting difference between the two is that U.S. GAAP capitalizes acquisition costs and expenses them over time to match revenues and expenses while SAP expenses policy acquisition costs as incurred. This accounting treatment is in line with the SAP Statement of Concepts, particularly the recognition concept. This concept specifically identifies that accounting treatments that defer expense recognition are not generally acceptable under SAP.
Ms. Walker noted that this agenda item was initiated because some reporting entities are using third parties to pay their sales commission costs without recognizing the full liability to repay the third parties, as required under SSAP No. 71. These entities have taken the position that their agreements are not funding agreements, as they pass on lapse risk to the third party. Ms. Walker discussed how the Working Group has noted that the revisions clarify the long-standing principles in SSAP No. 71, which have existed since even prior to codification. The nonsubstantive revisions emphasize the original principles that require full liability recognition for the commission paid on an insurer’s behalf and any interest and fees incurred to date. Ms. Walker described how the Working Group noted that it is not permissible to pass insurance lapse risk to a non-insurance entity. Furthermore, as the commission is owed with the issuance of an insurance contract, the proper recognition shall continue to require recognition at the time the insurance contract is issued. Ms. Walker indicated that the Working Group confirmed that it is not permissible to utilize a third-party payer of sales commission as a means to defer recognition of commission expenses.

Ms. Walker described how if the agenda item is adopted, a small number of companies will have a material financial impact. She emphasized that because of the unfair competitive advantages that are perceived, and as the guidance is in line with the original intent of SSAP No. 71, the Working Group did not adopt grandfathering or transition provisions. She discussed how the Working Group has recommended that affected companies speak to their domiciliary states regarding potential permitted practices, as needed, for phasing in the financial impact. This approach was favored because the impact to the affected companies may vary, and it provides disclosure in Note 1 to ensure the comparability of all insurers with SAP. Ms. Walker noted that it is her understanding that most companies are not employing this practice and will not be affected by the agenda item’s adoption.

Superintendent Toal suggested that the Committee should consider modifying the effective date from the current proposed year-end 2021 for another year to year-end 2022. Ms. Walker stated that the Working Group had already delayed the effective date from its usual practice of effective upon adoption for nonsubstantive items such as this, but the Working Group wanted to allow time for domestic states to work with any of their companies affected. She also described how a further delay was considered, but since the vast majority of the industry is complying, such a suggestion was rejected by the Working Group. Superintendent Toal questioned whether having less than six months allows enough time for companies to make the changes necessary. Commissioner Donelon repeated a comment that he indicated he has made in the past, which was that even though this was not a substantive change, the real-world impact to some companies was to the tune of hundreds of millions of dollars; therefore, grandfathering of the old contracts, perhaps on a phased-in approach, should be allowed. He described that he had been directed to some communication from the U.S. Securities and Exchange Commission (SEC) where this practice was uncovered as far back as 30 years ago. He described how such companies therefore may have been using this practice in good faith, or at least one they believed was appropriate, and they are being asked to record hundreds of millions of changes in surplus from this practice. He stated that for this reason, he and other commissioners have interceded in this process. Commissioner White described how he believes that Commissioner Donelon summarized that significant debate that has already appropriately occurred on this issue. Commissioner White described that everything he has been told is that this may have been taking place within a handful of companies, but that does not mean the state insurance regulators of those companies were aware of its existence in those companies. He described how this is not readable or identified in the financial statements since it is an unrecorded liability. He described how expensing these costs as incurred has been a bedrock principle within statutory accounting for years, even before SSAP No. 71 was adopted in 2001. He noted that he understands the argument for phasing in the impact, given that it could be material for some companies; however, the other side of that is the argument about the level playing field. He emphasizes what Ms. Walker said earlier about affected companies working with their domestic regulator about a permitted practice, which is disclosed in Note 1 of the financial statements. Commissioner Donelon stated that he believes from his experience as a commissioner for so many years that the term “permitted practice” certainly comes with a negative connotation. He stated that for the companies he has heard from, the affected companies are unwilling to pursue a permitted practice. However, he stated his appreciation for the time that the Committee and its subsidiary task forces and working groups have given to this issue.

Mr. Galbraith asked if it is possible to determine definitively if there were just a handful of companies and also whether the practice will definitively cease with all companies going forward on the same level playing field if the proposed changes are adopted. Commissioner White stated that he has heard no evidence to the contrary that it was anything more than a handful of companies since he believes state insurance regulators would have heard from those companies that are affected, and he noted that he is aware of companies in only three states where this is an issue. He described how this is a difficult practice to identify since it is not recorded in the financial statements. He also stated that with the significant discussion, the industry appears to be very aware of the issue, and the vast majority of the industry is supportive of the clarification. He emphasized again therefore that this issue boils down to having a level playing field.

Commissioner Mulready stated his support for the comments made by Commissioner Donelon, noting that his concerns have never been about the issue but rather the implementation. He stated his understanding that grandfathering may be difficult, but
a delayed effective date, as suggested by Superintendent Toal, should be considered. Commissioner White responded that he believes that point was debated at the Working Group and the Accounting Practices and Procedures (E) Task Force. Commissioner Mulready noted that as a result of these discussions, Oklahoma had sent communication to all of its domestics to determine if other insurers are affected, and he suggested that he is sure other states are likely doing the same thing. Commissioner White stated his support for that practice, noting that it allows the domestic regulator to determine what is best for any affected companies. Wayne Goodwin, former North Carolina Insurance Commissioner, stated that he had previously submitted comments on this issue, noting slippery slope concerns with what could happen if it is implemented as quickly as is suggested since those concerns affect consumers. He stated his support for comments from Commissioner Donelon, Commissioner Mulready and Mr. Galbraith, and he noted concern about the potential impact on smaller carriers.

Superintendent Toal stated that he wants to be clear in the idea of moving to a level playing field, and he is not objecting to the policy, rather his objection was with the limited time to implement, particularly given that state insurance regulators do not know the number of companies affected. Commissioner White responded that his deputy refers to the issue that arises from this practice as illusory surplus, and if in fact there are millions in unrecorded liabilities, that indicates information should be available to solvency regulators and indicates a level of concern. Ms. Walker stated that she believes this is a consumer protection issue, and her highest responsibility is ensuring that carriers can pay policyholder claims as they come due. She stated that when she hears some of the concerns that are being stated, as the domiciliary regulator, she needs the companies to come speak to her so that the two can work out a practice that takes care of consumers while considering the concerns of the company. She stated that the Accounting Practices and Procedures Task Force is trying to adopt some disclosures to gather information on companies, but that depends upon accurate completion by the company, something that may not occur given this particular accounting practice of expensing commissions as they are incurred, which is a fundamental bedrock of statutory accounting that differs from other standards. She noted that there was discussion of trying to obtain more data on the companies using this practice, but the companies did not come forward to their state insurance regulator even though that was requested. So, while a complete scope is not known, the Working Group and the Task Force did not receive information from state insurance regulators that are on the Task Force or follow it. Ms. Walker also noted that the current proposed effective date of year-end 2021 is already a delay. Mr. Slape suggested that if this is going to have hundreds of millions of impacts on a handful of companies, that is illusory surplus, and that raises questions about the solvency of such insurers using this practice. Therefore, it could have an impact on this small number of companies. Mr. Slape stated that the reference to SEC action may not be accurate, as he believes the facts indicate that the company was in worse financial condition after entering into these transactions. In essence, these companies are borrowing money, paying interest on that borrowed money, then competing against other companies that are following the current accounting requirements. Mr. Slape noted that this is not a new issue; this is the first thing that a state insurance regulator learns about regarding the differences between SAP and U.S. GAAP.

Lynn Kelley (Delaware Life Insurance Company), on behalf of interested parties, stated that this is an issue that has been discussed for some time, and she appreciates the ongoing discussions of the Committee and NAIC staff that have worked with Delaware Life. She strongly advocated for additional time to work through this implementation because Delaware Life still believes there are unanswered questions with regard to the calculations. She stated that Delaware Life has advocated all along for an extended effective date. She stated that Delaware Life maintains that this is a substantive change and believes that it has applied SSAP No. 71 in good faith, with all prior financial statements subject to examination and audit. Terrance Corbett (Guggenheim Life and Annuity Company) stated that the accounting for levelized commissions has been presented as a solvency issue, whereby companies have unrecorded liabilities for future commission payments. If this is the case, the liability is deemed necessary for policyholder protection, so how would the Committee be comfortable with any persistency commissions being recorded over time when all insurers have policy experience to be used as a basis for estimating the liability for these future expected commission payments. Therefore, the obligating event, which is defined by one of three essential characteristics in SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets, has not occurred until the policy anniversary date. Mr. Corbett noted that paragraph 2 of SSAP No. 71, which contains no proposed modifications to the definition of a liability, determine when that liability has been incurred. The proposed changes to levelized commissions with a link to persistency are contradictory to paragraph 2. Commissions that are paid and earned according to persistency, which is a long-standing insurance element, should be treated in a consistent manner to ensure comparability among reporting entities. Guggenheim believes the proposed changes to SSAP No. 71 sets a dangerous precedence for the need to accrue for other liabilities for other predictable future expenses. Ms. Walker noted that the expense is incurred for the first year when the policy is written. So, even if the funding agreement allows the company to pay the sales agent in the future, that does not allow the company to defer expenses the first year of the policy. She stated that by deferring, and not recording the liability, and making the statement that it is not due until after the period is contrary and has a different assumption. The assumption that one does not have to book the liability until the policy is still in effect ignores the fact that the policy is currently in effect. As long as the policy is in effect, that amount will be owed. Therefore, you are not to adjust the liability down until the policy lapses or is cancelled. Using a funding agreement simply changes the timing of when the payment is due and does not affect if there should be an expense. Mr. Slape stated these are not persistency commissions because in those situations the agent is paid a commission...
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in future years for when that policy stays in force. These are referred to as renewal commissions, and they are reported on the future anniversary date, but the first-year commission must be expensed immediately up front regardless of the existence of a funding agreement since that is a loan. Mr. Slape stated that he takes issue with the statement that these funding agreements provide for a persistency commission.

Roger Sevigny (Sevigny Consulting), as a former state insurance regulator, asked for common sense to prevail. He stated that what he keeps hearing is a lack of information, and he asked that the work be slowed down. Commissioner Donelon stated that with respect to the companies referred to, they are owned by wealthy owners and some of the largest insurers in the world. Commissioner White stated that the debate has been vigorous, and he reminded everyone that even if the Committee votes to adopt the proposal, it will still need to be considered by the Executive (EX) Committee and Plenary. He stated that he has recommended that the Executive (EX) Committee and Plenary not consider this at this meeting, but rather at the Summer National Meeting or during an interim meeting before that date.

Ms. Walker made a motion, seconded by Superintendent Cioppa, to adopt the nonsubstantive changes to SSAP No. 71 (Attachment Eight). The motion passed with Mississippi, New Mexico, and South Carolina dissenting.

Having no further business, the Financial Condition (E) Committee adjourned.
The Financial Condition (E) Committee met March 8, 2021. The following Committee members participated: Scott A. White, Chair (VA); Michael Conway (CO), Vice Chair, represented by Rolf Kaumann (CO); Dana Popsh Severingham represented by Kevin Fry (IL); Stephen W. Robertson represented by Roy Eft (IN); Eric A. Cioppa (ME); Mike Chaney represented by David Browning (MS); Chlora Lindley-Myers and John Rehagen (MO); Marlene Caride (NJ); Russell Toal (NM); Linda A. Lacewell represented by My Chi To and Bob Kasinow (NY); Judith L. French (OH); Raymond G. Farmer (SC); Doug Slape represented by Jamie Walker (TX); Mark Afable (WV); and Jeff Rude (WY).

1. **Adopted a Model Law Development Request Extension**

Commissioner White described how the NAIC model law process requires the sponsoring committee to request from the Executive (EX) Committee the authority to work on modifying a particular NAIC model. He noted that in this context, permission was granted some time ago for the Mortgage Guaranty Insurance (E) Working Group to do so, but since such work had begun, most of the time had been spent developing a capital model that would essentially prevent mortgage insurers from lowering their lending standards similar to what occurred during the 2008 financial crisis. He described how he knew this was a time-consuming process in part because of the limited amount of state resources to work on this project. He said that approximately two years ago, the current chair, North Carolina, began an effort to create a more simplified version of a previously proposed capital model, with the model focused on loan-to-value ratios, FICO scores, housing market information and other signs of previous poor standards. Commissioner White said that due to COVID-19 and other state priorities, no work was conducted on this project in 2020, and the request is for an extension given these circumstances.

Director Farmer made a motion, seconded by Commissioner Caride, to adopt the request for extension from the Mortgage Guaranty Insurance (E) Working Group (Attachment One-A). The motion passed unanimously.

2. **Adopted a New Proposed Charge and Request for Restructuring**

Dan Daveline (NAIC) stated that the Group Capital Calculation (E) Working Group requests that a new charge be given to the Qualified Jurisdiction (E) Working Group related to the “Recognize and Accept” process already incorporated into the December 2020 version of the NAIC Insurance Holding Company System Model Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450). He described how the suggestion includes renaming the Qualified Jurisdiction (E) Working Group to the Mutual Recognition of Jurisdictions (E) Working Group since it is proposed that the Working Group continue to fulfill its existing charges related to maintaining the qualified and reciprocal jurisdiction lists, but also take on developing and maintaining this new list related to group capital that also focuses on considering the recognition of other jurisdictions.

Superintendent Cioppa made a motion, seconded by Commissioner Caride, to adopt the proposed new charge and rename the group as recommended (Attachment One-B). The motion passed unanimously.

3. **Adopted Suggested Accreditation Standards**

Commissioner Caride discussed how during the Financial Stability (E) Task Force’s meeting on Feb. 22, it adopted the recommendation proposed including the liquidity stress test (LST) changes to Model #440 as an accreditation requirement, as well as the corresponding requirements for the specific standard. She indicated that two items worthy of note were discussed. First, regarding the timing considerations, the Task Force supported the timely adoption of the LST changes to Model #440, especially for those lead states of the 23 in-scope insurance groups for the 2020 LST. However, the Task Force agreed that the timing of adoption for accreditation purposes was something that should be determined by the Financial Regulation Standards and Accreditation (F) Committee. Commissioner Caride noted the Texas member representative indicated some concerns with the timing considerations but agreed that those were not decisions for the Task Force and could be discussed with that Committee.
Second, Commissioner Caride said the Task Force amended its draft recommendation letter during the meeting in an attempt to address some of the comments from the American Council of Life Insurers (ACLI) regarding the “substantially similar” standard elements. The ACLI comment letter asked for inclusion of each of the confidentiality clauses in the LST revisions to Model #440. The Task Force’s concern with the ACLI comments was the likelihood of attaining such specific language for each confidentiality clause when the LST revisions to Model #440 go before the many different legislatures across the country. She stated that because of this, the Task Force proposed an amendment to balance the ACLI’s request with the Task Force’s concern. Commissioner Caride explained that the Task Force added a new paragraph to the recommendation, making it consistent with the accreditation substantially similar elements for confidentiality provisions in the Risk Management and Own Risk and Solvency Assessment Model Act (#505). While industry’s initial read of the amended language was favorable, they did not have an opportunity to consider it at length, nor had the ACLI been able to discuss any potential concerns with its member companies. However, no one was opposed to the Task Force finalizing the amended recommendation and referring it to this Committee.

Commissioner White repeated a comment from Commissioner Caride that he found to be important, which was that he believed it was part of the Committee’s role to advance these recommendations since ultimately the matters noted are decisions to be made by the Financial Regulation Standards and Accreditation (F) Committee.

Commissioner Caride made a motion, seconded by Commissioner Afable, to adopt the recommendations to the Financial Regulation Standards and Accreditation (F) Committee related to the LST. The motion passed unanimously.

Mr. Rehagen stated he wanted to highlight a few items related to the accreditation recommendations related to the group capital calculation (GCC) First, he indicated they received suggestions from two parties related to the cover memorandum. The first was from South Dakota, who suggested adding language to the document to describe the reason the Working Group was recommending that the GCC be an accreditation standard for all states. Mr. Rehagen directed participants to the second paragraph of the memorandum, where they added language to the third line that speaks to how the GCC will allow states to better understand an insurance group’s financial risk profile for the purpose of enhancing policyholder protections. He described how it does this largely through its quantification of risk and described how they reworded the second to last sentence about how that makes these things more identifiable and quantifiable. He also described how they added the last sentence to denote that this entire paragraph was the reason the Working Group believed the GCC should be an accreditation standard for all states. Mr. Rehagen noted that the revised language was not adopted by the Working Group, but the Working Group did instruct NAIC staff to add language to make this clearer, which Mr. Rehagen noted he believed the revised language did so.

Mr. Rehagen described how the second item was from America’s Health Insurance Plans (AHIP), which suggested the memorandum should clearly identify why the Working Group was recommending that the GCC be an accreditation standard for all states. Mr. Rehagen directed participants to the second paragraph of the memorandum, where they added language to the third line that speaks to how the GCC will allow states to better understand an insurance group’s financial risk profile for the purpose of enhancing policyholder protections. He described how it does this largely through its quantification of risk and described how they reworded the second to last sentence about how that makes these things more identifiable and quantifiable. He also described how they added the last sentence to denote that this entire paragraph was the reason the Working Group believed the GCC should be an accreditation standard for all states. Mr. Rehagen noted that the revised language was not something the Working Group asked to be made, but as Working Group chair, he authorized inclusion of the last sentence since it ties the discussion on the EU Covered Agreement and the UK Covered Agreement to the expeditious process suggested later in the document.

Mr. Rehagen asked to highlight two additional items. First, in the actual proposed standards, a number of areas include striking the word “substantially” before “similar.” This is because the general practice in the standards is that the entire model be worded with the word “substantial,” and subject to that standard, but that the rest of the document just refer to “similar.” He noted that during the Working Group meeting, he had asked that NAIC staff make those corrections. He also stated he wanted to highlight the language stricken on standard L6. In that paragraph, the Working Group deleted the words “or for ensuring the competitiveness of the insurance marketplace.” He stated he was highlighting this because the language struck is in Model #440, but the Working Group voted to have it removed. Mr. Rehagen ended by stating he wanted to make the same point as Commissioner Caride, which was he felt their job was to develop these recommendations for the GCC, but that ultimately the decision will be made by the Financial Regulation Standards and Accreditation (F) Committee. Commissioner White agreed with Mr. Rehagen’s statement.

Mr. Rehagen made a motion, seconded by Commissioner Caride, to adopt the recommendations to the Financial Regulation Standards and Accreditation (F) Committee related to the GCC. The motion passed unanimously.
Commissioner Caride made a motion, seconded by Superintendent Cioppa, to adopt a cover memorandum from the Committee to the Financial Regulation Standards and Accreditation (F) Committee to accompany the recommendations adopted from the Task Force and the Working Group. The motion passed unanimously.

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

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To: Commissioner Scott White (VA), Chair, Financial Condition (E) Committee

From: Kevin Conley (NC), Chair, Mortgage Guaranty Insurance (E) Working Group

Date: January 5, 2021

Re: Updated Request for Extension

The Mortgage Guaranty Insurance (E) Working Group is in the process of fulfilling its charge to update the Mortgage Guaranty Insurance Model Act (Model #630). The Working Group anticipated completion of its Charge by the 2021 Spring National Meeting. As chair, I would like to update that request to the Financial Condition (E) Committee in accordance with NAIC procedures.

As background, the NAIC engaged Milliman to assist the Working Group in finalizing a Mortgage Guaranty Insurance Capital Model that will become the new capital standard for mortgage insurers. Subsequent to discussion at the 2019 Fall National Meeting, the Working Group exposed the Draft Mortgage Guaranty Insurance Capital Model, Mortgage Guaranty Insurance Model Act (#630), Mortgage Guaranty Insurance Standards Manual, and a proposed Mortgage Guaranty Insurance Exhibit. As a result of issues in work efforts due to COVID, the Working Group did not meet during 2020. The Working Group will reconvene and discuss comments received on the exposure and send a referral to the Blanks (E) Working Group regarding the proposed exhibit during the next couple of months.

At this time, we believe we can complete this work by the 2022 Spring National Meeting. The request for additional time is to allow the necessary time to address comments regarding the above referenced documents and ensure that a comprehensive regulatory framework is in place to effectively regulate these complex insurance entities. We are aware that we have been unable to complete our work within the one-year time period expected under the NAIC model law process and request an extension until the 2022 Spring National Meeting in order to finalize a product that can be adopted by the domestic states of the mortgage insurers, as well as any other state also wishing to adopt the same.
MEMORANDUM

To: Financial Condition (E) Committee
From: Group Capital Calculation (E) Working Group
Date: February 25, 2021
Re: Proposed New Charge for the Recognize and Accept Process

On Dec. 9, 2020, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450). These revisions will enable the Group Capital Calculation (GCC) once adopted by the states. The revisions specifically include provisions that allow the Commissioner to exempt groups that has a group-wide supervisor that “recognize and accept” the GCC for U.S. groups in their jurisdiction; thereby embracing the concepts of mutual recognition and one group/one group wide supervisor. Model #450 provides a general framework for how the “recognize and accept” process will work and specifically contemplates the development of “a list” of such jurisdictions. This concept of a list in the context of mutual recognition is not a new one and is already used by the Qualified Jurisdiction (E) Working Group of the Reinsurance (E) Task Force. To that end, the Working Group recommends the Financial Condition (E) Committee reposition the group to report directly to the Committee, modify the charges of the Qualified Jurisdiction (E) Working Group as shown below, and revise the title of the group to be more encompassing, as also shown in the following:

2021 Charges
The Qualified Mutual Recognition of Jurisdictions (E) Working Group will:

1. Develop a process for evaluating jurisdictions that meets the NAIC requirements for recognizing and accepting the NAIC Group Capital Calculation (GCC).
2. Maintain the NAIC List of Qualified Jurisdictions and the NAIC List of Reciprocal Jurisdictions in accordance with the Process for Evaluating Qualified and Reciprocal Jurisdictions.
3. Perform a yearly due diligence review of Qualified Jurisdictions to determine whether there have been any significant changes over the prior year that might affect their status as Qualified Jurisdictions.
4. Consider evaluations of any additional jurisdictions for inclusion on the NAIC List of Qualified Jurisdictions.

If you have any questions, please contact NAIC staff support Dan Daveline (ddaveline@naic.org).
The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met Feb. 25, 2021. The following Working Group members participated: John Rehagen, Chair (MO); Kathy Belfi, Vice Chair (CT); Susan Bernard (CA); Ray Spudeck (FL); Carrie Mears (IA); Susan Berry (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver (MI); Barbara Carey (MN); Jackie Obusek (NC); Justin Schrader (NE); Dave Wolf (NJ); Bob Kasinow (NY); Dale Bruggeman and Tim Biler (OH); Greg Lathrop (OR); Melissa Greiner and Kimberly Rankin (PA); Trey Hancock (TN); Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. **Adopted its Feb. 25, 2021; Jan. 28, 2021; Jan. 19, 2021; and Nov 17, 2020, Minutes**

   During its Feb. 25, 2021, meeting, the Working Group took the following action: 1) adopted recommended accreditation standards for referral to the Financial Condition (E) Committee related to the Insurance Holding Company System Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450); and 2) adopted a recommendation to the Financial Condition (E) Committee to modify the charges of the Qualified Jurisdiction (E) Working Group and revise the title of the group to be more encompassing. During its Jan. 28, 2021, meeting, the Working Group took the following action: 1) heard a presentation on the data analysis for the adopted group capital calculation (GCC) template using 2019 field test data; and 2) discussed further GCC data collection. The Working Group conducted an e-vote that concluded Jan. 19 to expose the proposed accreditation standards for the GCC.

   Mr. Spudeck stated that he had attended the Feb. 25, 2021, meeting and asked that his name be added to the attendees listed for that meeting.

   Ms. Belfi made a motion, seconded by Ms. Bernard, to adopt the Working Group’s Feb. 25, 2021 (Attachment Two-A); Jan. 28, 2021 (Attachment Two-B); Jan. 19, 2021 (Attachment Two-C); and Nov. 17, 2020 (see NAIC Proceedings – Fall 2020, Financial Condition (E) Committee, Attachment Three) minutes, with the addition of Mr. Spudeck to the attendee list for the Feb. 25 meeting. The motion passed unanimously.

2. **Continued Discussion of the 2021 GCC Data Collection**

   Mr. Rehagen noted that a 2021 data collection is now being referred to as a 2021 Trial Implementation (Trial). He referred the Working Group’s attention to an updated data collection considerations attachment (Attachment Two-D) in the meeting materials. The document was originally presented during the Working Group’s Jan. 28 meeting. He stated that a survey was subsequently sent to all Working Group members and interested state insurance regulators. The survey posed questions related to the Trial, including selection process, submission and review deadlines, data year, and practical numbers of volunteers that could be included. Mr. Rehagen stated that 16 responses were received by the due date of March 5. He said that almost all of the responses came from Working Group members and that survey responses are reflected in the attachment.

   Mr. Rehagen stated that the Purpose section at the beginning and the Related Considerations section at the end of the document reflected some of the input from the Working Group’s January meeting but otherwise have not changed much. He added that most of today’s discussion will be focused on the revisions to the other sections in the document. He then walked through each relevant issue addressed in the survey.

   a. **Process for Selecting Participants in the Trial**

   Mr. Rehagen said that based on the results of the survey, NAIC staff recommend following the same confidentiality process used for the 2019 field test and that 75% of the survey respondents supported this approach. There were no objections to this approach from Working Group members.

   Mr. Rehagen said that NAIC staff could take the lead in establishing a list of potential volunteers, which then would be presented to each lead state for review and selection based on available resources. However, for the 2019 field test, potential volunteers were directed to contact their lead state to discuss participation. Ms. Belfi stated that more lead state involvement is preferred so that the number of volunteers could match resources to review submissions. She said she prefers that the canvass letter come from the Connecticut Insurance Department. Ms. Weaver asked whether what Ms. Belfi was suggesting would
limit participation from groups that other licensed states might want to see. Ms. Malm said she has no problem with the NAIC compiling a list as long as the state insurance regulators had the final say on which groups could participate. Lou Felice (NAIC) confirmed that Ms. Carey’s view was consistent with the NAIC’s intent. Ms. Berry stated that some groups want all contact to go through the Illinois Department of Insurance (DOI) rather than directly to the NAIC. Mr. Schrader agreed that the lead state should do the actual canvass for participants. Ms. Carey asked how the number of participants accepted by all lead states would match NAIC resources available to assist in the review of Trial submissions. Mr. Felice stated that most states responding to the survey indicated they could handle between two and four volunteers and that the NAIC could handle roughly 30 participants. He said that the NAIC could also provide limited assistance for additional participants that do not want the lead state to share data with the NAIC. Mr. Wolf noted that NAIC resources should prioritize internationally active groups that also participate in the insurance capital standard (ICS) aggregation method (ICS-AM) data collection exercise conducted by the International Association of Insurance Supervisors (IAIS).

In response to a question from Ms. Berry, Mr. Rehagen stated that the Trial would be open to groups beyond those who participated in the 2019 GCC field test depending on the resource capacity of each lead state.

Mr. Rehagen summarized the discussion by stating that he would work with NAIC staff to draft wording for a canvass letter that would then be sent by each lead state to select groups. The Working Group members agreed. Mr. Rehagen directed NAIC staff to draft the language and present it to him for review.

b. Due Date for Submissions and Data Year

Mr. Rehagen said that a majority of state insurance regulators responding to the survey supported starting the review of submission in June 2021 and that almost all state insurance regulators responding to the survey supported a default date for group data of Dec. 31, 2020.

Thomas Finnell (America’s Health Insurance Plans—AHIP) asked about shadow submission from groups not participating in the Trial but wanting to complete the GCC templates, specifically with regard to submitting questions as part of question-and-answer (Q&A) guidance published. Ms. Belfi said she supports involvement of such groups in the Q&A process. Mr. Felice stated that the NAIC would address questions from nonparticipants but suggested that all questions come through the group’s lead state rather than directly from the group.

Mr. Finnell, Keith Bell (Travelers Insurance) and Maria Gomez-Vock (American Council of Life Insurers—ACLI) expressed concern about groups’ ability to submit the Trial template with 2020 data by the end of June. Ms. Gomez-Vock also asked about the timeline for the 2021 ICS-AM data collection. Ned Tyrrell (NAIC) stated that the submission will be due at the end of August using 2020 financial data. Ms. Gomez-Vock suggested an August submission date for the Trial template. Mr. Wolf stated that the Trial submission should be received before the ICS-AM data in order to allow the NAIC sufficient time to review the Trial submission and provide feedback prior to the states reviewing the ICS-AM submission. Ms. Berry and Ms. Belfi agreed. Ms. Malm asked if an August submission date would leave enough time to complete the review and have a report by the Fall National Meeting. Ms. Mears asked if the June deadline could be retained but extended by the lead state based on requests by a participating group.

Mr. Rehagen asked if the Working Group prefers a fixed July 31, 2021, submission deadline or Ms. Mears’ suggestion. Ms. Belfi expressed support for a fixed July 31 submission date. Mr. Wolf and Mr. Eft agreed. Mr. Rehagen asked if the Working Group members agreed with a July 31 submission deadline for the Trial template using year-end 2020 data. There were no objections.

In response to a question about when the GCC would become effective, Dan Daveline (NAIC) stated that adoption into a state’s law would govern. However, it was not expected that such legislative action would occur in 2021. So, for most states, the GCC would most likely be effective for year-end 2022.

c. End Date for Review of Submissions

Mr. Rehagen said that about half of state insurance regulators responding to the survey thought the review should be completed by October. Some suggested earlier, and a few later. Mr. Rehagen expressed support for an October time frame as reasonable in order to possibly have results compiled and discussed by the Fall National Meeting.
d. Stress Tests

Mr. Rehagen stated that the data considerations attachment also included initial thoughts on stress testing that could be added to the Trial template. He asked for some initial feedback. Mr. Finnell stated that scenario testing might be overly complex for health groups. Mr. Bell stated that there are unique stresses for property/casualty (P/C) groups. Ms. Gomez-Vock suggested referring the stress testing issue out to a study group made up of state insurance regulators and industry representatives. Mr. Felice stated that the Trial stresses were intended to be used for the purpose of evaluating unintended consequences but not generally as permanent additions to the GCC template. Mr. Rehagen agreed. Mr. Finnell supported Ms. Gomez-Vock’s comments and suggested taking the issue offline for further detailed discussion.

3. Discussed Other Matters

Mr. Finnell repeated a prior request that the GCC instructions be edited for increased clarity. Mr. Felice stated that NAIC staff are completing edits, which will be presented during a future Working Group meeting. In response to a question from John DuBois (MassMutual), Mr. Rehagen clarified that the Working Group supports a July 31 Trial data submission deadline and a completion date of Oct. 31 for the review of the submissions.

Having no other business, the Group Capital Calculation (E) Working Group adjourned
The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met Feb. 25, 2021. The following Working Group members participated: John Rehagen, Chair (MO); Kathy Belfi, Vice Chair, and John Loughran (CT); Susan Bernard (CA); Kevin Clark (IA); Ray Spudeck (FL); Susan Berry (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver (MI); Kathleen Orth (MN); Jackie Obusek (NC); Bob Kasinow (NY); Dale Bruggeman and Tim Biler (OH); Greg Lathrop (OR); Melissa Greiner and Kimberly Rankin (PA); Trey Hancock (TN); Jamie Walker (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI). Also participating were: Johanna Nickelson (SD); and David Provost (VT).

1. **Adopted Recommendations to the Financial Condition (E) Committee Regarding Accreditation**

Mr. Rehagen described the materials for the meeting, including the comments (Attachment Two-A1) received and the exposed recommendations and related memorandum.

   a. **Expeditious Adoption of Standards**

Mr. Rehagen described some of the comments received related to the issue of the expeditious adoption of the standards. He said there was a suggestion in the cover memorandum to the draft memorandum to the Financial Condition (E) Committee that, similar to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) adopted in 2019, the Working Group would propose a waiver of the procedures in terms of normal timelines at the Financial Regulation Standards and Accreditation (F) Committee to allow the group capital calculation (GCC) to be adopted prior to the Nov. 7, 2022, date for the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (EU Covered Agreement). Mr. Rehagen pointed out that after reviewing the comments, NAIC staff are now suggesting the Working Group consider a “bifurcated” accreditation due date to allow states that do not have a U.S. group subject to the covered agreement to adopt the model under a more normal timeline. He noted that NAIC staff have also suggested the Risk Retention Group (E) Task Force be given more time to determine its own standard for risk retention groups (RRGs) as long as it does not contradict that the NAIC needs to have all states that have groups that are subject to the EU Covered Agreement to have the model in place by the Nov. 7, 2022, date.

Marianna Gomez-Vock (American Council of Life Insurers—ACLI) stated that the ACLI continues to feel strongly that the standards need to be in place by the EU Covered Agreement date, which would be essential for those who supervise groups subject to that agreement. She said the ACLI would also feel more comfortable if it was for all states as opposed to the bifurcated approach, in part because what would occur if a group were to have its business changed to where it had a new group-wide supervisor in a state that would not have otherwise passed the model. She stated she believes that complication raised issues that should be considered. Mr. Rehagen agreed and stated he believes the state would have to adopt the model and noted that he believes the state would want to do so. Ms. Gomez-Vock stated the ACLI does not have an opinion on RRGs.

Mr. Provost stated that Vermont is supportive of the program in general and is not looking for a blanket exemption. However, he said Vermont is hopeful the Risk Retention Group (E) Task Force would have more time to look at the matter more closely to see if there are any particular things that need to be considered. He stated most of the RRGs are small enough that it will not matter but that there are some that approach the $500 million mark in premium, and the Task Force would want to consider more carefully. Mr. Rehagen noted that separate consideration by the Task Force seemed to be consistent with the normal process and noted he does not see any issues with that suggestion.

Bob Ridgeway (America’s Health Insurance Plans—AHIP) stated that AHIP thinks if state insurance regulators believed this was a critical issue to shorten the normal accreditation timeline, then AHIP asks that the circumstances that justify that shortening of the period be set out clearly in the referral memorandum. He stated that the accreditation program has worked well and that everything should be done to retain its high standards and noted nothing should be done in casual manner. Mr. Rehagen asked Mr. Ridgeway if he has considered the revised language in the memorandum that contemplates a bifurcated timeline and noted that even if he had not, this referral will next be considered by the Financial Condition (E) Committee. Therefore, there may be an opportunity for further changes to the language to the memorandum to the Financial Regulation Standards and Accreditation (F) Committee. Becky Meyer (NAIC) stated that any consideration of shortening the normal accreditation timeline would require a two-thirds majority vote and, therefore, is considered very carefully. Mr. Ridgeway stated that he is most interested in the documentation of the reason and not just the vote since the documentation will last.
Jonathan Rodgers (National Association of Mutual Insurance Companies—NAMIC) asked if the accreditation program would run on two separate tracks if the bifurcated approach were adopted. Ms. Meyer asked Mr. Rodgers if he were asking whether this pertains to when the Financial Regulation Standards and Accreditation (F) Committee were to consider adoption if it would be two different tracks. Mr. Rodgers clarified his question by asking if this would be an accreditation standard for all states or only those states that are affected by the EU Covered Agreement. Ms. Meyer responded that the current memorandum suggests the intention is it would be an accreditation standard for all states. However, with the bifurcation method, if implemented, some states would be required to implement the standard earlier in accordance with the EU Covered Agreement time frame, but all states would eventually be required to adopt the language. Ms. Gomez-Vock asked the circumstances of a state that has an internationally active insurance group (IAIG) and the efforts at the International Insurance Relations (G) Committee to obtain comparability for the aggregation method with the insurance capital standard (ICS). Mr. Rehagen stated that he believes so, noting that he believes states with IAIGs would consider. Ms. Meyer clarified that the task before the Working Group is to make a recommendation to the Financial Regulation Standards and Accreditation (F) Committee and to include enough information for it to make such a decision. Mr. Rehagen stated that unless Working Group members disagree, he believes it is appropriate for the Working Group to move forward with the bifurcated approach as documented. Ms. Nickelson requested additional information be added to the memorandum to describe the reason for proposing the GCC as an accreditation standard for all states. Mr. Rehagen stated he believes the letter already described the reason. However, Dan Daveline (NAIC) suggested further language could be added.

b. **Requirements for Groups Not Operating Internationally**

Ms. Walker stated Texas has been consistent in its view that this standard should be applicable to those groups subject to the EU Covered Agreement. Mr. Ridgeway noted AHIP supports the Texas suggestion. Ms. Gomez-Vock stated the ACLI is strongly opposed to the Texas suggestion and strongly supports the suggestion by the NAIC that no change should be made on for "ensuring competitiveness of the insurance marketplace" was one whose terms did not align with the terms of the EU Covered Agreement, and she requested it not be included in the accreditation standard. Ms. Belfi stated that she would like to hear more from interested parties on whether that language needs to be included and noted that some members of the industry said they did not think it was necessary. Kim Welsh (Reinsurance Group of America—RGA) noted that RGA weighed in early and believes it needs to be in the law. She said RGA wants to make sure states have that authority and, therefore, she believes it is critical. Ms. Belfi and Mr. Rehagen clarified the question relates only to the small number of words. Ms. Welsh emphasized this is at the commissioner’s discretion, and while RGA thinks it is important, it may not consider it is at the commissioner’s discretion. Mr. Bruggeman stated he believes the language would not cause harm and that is why it was included in the model. However, he said he does not think it is necessary. Ms. Macaluso stated she does not understand why this language was being removed given it was included in the model. Ms. Belfi noted that she believes the issue that the language already includes broad language using the term “prudential oversight” and that this is sufficient, and some states have concerns with the language that is being proposed to be removed. Mr. Rehagen noted that given three states are not opposed to taking it out, the Texas suggestion to remove this phrase would be taken out.

c. **Subgroup Reporting**

Ms. Walker said there was an issue as the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) were being finalized. The phrase for “ensuring competitiveness of the insurance marketplace” was one whose terms did not align with the terms of the EU Covered Agreement, and she requested it not be included in the accreditation standard. Ms. Belfi stated that she would like to hear more from interested parties on whether that language needs to be included and noted that some members of the industry said they did not think it was necessary. Kim Welsh (Reinsurance Group of America—RGA) noted that RGA weighed in early and believes it needs to be in the law. She said RGA wants to make sure states have that authority and, therefore, she believes it is critical. Ms. Belfi and Mr. Rehagen clarified the question relates only to the small number of words. Ms. Welsh emphasized this is at the commissioner’s discretion, and while RGA thinks it is important, it may not consider it is at the commissioner’s discretion. Mr. Bruggeman stated he believes the language would not cause harm and that is why it was included in the model. However, he said he does not think it is necessary. Ms. Macaluso stated she does not understand why this language was being removed given it was included in the model. Ms. Belfi noted that she believes the issue that the language already includes broad language using the term “prudential oversight” and that this is sufficient, and some states have concerns with the language that is being proposed to be removed. Mr. Rehagen noted that given three states are not opposed to taking it out, the Texas suggestion to remove this phrase would be taken out.

d. **Concurrently File the GCC With Form B**

Ms. Berry asked if the date could be similar to the Own Risk and Solvency Assessment (ORSA) and, therefore, be different from one group to the next. Mr. Rehagen stated the due date could be different from state to state, but the state should set it—not the company. Mr. Bruggeman noted the due date should be set by the lead state, and concurrently the file may not work with an early due date. As such, he stated he supports the recommendation.

e. **Confidentiality Requirements**

Mr. Rehagen noted the accreditation requirement of “substantially similar” applies to the entire model, but that “similar” was used for the individual elements so that some are not reinforced more than others. He noted that if some of the individual elements indicate “substantially similar,” those should be modified. Ms. Gomez-Vock stated they support the NAIC staff recommendation with the proposed change from what was originally exposed, with the understanding that Mr. Rehagen just noted. Ms. Meyer stated she agrees with Mr. Rehagen. She noted that that the approach used for the ORSA is the same structure and is the correct way forward, and she said she appreciates working through the language together. Mr. Ridgeway noted that
confidentiality hit a nerve. He said the states may adopt different language where the careful language is eroded, and those words have meaning, which is troubling. He stated they were trying to change that trend. He noted that if “substantially similar” is a higher standard, it should be followed, and he suggested if it were up to him, the language should have to be the same or as close to the same from state to state or from model to model. Dan Schelp (NAIC) stated he believes there was a misunderstanding. Specifically, states are required to adopt Model #440 or substantially similar to Model #440. As a matter of style, in the significant elements, similar is indicated, but they are are being looked at in a substantially similar threshold.

Ms. Belfi made a motion, seconded by Ms. Walker, to adopt the revised recommendations memorandum and revised standards, with modifications to incorporate language to address the comments from South Dakota, and send to the Financial Condition (E) Committee. The motion passed, with Virginia abstaining.

2. **Adopted a Recommendation to the Financial Condition (E) Committee Regarding a New Charge**

Mr. Rehagen said that included in the materials was a recommendation to the Financial Condition (E) Committee to create a group to address the GCC’s recognize and accept concept that was built into Model #440 and Model #450. He stated that in 2020, he suggested it be the same group as the Qualified Jurisdiction (E) Working Group, and the memorandum makes that recommendation. He also recommended that the Working Group be moved from under the Reinsurance (E) Task Force and report directly to the Financial Condition (E) Committee. He stated he believes the idea is that once the Working Group developed the process, it would also maintain the two listings contemplated in Model #440 and Model #450.

Mr. Schrader made a motion, seconded by Mr. Lathrop, to adopt the recommendations. The motion passed unanimously.

Having no other business, the Group Capital Calculation (E) Working Group adjourned.

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Feb. 9, 2021

Mr. John Rehagen
Chair of the NAIC Group Capital Calculation (“E”) Working Group
301 W. High St., Room 530
Jefferson City, MO 65101
[ via e-mail to dddaveline@naic.org ]

Re: NAIC Group Capital Calculation Exposure Memo (dated Jan. 19, 2020) to the E Committee regarding accreditation standards for the 2020 revisions to the Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation (#450).

Dear Mr. Rehagen,

The ACLI appreciates the opportunity to respond to the NAIC Group Capital Calculation (“GCC”) working group’s exposed memo to the NAIC “E” Committee (dated January 19, 2021). The memo addresses the GCC working group’s proposed accreditation standards for the 2020 revisions to incorporate the GCC into the Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation (#450).

ACLI supports the waiver of procedure & expeditious adoption of the standards.

ACLI strongly supports the memo’s recommendation that the F Committee should consider a waiver of procedure, as provided for in the Accreditation Program Manual and expeditiously consider adoption of the GCC-related standards, so they become effective by November 7, 2022. We encourage the NAIC, as a standard setting body, to actively communicate the importance and consequences of the November 7, 2022 deadline, to the regulatory community. As the memo correctly notes, the deadline is especially consequential for lead-state regulators who supervise insurance entities or groups that operate in the E.U. or U.K. Those states have a very limited amount of time to pass the revisions. ACLI has launched initial outreach efforts to discuss the 2020 amendments to the Holding Company Act, and we are ready and willing to assist with the timely passage of these important amendments.

ACLI recommends changing the filing period to “annual” instead of “concurrently” with Form B.

ACLI recommends a minor change to the accreditation standard for the filing requirements for the group capital calculation. We recommend replacing “shall concurrently file with the registration and annual group capital calculation” with “shall annually file a group capital calculation” in item (i)(i). This would ensure states
and the respective insurance groups they supervise have sufficient time to develop and aggregate the information needed to complete the GCC filing (e.g., final year-end statutory results for subsidiaries, international affiliates, etc., some of which would not be available until after the registration is filed).

**ACLI supports the adoption of “substantially similar” confidentiality provisions.**

The confidentiality of the GCC (and the Liquidity Stress Test) calculation, including group capital information shared by the Federal Reserve or international regulators, is highly important to our members. The memo’s proposed list of “significant elements” of the 2020 revisions to the Model Act and Regulation includes one confidentiality-related element, item “m”, which prohibits insurers from sharing information about the GCC or LST to advertise. ACLI supports the inclusion of this section in the standards, but we believe additional significant elements are warranted.

ACLI strongly prefers that the significant elements for accreditation incorporate all substantive revisions made to section 8G. At a minimum, the significant elements should also include these items:

- Provisions for maintaining the confidentiality of GCC (or Liquidity Stress Test) materials submitted to the Department (section 8A(1) 8GA(1)),
- Provisions for information sharing agreements that maintain the confidential and privileged status of the documents (section 8C(4)(a) 8G(4)(a)).

Similar confidentiality protections, such as the Own Risk Solvency Act (#550) are already afforded status as “significant elements” of the “substantially similar” accreditation status. Given that most states have already enacted similar confidentiality provisions for ORSA materials – it is reasonable to expect the same levels of confidentiality for the GCC and LST related materials.

**Conclusion**

Thank you for the opportunity to share our comments on the exposed memo to the E Committee. ACLI always appreciates the chance to engage with the Working Group on this important issue. If you have any questions or concerns about our comments, please feel free to contact me. We look forward to continuing to work together in the future.

Sincerely,

Mariana Gomez

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1 This section inadvertently referred to section 8G. The intent was to state our belief that all material changes to section 8 should be included in the standards, and the standards should not be limited to amended section 8G.

2 Similarly, we believe that is equally important to deem section 8A(2) 8GA(2) a “significant element.” Section 8A(2) 8GA(2) protects the confidentiality of liquidity stress test results and data.

3 The final accreditation standards for the 2020 revisions should also include significant elements that are LST-related, including, but not limited to: (i) a provision exclude materials or information collected through the liquidity stress test from being stored in a permanent database once the initial analysis is completed (8C(4)(c), 8G(4)(c)); (ii) provisions requiring notification and identification of third-party consultants who will receive LST materials (8C(4)(f), 8G(4)(f)).

4 The significant elements from the Own Risk Solvency Assessment (#505) accreditation standard require states to: “Include substantially similar provisions for protecting confidential information submitted to the commissioner, including provisions maintaining confidentiality for information shared with state, federal and international regulators. If sharing confidential information with the NAIC and third-party consultants is permitted, appropriate confidentiality protections should be included.”

https://content.naic.org/sites/default/files/inline-files/committees_f_orsa_significant_elements.
January 25, 2021

VIA EMAIL (ddaveline@naic.org)

Dan Daveline  
Director – Financial Regulatory Services  
National Association of Insurance Commissioners  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-219

Re: Draft Memorandum from Group Capital Calculation (E) Working Group to Financial Condition (E) Committee

Dear Mr. Daveline:

Liberty Mutual strongly supports your draft memorandum and its recommendation that the 2020 amendments to the Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation (#450) become accreditation standards.

Liberty Mutual has been an early and stalwart advocate of the NAIC’s now fully developed and adopted Group Capital Calculation (GCC). As the memo points out, “the GCC will serve as an additional financial metric that will assist state insurance regulators in identifying risks that emanate from a holding company system.” Importantly, the GCC is the result of years of careful and responsible regulatory study and analysis during a process that offered ample opportunity for all interested persons to express their views and participate in its development.

As the memo correctly notes, action on the GCC is needed more today than when the NAIC began its development. It should become an NAIC accreditation standard because uniform adoption of the GCC across the states is crucial so that the U.S. can meet its obligations under its Covered Agreements with the EU and the UK. Moreover, the GCC will form the basis for the U.S. to assert that it has developed an Aggregation Method that is comparable with the Insurance Capital Standard being finalized by the IAIS. This outcome is essential in order to ensure our strong and competitive insurance market is not materially weakened by the ICS.

In summary, we urge the NAIC to move promptly to adopt the GCC as an accreditation standard and stand ready to assist in achieving that objective.

Very truly yours,

Edmund C. Kenealy

Liberty Mutual Group  
Helping People Live Safer, More Secure Lives
February 9, 2021

John Rehagen
Chair, Group Capital Calculation (E) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106

VIA Email Transmission: ddaveline@naic.org; lfelice@naic.org

RE: NAMIC Comments on January 19, 2021 Memorandum to Financial Condition (E) Committee

Dear Chair Rehagen:

The following comments are submitted on behalf of the member companies of the National Association of Mutual Insurance Companies regarding the recommendations included in a memo dated January 19, 2021 from the NAIC Group Capital Calculation (E) Working Group to the Financial Condition (E) Committee.

The memorandum details several recommendations by the GCCWG for the E Committee to consider including a recommendation that all states that are the lead state for a group subject to the Group Capital Calculation should be required to adopt the revisions to the Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation (#450) by November 22, 2022. The memo further states that the new “significant elements” included as an appendix to the memo should apply to all states and be adopted by NAIC-accredited jurisdictions in a substantially similar manner. The GCCWG is also recommending the E Committee consider supporting a waiver of procedure to expeditiously consider adoption of the recent changes to the models that include the new GCC as an accreditation standard. Our comments will be limited to these three issues: timing for states to adopt, significant elements, and the requested waiver of procedure.

Timing

1 NAMIC membership includes more than 1,400-member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC member companies write more than $278 billion in annual premiums. Our members account for 58 percent of homeowners, 44 percent of automobile, and 30 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.
NAMIC understands the importance of states complying with the requirements under both the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance as well as the similar agreement between the U.S. and U.K. (Covered Agreements). However, it appears there is a gap in understanding about the application of the group supervision requirements included in the Covered Agreements and a question about the Federal Insurance Office’s preemption authority in this regard. We agree that the FIO was granted preemption authority over state laws that do not conform to the terms of the negotiated Covered Agreements as defined and provided for under the Dodd-Frank Act. And as it applies to reinsurance, the preemption authority is clear to us that any laws that would still require reinsurers to post collateral in the US would likely be stricken down. Where it is not entirely clear is whether the Covered Agreement’s preemption authority extends to the creation/absence of a group capital requirement.

We suggest that the NAIC authorize a third-party legal analysis of the Covered Agreements preemption authority to determine if and how that applies to the GCC. Given the differences in interpretation, NAMIC members do not agree with the aggressive timeline for all states to adopt the changes to Model #440 and #450 as suggested in the memo. It is our understanding that U.S. groups with no operations in the EU or UK should not be impacted by the Covered Agreements. It does not appear to our members that the Covered Agreements would even apply to territories outside of the US and EU or US and UK. As such, a group that is not actively operating insurance activities in the EU or UK would not need to be regulated under a group supervision scheme designed for the Covered Agreements purposes.

The NAIC has completed its work on developing a group capital calculation. As states begin to consider the changes to the models, it is worth reviewing the stated purpose of the Covered Agreements. That is to create mutual acceptance of regulatory supervision of entities operating in both parties’ territories in order to remove duplicative regulatory supervision of those entities. It is important to not lose site of the intent of these Covered Agreements. As far as group supervision, a US group with no operations in the EU/UK should not be impacted by the Covered Agreements. For these reasons, we suggest a comprehensive review of FIOs preemption authority.

**Significant Elements**

The revisions to Models #440 and #450 include a new requirement for insurers in a holding company structure to file an annual GCC. This new requirement was developed largely to enhance group supervision capabilities and to quantify risk of insurance entities and their affiliates that may be exposed to risk from other entities in a large and complex holding company. While the calculation was developed to apply to complex entities and internationally active groups, the model law revisions include certain exemptions for single-state, single-insurer holding companies, groups required to perform a group capital calculation for the Federal Reserve Board, and certain internationally active insurers operating in Reciprocal Jurisdictions. These provisions are included as significant
elements and are being recommended as required provisions in order for states to maintain accreditation status with the NAIC. In addition to these exemption provisions, it is also recommended that states adopt the confidentiality provisions prohibiting the making, publishing, disseminating, circulating, or placing before the public the GCC or resulting GCC ratio in a substantially similar manner. NAMIC members agree with the inclusion of these significant elements as part of the Accreditation procedures.

Additional flexibility for the regulator is needed for the GCC.

As it applies to the significant elements included as part of the Model Act (#450), NAMIC members recommend the NAIC defer the inclusion of the Model #450 significant elements until regulators have had a chance to review the initial batch of GCC results. This would not impede states ability to adopt the model law changes or from insurance departments from implementing the changes to the model regulation but would give insurance departments more flexibility and time to consider the impact of the GCC, without having to adopt a regulation that provides little flexibility.

Regulatory discretion is already baked into the model law and regulation. Nearly every state that previously adopted the holding company act has the general authority to exempt a company from any or all of the provisions of the HCA registration requirements. It is part of the model law adopted by the NAIC and already made an accreditation standard. It is part of the flexibility that the NAIC intended to give regulators. Given that most all holding companies will be required to file at least one GCC, state insurance regulators should have an opportunity and time to determine the usefulness and value the GCC provides them for the domestic insurers they regulate.

**Accreditation Waiver of Procedure**

Given our objection to the aggressive timeline for all states to adopt these standards and our request for an independent third-party assessment of FIO’s preemption authority in regard to the GCC, NAMIC members do not agree that the F Committee should waive any procedures that would avoid seeking public input on these important changes to the Financial Regulation Standards and Accreditation Program. Historically when changes are made to solvency standards and those changes are considered for accreditation purposes, a set schedule of events are established in a deliberative process for interested parties to understand how/when key decisions will be made. It appears to us that the NAIC is suggesting waiving that process altogether and deeming the recent changes to the holding company models already accreditation standards. There is no need to rush the Accreditation process, particularly when you have states introducing and adopting credit for reinsurance legislation, an accreditation standard that went through the Accreditation approval process. In the meantime, it is more important to address some of these unanswered questions and to support impacted lead-states on adopting the changes to the model law. Therefore, NAMIC suggests that these proposed changes to the Accreditation
standards go through the normal 12-month approval process, including exposing for comment the significant elements included in the memo.

We appreciate the opportunity to take part in the process. Thank you for your consideration of these comments on this matter of importance to NAMIC, its member companies and their policyholders. If there are any questions, please feel free to contact me at 317-876-4206.

Sincerely,

Jonathan Rodgers
Director of Financial and Tax Policy
National Association of Mutual Insurance Companies
February 9, 2021

John Rehagen, Chair
Group Capital Calculation (E) Working Group

Dear Mr. Rehagen:

Texas appreciates the opportunity to provide comments on the exposed recommendation to the Financial Condition (E) Committee regarding accreditation standards associated with the group capital calculation (GCC) amendments to Models 450 and 460. Our comments are as follows:

Exposed:

1. Filing requirements for the group capital calculation filing similar to those specified in Section 4L(2) of Model #440?
   i. The ultimate controlling person of every insurer subject to registration shall concurrently file with the registration and annual group capital calculation completed in accordance with the NAIC Group Capital Calculation Instructions as directed by the lead state commissioner similar to section 4L(2)?

2. Filing requirements for the group capital calculation filing similar to those specified in Section 21 of Model #450?
   i. Provision that gives the lead state the authority to exempt the filing of the group capital calculation provided the criteria are substantially similar to those allowed under Section 21A of Model #450?

Comments:

Texas is opposed to the broad requirement that every group file a GCC as an accreditation requirement. The accreditation standard to file a GCC should be limited to those with international operations and provide the lead state commissioner the discretion to require any group file a GCC.

A state’s accreditation status should not be threatened if all groups are not required to file the GCC once. As currently contemplated, if all groups are required to seek an exemption from the lead state commissioner annually, valuable resources that could be used to monitor solvency will be used in a bureaucratic process that does not enhance
solvency oversight of companies. Insurance department staff are already receiving ORSA filings, Form Bs, and Form Fs and have been completing group analyses for several years. The added filing of the GCC should only be required in situations where the lead state commissioner believes that it would add valuable insight and information to group oversight, not just because it is an accreditation requirement.

Through the supervisory college framework, other regulators would be able to raise concerns about a group’s operations and discuss whether a GCC should be required. Because this approach would “achieve the objective of the standard,” this approach should be accepted as substantially similar in effect.

Additionally, Texas is supportive of modifying this standard to generally refer to the filing of the GCC annually and not tie that filing to submission of the registration statement. In Texas the registration statement is due on April 1 each year, but the consolidated independent audit report of a group may not be completed by that time. Therefore, the GCC filing would be diminished in value. The lead state commissioner should have the discretion to determine the timing that would yield the most valuable information in situations where a GCC is required.

**Exposed:**

vi. Provision that gives the lead state the authority to require the GCC for U.S. operations of any non-U.S. based insurance holding company system where after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace, substantially similar to 4L(2)(e)?

**Comments:**

Texas recommends deleting the phrase “for ensuring competitiveness of the insurance marketplace” from the accreditation standards because this phrase is not found in the covered agreement. We worry that a regulatory decision that relies on this language risks triggering scrutiny by the Joint Committee established under the covered agreement. Additionally, this provision does not promote sound insurance company financial solvency regulation which is the mission of the Accreditation Program. There are other avenues for addressing concerns with international jurisdictions.
Conclusion:

Texas opposes requiring GCC filings to be prepared by groups and reviewed by insurance departments when the filing is not needed to understand group operations. A state’s accreditation should not be affected if:

- the state enacts a GCC law that requires filings from all groups with international operations and provides the lead state commissioner discretion to require all other groups file and
- aligns with the language included in the covered agreement.

In closing, Texas also suggests consideration be given to whether the accreditation standard applies to all states or a subset of states where the GCC will be more meaningful. As proposed, Texas sees no reason to apply this standard to all states, some of whom have a limited number of non-complex groups and are already receiving sufficient information via the other form filings. An all-state accreditation standard aligned with Texas’ suggestions, however, could be more useful as it would give a lead state commissioner the authority to require a GCC if needed, but not require a filing.

Thank you for the opportunity to provide these comments.

Respectfully,

Jamie Walker
Deputy Commissioner
February 9, 2021

Mr. Dan Daveline
Director, Financial Regulatory Services
Group Capital Calculation (E) Working Group
National Association of Insurance Commissioners

RE: GCC Recommendation to E committee with respect to accreditation standards related to 2020 Revisions to Insurance Holding Company System Model Act (#440) and Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)

The Vermont Department of Financial Regulation – Captive Insurance Division (VT DFR) appreciates the opportunity to comment on the GCC Working Group’s recommendation to E Committee regarding the appropriateness of the GCC with respect to accreditation standards. The VT DFR has concerns about broadly applying an accreditation standard for GCC to all risk retention groups within a holding company system and respectfully requests additional time to consider appropriate ways to include, exclude, or develop iterations specifically for risk retention groups given their unique structure. Thank you for your consideration.

Sincerely,

Christine Brown, Assistant Director
Captive Insurance Division

cc: David Provost, Deputy Commissioner of Captive Insurance – VT DFR
    Sandy Bigglestone, Director of Captive Insurance – VT DFR
The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met Jan. 28, 2021. The following Working Group members participated: John Rehagen, Chair (MO); Kathy Belfi, Vice Chair (CT); Susan Bernard (CA); Philip Barlow (DC); Carrie Mears (IA); Susan Berry (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver (MI); Fred Andersen (MN); Jackie Obusek (NC); Justin Schrader (NE); Dave Wolf (NJ); Bob Kasinow (NY); Dale Bruggeman (OH); Greg Lathrop (OR); Melissa Greiner and Kimberly Rankin (PA); Trey Hancock (TN); Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. **Heard a Presentation on Data Analysis for the Adopted GCC Template Using 2019 Field Test Data**

Mr. Rehagen stated that NAIC staff have completed a high-level analysis and comparison of the impact of data collected during the 2019 group capital calculation (GCC) field test, and after applying that data in the adopted GCC template. He asked Lou Felice (NAIC) to present the information.

Mr. Felice described the various manners in which the data was compiled and presented to compare the GCC ratio resulting from the field test with that resulting from the adopted GCC template and presented the results of the analysis (Attachment 1). That data included:

- Overall GCC ratio.
- Impact of excess relative ratio scalars applied to foreign insurers.
- Impact of debt allowed as additional available capital.
- Impact of adjusting level of risk for asset managers.
- Impact of applying alternative “sensitivity analysis” capital calculation to non-insurance/nonfinancial entities.

Mr. Felice provided some initial observations and limitations on how the data was translated from the field-testing template to the adopted template. He concluded with NAIC staff recommending supporting further data collection in 2021. Mr. Rehagen then asked for comments or questions. Mr. Rehagen asked about three volunteers that were excluded from the analysis. Mr. Felice indicated that only one was excluded due to quality of the data. The others were excluded due to their insurance operations being either non-risk-based capital (RBC) or an unusual business profile where noninsurance financial activities outweighed insurance operations. Tom Finnell (America’s Health Insurance Plans—AHIP) suggested use of de-identified scatter charts with plotting boxes. Mr. Felice said he thinks that is a good idea but might be better when there are more data points for the various group types and business lines. David Neve (Global Atlantic Financial Group—Global Atlantic) asked if the GCC ratio for health insurance groups was higher than for life insurance groups. Mr. Felice confirmed that to be true. Mr. Neve then asked why health insurance group aggregated data was not shown separately in the analysis. Mr. Felice noted that the data was driven by two large health insurers and that there were a small number of health insurance groups that volunteered, so presenting the data could be problematic.

2. **Discussed Future Data Collection**

Mr. Rehagen stated there are some outstanding issues, such as awaiting a report from the American Academy of Actuaries (Academy) regarding foreign insurer scalars. He noted the NAIC staff recommendation to conduct further data collection and stated that several interested parties had made prior comments in support of further GCC data collection in 2021. He added that he had reached out to several of those commenters and that some of their comments resulted in discussion points (Attachment 2). The points included purpose and data/timing for a potential 2021 data collection.

Marianna Gomez-Vock (American Council of Life Insurers—ACLI) stated support for data collection and using March 2021 data to evaluate stress on the GCC ratio. Mr. Finnell stated that a March 2021 cutoff could be burdensome and that the stresses and the duration of those stresses related to COVID-19 could vary by insurer type. He said that adding clarity to the instructions and template should be part of the key points.

Mr. Rehagen then highlighted the potential range of methodologies for conducting a 2021 data collection. Some would fully involve the NAIC and others would limit NAIC involvement. Mr. Finnell supported an expansion of the prior field test process on a voluntary basis. He stated that a mandatory data call should be avoided. Mr. Neve agreed and said he supports NAIC involvement to aggregate data and present results. Jonathan Rodgers (National Association of Mutual Insurance Companies—
NAMIC) agreed and asked if the discussion points document would be exposed for a public comment period. Mr. Rehagen stated that the document would be updated and may be exposed during a future meeting after further discussion. Ms. Belfi agreed with expanding the prior field test approach with NAIC participation, and she echoed concerns about the impact of COVID-19-related stresses being different across insurance lines of business. Mr. Schrader stated that it would be helpful to use the data collection to take the opportunity to improve the instructions and template. He added it would also be helpful to work with groups to assure good reporting. He stated that using calendar-year data would be preferable to interim data. Mr. Felice stated that participation could be increased via a voluntary participation outside an expanded field-testing method for those groups that are uncomfortable with sharing data with NAIC. NAIC staff could still assist by answering questions raised by those groups or the lead-state reviewer. Mr. Rehagen agreed that would be a good way to further expand participation in the data collection.

Mr. Rehagen stated that other considerations included coordination with RBC and review and validation, which will be part of separate state insurance regulator guidance being developed by an ad hoc group of state insurance regulators and interested parties.

Mr. Rehagen reminded all participants that an initial draft recommendation of an accreditation standards document was previously exposed for a public comment period ending Feb. 9. He said a meeting will be scheduled to go over comments received.

Having no other business, the Group Capital Calculation (E) Working Group adjourned.
NAIC Group Capital Calculation
2019 Field Test Data
Comparison of Field Test Results with Adopted GCC Results

January 28, 2021
Data Breakouts

• Data Excluded for 3 Volunteers
• Company Type Breakouts
  ➢ Line of business
  ➢ Mutual vs. stock
• Ratios Presented
  ➢ Adjusted field test ratio (300% calibration)
  ➢ Adopted GCC ratio (200% calibration)
  ➢ Adopted GCC ratio sensitivity at 300% calibration
• Impact of XS Relative Ratio Scalars on Ratios
• Impact of Debt Allowance on Ratios
• Impact of Sensitivity Method on Non-financial Entities
Inputs

• Field Test Presented With the Following Adjustments
  ➢ Included entities only
  ➢ Debt included at 30% / 15% for senior and hybrid Debt
  ➢ Debt limited to 100% of available capital and 100% of debt
  ➢ Base capital charges
  ➢ Foreign insurers unscaled

• No changes to entity categorization from Field Test to Adopted GCC

• Adopted GCC (Unscaled Foreign insurer and Bank Capital Requirements Held Constant at all Calibration Levels)
  ➢ Asset managers assumed at high risk
  ➢ Other financial entities assumed at medium risk
  ➢ Alternative GCC Results with asset managers assumed at medium risk shown separately
Overall Ratios

GCC Comparative Results

- PC & Composite
- Life & Health
- All
- Stock
- Mutual

GCC @200% | GCC@ 300% | FT GCC Adj.
Overall Ratios – Asset Managers at Medium Risk

Overall Ratio - Alt GCC

PC & Composite  Life & Health  All  Stock  Mutual

Adj GCC @ 200%  Adj GCC @ 300%  FT GCC Adj.
Overall Ratios – Asset Managers at Medium Risk - LOB

Overall Ratio - Alt GCC

- Composite
- PC
- Life

Alt GCC @ 200%
Alt GCC @ 300%
FT GCC Adj.
Overall Ratios w/ XS Relative Ratio Scalar

 GCC with XSRR Scalars

PC & Composite | Life & Health | All | Stock | Mutual

- Actual GCC Ratio (2 x ACL)
- GCC Ratio @ 3 x ACL
- FT GCC Adj.
Overall Ratios w/o Debt Allowance

GCC Data Without Debt Allowance

- PC & Composite
- Life & Health
- All
- Stock
- Mutual

- Actual GCC Ratio (2 x ACL)
- GCC Ratio @ 3 x ACL
- FT GCC Adj.
- Base FT GCC
Overall Ratios w/o Debt Allowance - LOB

GCC Without Debt allowance

- Composite
- PC
- Life

- Actual GCC Ratio (2 x ACL)
- GCC Ratio @ 3 x ACL
- FT GCC Adj.
- Base FT GCC
Impact of Sensitivity Analysis on Nonfinancial Entities

Increase (Decrease) in GCC Ratio Under Sensitivity Test for Non-Ins Entities
Analysis Observations

• Issues With Analysis
  ➢ Filed test categorization of other financial and non-financial entities may not align with current categorization in adopted GCC
  ➢ Risk levels selected in adopted GCC for asset managers and other financial entities without capital requirements may not align with actual risk level determined by filer.
  ➢ Potential inconsistency or misalignment between included and excluded entities
  ➢ Additional scalar options may emerge
  ➢ Limited de-stacking for mutual groups in adopted GCC

• Additional data collection is Recommended
  ➢ To be discussed by GCC WG
CONSIDERATIONS FOR 2021 GCC DATA COLLECTION

Purpose:

- Evaluate changes incorporated into the adopted GCC Template and Instructions
  - GCC Ratio and other analytics-based data
- Consider Stress Scenarios
- Evaluate potential scalar options from Academy work performed for G Committee
- Inform IAIS Work on the ICS

Data and Timing:

- 2019 Data for consistency in results
  - Most available and audited data
- 2020 Data
  - Latest data but may require later data collection
- March or June 2020 data cutoff
  - Balance sheet data reflect highest level of stress of COVID-19 Pandemic
  - Income Statement Data will need to be annualized or adjusted
  - Most related to GCC ratio rather than other analytic data

Testing Methodology Options:

- Renew Field Test confidentiality agreements with lead-States for existing volunteers
  - NAIC gets data from lead-States and assists in review
  - Can analyze data over time
- Renew Field Test confidentiality agreements with lead-States for expanded list of volunteers
  - NAIC gets data from lead-States and assists in review
  - Expands profile of Groups for evaluation and future lead-State decision making
- Lead-state data call and review with ORSA Team style review
  - NAIC staff only sees data on a case by case basis
  - Still requires confidentiality
- Lead-state data call and review
  - NAIC gets no data but is available to provide clarity and answer questions on the template and instructions
  - Provide most expansive data collection
  - Can run in parallel with other methods described above

Related Considerations:

- Evaluate potential for increased consistency between GCC capital calculations and RBC
- Review and Validation
  - Likely related to the analysis guidance that is under development
- Future Maintenance of the GCC
  - Likely similar to RBC (TBD)
The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee conducted an e-vote that concluded Jan. 19, 2021. The following Working Group members participated: John Rehagen, Chair (MO); Susan Bernard (CA); Philip Barlow (DC); Carrie Mears (IA); Judy Weaver (MI); Kathleen Orth (MN); Jackie Obusek (NC); Justin Schrader (NE); Bob Kasinow (NY); Dale Bruggeman (OH); Greg Lathrop (OR); Melissa Greiner (PA); Trey Hancock (TN); David Smith (VA); and Amy Malm (WI).

1. **Exposed Proposed Accreditation Standards for the Group Capital Calculation**

The Working Group conducted an e-vote to expose proposed accreditation standards for the Group Capital Calculation (GCC).

Ms. Obusek made a motion, seconded by Mr. Lathrop, to expose the proposed accreditation standards for the GCC. The motion passed unanimously.

Having no further business, the Group Capital Calculation (E) Working Group.
CONSIDERATIONS FOR 2021 GCC DATA COLLECTION – Updated 3/10/2021

Purpose:
- Evaluate changes incorporated into the adopted GCC Template and Instructions
  - GCC Ratio and other analytics-based data
- Consider Potential Stress Scenarios:
- Evaluate potential scalar options from Academy work performed for G Committee.
  - Update as available from G Committee.
- Inform IAIS Work on the ICS

Testing Methodology:
- Based upon the results of a survey sent to states with responses due back March 5, NAIC recommends the following:
  - The NAIC will utilize confidentiality agreements between each of the lead states and the NAIC similar to the Field Test (75% of 16 responding states supported this approach)
  - The NAIC will distribute a request for volunteers through its interested parties distribution list and would ask trade groups share with any groups they believe may have an interest.
  - It's expected more groups may want to participate in this process than the GCC Field Test but the NAIC and the states will be limited in how many participants their resources can handle in the same way as the GCC Field Test (e.g., delivery of observations and calls with the participant).
    - The first step for limiting the number of volunteers will be for NAIC staff to provide a complete list of volunteers to each of the lead states and for the lead states to indicate which of those volunteers they are willing to participate in the data collection with.
    - The survey results suggested some states were willing to handle 4-5 but more states suggested 1, 2 or 3 was more reasonable for their state.
    - Assuming the number of volunteers is high, NAIC staff will discuss with the proposed volunteer states to determine if a “lighter” touch can be used for additional volunteers as a means to reduce the required resources on the NAIC and the states. Some interest was expressed in a combination of an expanded data collection along with NAIC Q&A type assistance for voluntary filings by those groups preferring that the lead-State not share data with the NAIC.
    - Assuming there is a further need to limit, NAIC staff may ask that certain states further limit to a specific level to reach a more manageable number of volunteers.
    - 63% of responding states suggested not starting reviewing the volunteers’ data until June.
    - While there were different views on when the states need to have all of this work completed to make room for other work, October was the most common with 44% of the states, but some also preferred August and September and November.
    - Most responding states suggested a default date of 12/31/20 for the data collection but this may not be ideal given the goals of the data collection are to also consider the impact of certain “stresses” to be certain that the GCC is not too punitive in different economic situations.
    - A “dual date” can be considered, particularly for those States that can accept submissions in April or May whereby 12/31/19 data is submitted / reviewed earlier and 12/31/2020 data submitted in the September / October timeframe somewhat contemporaneously with typical ICS – AM data collection.
Process for the reviews will be similar to the GCC Field test where the NAIC gets the data from the lead-states and assist in the review.

Other Information:

- Life IPs expressed support for March 2021 cutoff to use COVID-19 as a stress.
- P&C and Health IPs and some regulators questioned whether COVID-19 posed similar stresses or timing of those stresses across insurer types.
  - One common suggestion was to use a stress(es) based on scenarios such as the impact of COVID. This could be accomplished by a two-part design:
    - First would be a set of individual stresses to the GCC. Impact on available and required capital would be calculated separately for each legal entity.
      - Example Stresses: a decrease in interest rates, decrease in equities, increase in mortality, increase in corporate tax rate.
    - The next would be a set of scenario(s) which would combine the impact of these individual stresses. This would be calculated automatically by adding, at individually legal entity level, the impact of a set of individual stresses and then summarized into higher level groupings. A scenario may allow for additional input, as on-top adjustment, to reflect group’s response (e.g., issuance of debt).
      - Example Scenario: A decrease in US 10-year treasury rate based on quarterly high/low from 2020 (151 basis points), with a decrease in equities of from high/low point in 2020 (33.9%) and an increase in mortality of equal to that of the impact of the Spanish flu (6.5 excess deaths per 1000).

Related Considerations:

- Evaluate potential for increased consistency between GCC capital calculations and RBC.
  - Possible referral to Capital Adequacy (E) Task Force
- Review and Validation
  - Likely related to the analysis guidance that is under development and State Department’s familiarity with the group.
- Future Maintenance of the GCC
  - Likely similar to RBC (TBD)
The Group Solvency Issues (E) Working Group met March 18, 2021. The following Working Group members participated: Justin Schrader, Chair (NE); Jamie Walker, Vice Chair (TX); Susan Bernard and Kim Hudson (CA); Kathy Belfi (CT); Charles Santana (DE); Virginia Christy and Carolyn Morgan (FL); Kevin Clark (IA); Cindy Andersen and Eric Moser (IL); John Turchi (MA); Judy Weaver (MI); Debbie Doggett and Shannon Schmoeger (MO); Margot Small (NY); Dale Bruggeman and Tim Biler (OH); Kimberly Rankin and Melissa Greiner (PA); Ed Buyalos (VA); and Amy Malm (WI).

1. Received a Report on Group-Related Activities of the IAIS

Mr. Schrader stated the first agenda item is to receive an update on recent International Association of Insurance Supervisors (IAIS) group-related activities. Mr. Schrader stated that he serves as the U.S. representative and vice chair of the IAIS’ Insurance Groups Working Group (IGWG). While the efforts of the IGWG have been affected by COVID-19 and in-person meetings continue to be suspended, work continues to move forward via virtual meetings.

Mr. Schrader stated the IGWG continues its work on updating the IAIS Application Paper on Supervisory Colleges (Application Paper). The IGWG will produce two separate documents: 1) a streamlined updated public version of the Application Paper focusing on cooperation among supervisors participating in supervisory colleges and other necessary information relevant to stakeholders; and 2) a member-only document focusing on implementation guidance in operationalizing supervisory college meetings. The public version of the Application Paper is expected to be consulted on this summer. The member-only document will not be subject to a public consultation.

Mr. Schrader stated the IGWG is also drafting a group-wide risk assessment framework member-only document to aid supervisors by incorporating IAIS Insurance Core Principles (ICPs) and the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) standards as objectives. However, the document will not be an authoritative source of what constitutes a supervisory risk assessment framework.

Ms. Belfi asked Mr. Schrader whether state insurance regulator practices around supervisory colleges are in line with the international best practices being developed. Mr. Schrader stated that state insurance departments appear to be conducting colleges in line with best practices and that he does not anticipate changes coming out of the IGWG work that would significantly affect college sessions being led by state insurance departments.

2. Received a Report of the Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup

Ms. Belfi stated that the ORSA Implementation (E) Subgroup met March 10 in regulator-to-regulator session, pursuant to paragraph 6 (consultation with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings. During the meeting, Subgroup members discussed matters relating to the timely receipt and review of ORSA filings and received an update on NAIC ORSA training initiatives. The Subgroup also briefly discussed its role in ComFrame drafting work for the NAIC Own Risk and Solvency Assessment Guidance Manual (ORSA Guidance Manual), which will likely take place later this year after proposed revisions to the NAIC’s Financial Analysis Handbook are drafted and exposed for public comment.

3. Received a Status Report on ComFrame Drafting Group Efforts

Mr. Schrader stated that during its last meeting, the Working Group discussed its charge to: “Assess the IAIS Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) and make recommendations on its implementation in a manner appropriate for the U.S.” Mr. Schrader stated that during that discussion, the Working Group noted that while certain elements of ComFrame were incorporated into the 2014 revisions to the NAIC’s Model Holding Company Act (#440), there were several additions and enhancements made to ComFrame elements after that time that have not yet been addressed. As such, the Working Group asked NAIC staff to conduct an internal ComFrame gap analysis to highlight elements that might need to be considered for implementation.

Mr. Schrader stated that the results of the gap analysis indicated that many of the key elements of ComFrame, from an outcomes-focused perspective, are already incorporated into the U.S. system through recent amendments to model laws, the
establishment of ORSA requirements and other ongoing regulatory practices. The gap analysis also noted that some of the more prescriptive elements of ComFrame do not appear appropriate for the U.S. system and are not being recommended for consideration. However, other elements of ComFrame were identified that appeared appropriate for consideration. Those elements included, among other things, the need to collect and review information at the Head of the Internationally Active Insurance Group (IAIG) level and the need to incorporate additional guidance into NAIC handbooks.

As such, Mr. Schrader noted that the Working Group decided to form three separate drafting groups to consider revisions to the NAIC’s Financial Analysis Handbook, Financial Condition Examiners Handbook and ORSA Guidance Manual as necessary to incorporate ComFrame elements deemed appropriate for the U.S. system of solvency regulation. Several states volunteered to participate on the drafting groups, and an initial drafting group meeting was held in September 2020 to discuss how to proceed. During that meeting, the volunteers determined that the Financial Analysis Drafting Group should first move forward with drafting proposed revisions as state insurance regulators expect the Financial Analysis Handbook to house the majority of ComFrame considerations.

Mr. Schrader stated that since that organizational meeting, the drafting group has met five different times to work through discussions on various ComFrame elements and draft proposed revisions to the Financial Analysis Handbook. Mr. Schrader stated that the drafting group is nearing the completion of its work and plans to refer its proposed revisions to the full Working Group for discussion and public exposure in the coming weeks. Thereafter, Mr. Schrader stated that he expects the other two drafting groups to begin their work soon, with a goal of completing all proposed ComFrame revisions by the end of 2021.

Robert Neill (American Council of Life Insurers—ACLI) asked whether the proposed revisions to the Financial Analysis Handbook would be considered ahead of the Spring National Meeting. Mr. Schrader stated that the Working Group does not plan to meet again until after the Spring National Meeting and will review the proposed revisions at that time.

4. Discussed a Referral From the 2020 FSAP

Mr. Schrader stated that the Working Group recently received a referral to consider a recommendation that came through state insurance regulator participation in the 2019/2020 Financial Sector Assessment Program (FSAP). In referring this matter to the Working Group, the International Insurance Relations (G) Committee made it clear that the Working Group is not obligated to implement the recommendation but should give it consideration before reporting back on the conclusion reached. The recommendation states:

State insurance regulators should better coordinate and leverage the expertise of teams of supervisors dedicated to financial analysis and financial examination for large insurance groups, including Internationally Active Insurance Groups (IAIGs).

Ms. Belfi stated that coordination between financial analysts and examiners continues to improve in our system, although we do operate differently than many international jurisdictions. Mr. Schrader stated that staffing for IAIG oversight is being considered as part of the ComFrame drafting work and will likely be addressed in the revisions proposed to the Financial Analysis Handbook and that the issue can be discussed in more detail at that time.

Having no further business, the Group Solvency Issue (E) Working Group adjourned.
Mortgage Guaranty Insurance (E) Working Group  
Virtual Meeting  
April 6, 2021

The Mortgage Guaranty Insurance (E) Working Group of the Financial Condition (E) Committee met April 6, 2021. The following Working Group members participated: Kevin Conley, Chair, Jackie Obusek and Richard Kohan (NC); Kurt Regner (AZ); Monica Macaluso (CA); Robert Ballard (FL); John Rehagen (MO); Margot Small (NY); Melissa Greiner (PA); Chris Miller (TX); and Amy Malm (WI).

1. Discussed Comments Received on the Proposed Mortgage Guaranty Insurance Exhibit

Mr. Conley said that one comment letter (Attachment Four-A) was received from the Mortgage Guarantors (MGs). He proceeded by discussing each comment within the comment letter regarding the proposed Mortgage Guaranty Insurance Exhibit (Exhibit) (Attachment Four-B).

a. Question 1

Mr. Conley stated that the MGs are concerned with confidentiality of the earned premium and State Regulatory Mortgage Insurance Capital Standard (SRMICS) triangles within the draft Exhibit. He commented that the Exhibit data would be collected electronically and stored within tables by the NAIC and made available to state insurance regulators.

Andy Daleo (NAIC) said that although the data is intended to be regulator-only, it is part of the financial statement, and the public could request the data. Mr. Daleo offered an example of a potential alternative approach for the data collection. He indicated that the filing for the Annual Statement Blank – Supplemental Compensation Exhibit is confidential and as a result, the data is not collected by the NAIC. He indicated that the Exhibit is provided directly to the states and that this data collection could be handled the same way.

Ms. Malm asked about the possibility of handling the data collection similar to the way risk-based capital (RBC) data is collected. Jackie Obusek (NC) commented that RBC is protected by state statute and said this data collection would require a change in state statute to protect it. She said that the entire contents of the financial statement are considered public and inquired as to whether the data collection could be done separately as a workpaper until states were able to change their statute to treat the data as confidential. Ms. Small said that in New York, an individual can request data. However, she said it will not be released unless the insurer approves its release. Ms. Small continued that a request for confidential data would need to be approved by a court subpoena, which is extremely rare.

Mr. Conley commented that he does not have a concern regarding confidentiality since it is just earned premium and SRMICS triangles. He stated that risk-in-force would be reported for the first time. He said it could provide some insight on pricing patterns and that the information would be helpful to state insurance regulators. He asked the Working Group if they have any concerns regarding the confidentiality of the data to the point of requiring special treatment of the data. Mr. Rehagen commented that since the MGs commented on the concern of confidentiality, they should provide their prospective.

Tony Shore (Essent Guaranty Inc.) commented that the MGs are comprised of public companies that make public disclosures and that this type of data is different. Mr. Conley said that a lot more public data is disclosed within the financial statements than what is being requested within the proposed Exhibit. He said that the data would be nongranular and that he does not believe any harm could be caused. Mr. Shore commented that he was encouraged by the discussion of keeping the data confidential by submission as a workpaper until it could be kept confidential by the model act.

Joy Benner (National Mortgage Insurance Corporation) said that she reiterates Mr. Shore’s comments and questioned whether requests by the public could be monitored along with details on how the data is being used. Mr. Daleo commented that there is a section of the NAIC that handles contracts and data requests and that he is confident that a biannual report to the Working Group on data requests would be possible. He added that he is not completely certain that all data requests are granted to the public. Mr. Shore commented that this type of report is not as good as keeping the data confidential and that the data being requested is more granular than the data within the financial statement.
Mr. Conley questioned the MGs about the particular harm that would be caused by including an earned premium and SRMICS triangle within the data collection. Mr. Shore commented that he would like to gather more thoughts on public disclosure from his company and the MGs and that he would get back to the Working Group. Mr. Conley commented that there is fear from state insurance regulators regarding hindering the ability to complete research due to access to data. Mr. Daleo commented that the Working Group will need to move forward in order to ensure it is included within the year-end financial statement. Further, he stated that the MGs were provided additional comment period time to adequately prepare.

Mr. Kohan asked about more detail on the type of data that is too granular within the proposed Exhibit. He stated that the data is country-wide data and that states are looking for an early indicator of potential problems. Robin Marcotte (NAIC) stated that most of the data being requested is very similar to other data being collected through other financial statement schedules. Following additional discussion, the Working Group decided to proceed with the proposed Exhibit.

b. **Question 2**

Mr. Conley commented that he is uncertain where SRMICS is tied to the *Mortgage Guaranty Insurance Model Act* (#630). Further, he indicated that the SRMICS formula will need to be provided within the exhibit instructions to allow the triangles to be filled out based on the formula but not necessarily tied to Model #630. Ms. Small stated that it would be nice to have a document that discloses the SRMICS formula, as well as any subsequent changes to the formula. Mr. Conley responded that the details of this documentation would be discussed during the Working Group’s status update on SRMICS.

c. **Question 3**

Mr. Conley stated that the Exhibit would be required of all companies with exposure to mortgage guaranty insurance.

d. **Question 4**

Ms. Malm commented that all companies with exposure to mortgage guaranty insurance should be required to file the Exhibit. Mr. Conley concurred with Ms. Malm and stated that there would also be a requirement to file the combined financial statement filing.

e. **Question 5Ai**

Mr. Conley indicated that column 1 and column 2 of the Exhibit would be reported on a direct basis, which would equate to the sum of all policies written during the 12-month period despite some not being current at Dec. 31. Mr. Conley also said to remove “Written” from the titles for column 1 and column 2. Will Meers (Arch Mortgage) asked whether column 1 would be as of year-end. He said this would be in direct relation to the SRMICS calculation, which is as of year-end. Mr. Conley stated that column 1 should reflect the original, whereas SRMICS would reflect the current, which is the year-end amount or slightly less than the original.

f. **Question 5Aii**

Mr. Conley stated that currently the industry reports assumed and ceded data on an accident year basis for 10 years within the Annual Statement Blank, Schedule P – Analysis of Loss and Loss Expenses. As a result, he stated that it is uncertain as to why the MGs feel the additional reporting is onerous. Mr. Meers commented that there are terminated reinsurance agreements that they no longer can access to calculate the historical cumulative paid loss on an assumed and ceded basis. Mr. Meers indicated that providing the data on the latest calendar year would be possible. Stacy Javorek (Mortgage Guaranty Insurance Corporation) stated that it would also be problematic to provide the historical cumulative data, but they could provide the current year. Mr. Conley questioned whether the MGs could provide the most recent five book years inclusive of values for assumed and ceded. Ms. Javorek stated that five years would be possible and that moving forward, the cumulative would build. Mr. Meers concurred that they could also provide five years of data. Following additional discussion, five years of reporting would be required, with additional years added moving forward.

g. **Question 5Aiii**

Mr. Kohan said that the column for “Other Income” was migrated over and that the definition was unknown. Mr. Daleo said that it comes from the income statement and that it includes fee income, previously charged off recoverables and miscellaneous income. Mr. Conley said that the column would remain as it could be applicable and should be provided by book year.
h. **Question 5Aiv**

Mr. Conley commented that the title for column 17 would be changed to “Number of Claims Closed with Payment (Direct).” He also said that the title for column 26 would be changed to “Number of Delinquencies” and tied to schedule 2E, column 10, which defines the number of delinquencies as three or more consecutive missed payments. Nicholas Realmuto (National Mortgage Insurance Corporation) stated that changing both columns as suggested would more accurately reflect the data being collected.

i. **Question 5Av**

Mr. Conley stated that he concurs with changing all references from “Known Claims Reserves” to “Known Loss Reserves.”

j. **Question 5Aiv**

Mr. Conley commented that there is uncertainty regarding the use of the term “bulk” and whether it should be included with primary flow or pool business. Mr. Realmuto commented that pool business could be subject to a deductible and treated in aggregate in terms of loss experience. He said that bulk is treated the same way as primary flow business in terms of individual policies and not on an aggregate basis in terms of losses. Mr. Conley commented that the SRMICS formula can be applied to primary flow and bulk business accurately. As a result, Mr. Conley concluded that primary flow would be added with bulk business.

k. **Question 5Bi**

Mr. Conley commented that 20 years of data would be required and that the Annual Statement Blank, Schedule P – Analysis of Loss and Loss Expenses should continue to be provided.

l. **Question 5Bii**

Mr. Conley stated that the prior year row should be reported back to 1993. Further, he indicated that all references to “accident year” will be replaced with “policy year.”

m. **Question 5Biii**

Mr. Conley commented that the paragraph would be removed.

n. **Question 5Biv**

Following a brief discussion, Mr. Conley said that the definition would be removed from the table.

o. **Question 6**

Mr. Daleo commented that there are four references that were requested to be reported in millions as a result of uncertainty of the length of the reported data. He indicated that “millions” could be removed since there is space for 15 characters. Mr. Conley concurred that the references to “millions” should be removed. Mr. Daleo commented that there are two references to interrogatories that also should be removed since there are no interrogatories with regard to the Exhibit. Mr. Conley concurred on removing the references.

The Working Group then briefly discussed a plan to: 1) summarize the amendments within a subsequent e-vote on the proposal; and 2) complete the balance of the agenda during a subsequent meeting.

Having no further business, the Mortgage Guaranty Insurance (E) Working Group adjourned.
April 1, 2021

Andrew T. Daleo  
Senior Manager, Property/Casualty & Title Financial Analysis  
National Association of Insurance Commissioners  
adaleo@naic.org

Re: Proposed Mortgage Guaranty Insurance Exhibit and Instructions (the “MG Exhibit”).

Dear Mr. Daleo:

These comments on the MG Exhibit are submitted on behalf of the “MG Industry Group” consisting of Arch Mortgage Insurance Company, Essent Guaranty, Inc., Genworth Mortgage Insurance Corporation, Mortgage Guaranty Insurance Corporation, National Mortgage Insurance Corporation, and Radian Guaranty Inc. We appreciate your approval of a two week extension until April 1st to provide comments on the proposed MG Exhibit.

We have a few general questions and comments followed by some more technical issues:

1. We view the alterations to the scope of public disclosure associated with Schedule MG as extremely problematic from a confidentiality perspective. We point to Part 2C: Earned Premium triangle and Part 2D: SRMICS triangle as particularly problematic, as earned premium could be used to derive rate history and SRMICS could be used to derive change in risk quality for the book. As the MG Industry Group is comprised of public companies, we recommend that Schedule MG be implemented as a confidential filing under examination (or other similar) authority that the domestic regulators might share under terms of an MOU.

2. It is helpful to hear that the SRMICS triangle in this supplement continues to be tied to the Model Act. For now, we recommend against including the “Direct Calculated SRMICS” triangles (in Part 2D). It is uncertain whether the SRMICS model will be ready at the same time as this proposed Schedule MG, and the MG Industry Group considers it more appropriate to incorporate a request for provision of SRMICS data through Schedule MG if/when the SRMICS model is adopted.

3. We would like to understand if Schedule MG will be required of all companies, or on a voluntary basis depending on the domiciliary commissioner.

4. Is there a minimum company capital amount required for Schedule MG to be submitted? Some MG companies have smaller MG affiliates within their holding company systems and we request that Schedule MG only be applicable to flagship companies.
5. Technical Concerns

A. Schedule MG – Part 1.

i. Are Columns 1 (Original Risk In Force) and Column 2 (Current Risk In Force) direct or net? For additional clarity, is Column 1 as of December 31, 20xx? Meaning, for the 2012 policy year, new risk written as of December 31, 2012, could be different than new risk written throughout 2012 as a policy written in January could have been rescinded. For Column 2, the word “written” should be removed.

ii. Providing earned premium and paid losses (in Columns 3 to 17) cumulatively by policy year will be unduly onerous. All companies can provide direct (as also requested in the triangles for Part 2A and 2C) but some are unable to provide cumulative assumed/ceded/net (Columns 4, 6, 7, 9, 10, 12, 13, 16) due to the unavailability of past ceded and assumed information and changing internal reinsurance agreements in some companies’ histories. Accordingly, we recommend amending Columns 3 to 17 to request calendar year information.

iii. What is “Other Income” (Column 5)?

iv. The Summary requests the Number of Claims Reported (Direct) at Column 17 and Number of Claims Outstanding (Direct) at Column 26. We do not report this information for other NAIC schedules/supplements such as Schedule P. If we are expected to report this, we will require some additional definitions. For example, what is meant by the number of Claims Reported (Column 17)? Does it include current and paid claims? Does it include denied claims? Does it include NODs that have not filed claims? And, would Claims Outstanding (Column 26) include NODs or just filed claims? We note existing NAIC definitions would benefit from more clarification:

1. **Definition as per Schedule P** – “The number of claims is to be cumulative by policy year. The number of claims reported for each policy year is equal to the number of open claims at the end of the current year plus cumulative claims closed with or without payment for the current and prior calendar years” [Note that this doesn’t apply to Schedule P for monoline MG companies; however it applies for certain other industries.]

2. **Definition as per NAIC model laws (as applied to Health Insurance Contracts):** “Claims reported” are considered as a reported claim for annual statement purposes when an insurer has been informed that a claim has been incurred, if the date reported is on or prior to the valuation date

v. The header for Columns 18-20 should read “known loss reserves” or simply “loss reserves” rather than “claim reserves.” The current header implies the reserves for claims which would not make sense.
vi. For Part IA and IB, the MG Industry Group believes bulk should be combined with primary "flow" to be consistent with how the industry reports results.

B. Schedule MG, Part 2.

i. For Part 2 to 2E, are so many years necessary? Might we align with the years reported in Part 1 and Schedule P? Would this schedule replace the requirement for mortgage insurers to complete Schedule P?

ii. The Instructions for Part 2C state, "Only accident years 1993 and subsequent must be reported." Does this refer to how far back the Prior row is expected to report? Also, we recommend references to accident year be changed to policy year.

iii. The Instructions state, "For report year development, group the claims by year in which the claim was first reported." The year in which the claim was reported will be different than the policy year, so we seek clarification as to what we are being asked to report. Also, if we are reporting by the year the claim was reported, we believe this would be redundant with the results reported on Schedule P.

iv. Part 2E – Policy Year Direct Delinquencies. We recommend removing the definition of delinquencies from the header to the table. MG companies will define reporting to align with their reserve requirements. We request clarification as to whether the report seeks a snapshot of existing DQs (i.e. DQ inventory) or an "ever DQ" count, and recommend a calendar year inventory.

6. Housekeeping. Finally, we recommend conforming the tables, some of which are denoted in thousands while others are denoted in millions, and removing the reference to interrogatories on page 2 of the Instructions as there are no interrogatories associated with this Schedule MG.

We look forward to discussing these matters with the members of the Mortgage Guaranty Insurance Working Group at the April 6th meeting you have arranged, and are also prepared to engage on the comments previously submitted by the MG Industry Group with respect to the latest exposure draft of the Model Act and SRMICS.

Thank you for your consideration of our comments.

Respectfully submitted,

MG Industry Group
**NAIC BLANKS (E) WORKING GROUP**

Blanks Agenda Item Submission Form

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<tr>
<th>CONTACT PERSON:</th>
<th>Andy Daleo</th>
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<tr>
<td>TELEPHONE:</td>
<td>(816) 783-8141</td>
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<tr>
<td>EMAIL ADDRESS:</td>
<td><a href="mailto:adaleo@naic.org">adaleo@naic.org</a></td>
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<tr>
<td>ON BEHALF OF:</td>
<td>Mortgage Guaranty Ins. Working Group</td>
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<tr>
<td>NAME:</td>
<td>Kevin Conley</td>
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<td>TITLE:</td>
<td>Chair</td>
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<tr>
<td>AFFILIATION:</td>
<td>NC Department of Insurance</td>
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<tr>
<td>ADDRESS:</td>
<td>325 N Salisbury Street Raleigh, NC 27603</td>
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<td>TELEPHONE: (816) 783-8141</td>
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<td>EMAIL ADDRESS: <a href="mailto:adaleo@naic.org">adaleo@naic.org</a></td>
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<td>NAME: Kevin Conley</td>
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<td>TITLE: Chair</td>
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BLANK(S) TO WHICH PROPOSAL APPLIES

| ANNUAL STATEMENT [ X ] | QUARTERLY STATEMENT [ ] | INSTRUCTIONS [ X ] | BLANK [ ] | CROSSCHECKS [ ] |

[ ] Life, Accident & Health/Fraternal
[ X ] Property/Casualty
[ ] Health

Anticipated Effective Date: Annual 2021

**IDENTIFICATION OF ITEM(S) TO CHANGE**

Add a new supplement Mortgage Guaranty insurance Exhibit to capture more information from mortgage guaranty insurers.

**REASON, JUSTIFICATION FOR AND/OR BENEFIT OF CHANGE**

The proposed Mortgage Guaranty Insurance Supplement will be primarily used by the domestic regulators of mortgage guaranty insurers. Currently, there is limited data captured on mortgage guaranty insurance within the financial statement. The proposed supplement will provide the means for the regulators to assess the capital level of the insurer and their overall financial solvency.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date:______________________________________

Other Comments:__________________________________________________________

** This section must be completed on all forms. Revised 7/18/2018

2 DRAFT Mortgage Guaranty Sup.doc

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ANNUAL STATEMENT INSTRUCTIONS - PROPERTY

MORTGAGE GUARANTY INSURANCE EXHIBIT

This exhibit is required to be filed no later than April 1.

All reporting entities reporting mortgage guarantees on Line 6 of the Annual Statement Underwriting and Investment Exhibit, Part 1 and/or Part 2 must prepare this Exhibit.

The following definitions should be used in completing the Mortgage Guaranty Insurance Exhibit:

a. “Primary Flow Business” means loans are insured on an individual loan-by-loan transaction basis. Premium rates typically vary depending on the perceived risk of a potential claim on the loan type based on consideration of the loan to value ratio, borrower credit score, payment plan, mortgage term and property type. The mortgage instrument may require the borrower to pay for the mortgage insurance, which is referred to as “borrower paid”. Alternatively, the lender may be required to pay the premium, who in turn recovers the premium through an increase in the note rate, which is referred to as “lender paid”.

b. “Pool and Bulk Business” means a collection of mortgages with similar rates and terms which are often securitized by dividing the pool into bonds backed by the payments of principal and interest into the pool by borrowers. Pool insurance typically covers the loss on a defaulted mortgage loan included in the pool, which is in excess of the loan’s primary coverage, as well as the total loss on a defaulted mortgage which does not require primary coverage. Pool insurance may have a stated aggregate loss limit for a pool of loans or a deductible under which no loss is paid by the insurer until the deductible is exceeded. Bulk Business means coverage is provided on each mortgage loan included in a defined portfolio of loans insured under a single or bulk transaction. Bulk coverage typically insures the closed loans in an insured portfolio to a specified level of coverage. Loans insured on a bulk basis are typically part of a negotiated transaction, resulting in a composite rate applied to all such loans in the portfolio.

SCHEDULE MG

There are five parts and the interrogatories within Schedule MG. Part 1 provides detailed information on losses and loss expenses. Part 2 provides a history of incurred losses and loss expenses on a policy year basis. If the reporting entity is unable to provide any part of the data required in Schedule MG for years prior to 1994, the company must obtain a letter of waiver from its domiciliary commissioner. A copy of this letter must be included with the reporting entity’s filing of the Mortgage Guaranty Insurance Exhibit. Data for 1994 and subsequent should be provided in complete detail except for adjusting & other expenses (A&O) that should be in complete detail for 1996 and subsequent.

Schedule MG includes only the data for the insurer identified on the cover of the exhibit. Do not include consolidated data for affiliated companies. If the insurer participates in a pooling agreement, it should report only its share of the business, not the total of all participants.

In those instances where an insurer files an amended annual statement as a result of a restatement of prior year written premium, losses or loss adjustment expenses, Schedule MG must be restated and included in the amended of the exhibit. In those instances where one insurer is merged into another mortgage guaranty insurer, Schedule MG must be prepared so it includes the entire combined history of both companies.

When changes to pooling agreements impact prior policy years, historical data values in Schedule MG Parts, 1 and 2 should be restated based on the new pooling percentage. This should be done to present meaningful development patterns in Schedule MG. When pooling changes only impact future policy years, no restatement of historical values should be made.

Earned premium is on a calendar-year basis. Losses incurred should be assigned to the year in which the policy was written that triggered coverage under the contract.

Retroactive reinsurance should not be reflected in Schedule MG. The transferor in such an agreement must record, without recognition of the retroactive reinsurance, its loss and loss adjustment expense reserves on a gross basis on its balance sheet and in all schedules and exhibits. The transferee in such an agreement must exclude the retroactive reinsurance from its loss and loss expense reserves and from its schedules and exhibits.
The reserves for unpaid losses and loss adjustment expenses should take into account the explicit or implicit impacts of the various factors affecting claim frequency or ultimate claim cost.
Schedule MG, Part 1 is organized so that written premiums and other income for a year are matched with corresponding losses and Defense & Cost Containment expenses (D&CC) and Adjusting & Other expenses for policies issued during that year. Experience is shown for direct business, reinsurance assumed, reinsurance ceded and net of reinsurance.

Policy year loss and loss adjustment expense payments and reserves should be assigned to the year in which the policy was written under which coverage is triggered.

Part 2 displays 20-year loss development triangles on a policy year basis. In Part 2, losses are combined with D&CC. Loss and D&CC development is shown for total incurred, payments, case basis reserves, bulk reserves and incurred but not reported (IBNR) reserves (policy year basis only). Part 2 displays 20-year claim count development triangles on a policy year basis.

For report year development, group the claims by year in which the claim was first reported. The reserves reported are expected to represent the ultimate amounts to be paid, including anticipated inflation.

Report all dollar amounts in Schedule MG in thousands of dollars ($000 omitted), either by rounding or truncating. All claim counts are to be shown in whole numbers.

The number of claims reported is to be cumulative by policy year. The number of claims reported for each policy year is equal to the number of open claims at the end of the current year plus cumulative claims closed with or without payment for the current and prior calendar years.

For reporting entities reporting on a pooling basis, the pooling percentage should be applied to claim count as well as dollar amounts.

If the company changes its method of counting claims, the new method should be disclosed in the Notes to Financial Statements.
SCHEDULE MG- PART 1 – SUMMARY

Part 1 – Summary provides a 10-year summary of loss and defense & cost containment experience for the company. Part 1 – Summary should be equal to the sum of Part 1A and Part 1B. Columnar headings provide instructions necessary for completion.

The columnar headings provide instructions necessary for completion.

For each year, Number of Claims Reported (Column 17) should include the cumulative number of claims reported through the annual statement date for pooled and non-pooled business. For reporting entities reporting on a pooling basis, the pooling percentage should be applied to claim count as well as dollar amounts. Indicate in the Interrogatories whether per claim or per claimant.

Cumulative salvage and subrogation received and losses and expenses paid should be reported for each specific year. For “prior,” report only salvage and subrogation received and losses and expenses paid in current year.

In Schedule MG, Part 1, salvage and subrogation received should be reported net of reinsurance, if any. Loss payments are to be reported net of salvage and subrogation received in Schedule MG.

Adjusting & Other Payments, Column 15, should reflect net payments in 1996 and prior and direct and assumed payments for 1997 and subsequent.

Premiums earned and losses paid, unpaid, and incurred should reconcile with the Statement of Income page. The workpapers that show a reconciliation explaining reinsurance and salvage and subrogation adjustments should be available for examination on request.

“Assumed” means reinsurance assumed, including from affiliated pooling agreements, but excluding any non-proportional reinsurance assumed reported as a separate line and reported accordingly.

“Direct” means as directly written, but not if part of an affiliated pooling agreement.

“Ceded” means reinsurance ceded on business so reported as direct or assumed.

Line 1, “Prior,” Columns 8 through 16 should only reflect amounts paid or received in the current calendar year.

Report cumulative amounts paid or received for specific years.

“Defense & Cost Containment” expenses include defense, litigation and cost containment expenses, whether internal or external. “Defense” means defense by the reporting entity in a contentious situation, whether a first party or a third-party claim. The fees charged for reporting entity employees should include overhead, just as an outside firm’s charges would include. The expenses exclude expenses incurred in the determination of coverage. These expenses include the following items:

1. Surveillance expenses;
2. Fixed amounts for cost containment expenses;
3. Litigation management expenses;
4. Loss adjustment expenses for participation in voluntary and involuntary market pools if reported by accident year;
5. Fees or salaries for appraisers, private investigators, hearing representatives, inspectors and fraud investigators, if working in defense of a claim, and fees or salaries for rehabilitation nurses, if such cost is not included in losses;
6. Attorney fees incurred owing to a duty to defend, even when other coverage does not exist; and
7. The cost of engaging experts.
“Adjusting & Other” expenses are those expenses other than those above and which have been assigned to the “Loss Adjustment Expense” group in the Underwriting and Investment Exhibit, Part 3, Expenses. These expenses include the following items:

1. Fees of adjusters and settling agents (but not if engaged in a contentious defense);
2. Loss adjustment expenses for participation in voluntary and involuntary market pools if reported by calendar year;
3. Attorney fees incurred in the determination of coverage, including litigation between the reporting entity and the policyholder; and
4. Fees or salaries for appraisers, private investigators, hearing representatives, re-inspectors and fraud investigators, if working in the capacity of an adjuster.

The foregoing list is not intended to be all-inclusive. We are relying on the reporting entities to use reasonable judgment in particular situations.

Reporting entities should assign the “Defense & Cost Containment” expenses to the policy year in which the associated losses were assigned. Reporting entities may assign the “Adjusting & Other” expenses in any justifiable way among the policy years. The preferred way is to apportion these expenses in proportion to the number of claims reported, closed, or outstanding each year.

Please Note: This instruction is intended solely to give guidance on reporting loss adjustment expenses in Schedule MG in the annual statement. It is not intended to provide guidance on the types of expenses to include in loss adjustment expenses. These definitions of defense & cost containment expense and adjusting & other expense are not intended to affect insurance or reinsurance agreements or other contractual agreements.

**Pooling**

Many insurers have a pooling arrangement with affiliated companies, approved by the domiciliary commissioner, in which the business written is reallocated among the affiliated companies according to a specified percentage. Some affiliated companies may be part of the pool and some may not, and some lines may be included, and some may not. The premiums and losses are to be reported in Schedule P after such pooling arrangements, not before.

Pooled business ceded is that which, if retained instead of ceded, would be pooled among the affiliated companies who are party to the pooling agreement. Any such business that is ceded by the pool participants to non-pooled companies prior to the pooling distribution among the participating companies is considered pooled business ceded. Non-pooled business includes all direct, assumed, and ceded business not subject to pooling, as well as any pooled business that is ceded after the pooling distribution has been made.

Direct and Assumed columns include the participation in any pool. In addition, all direct business not pooled plus assumed business from other than the pool is to be included. Ceded columns include the company’s participation in the pool such as any ceding by the company to companies independent of the pool.

Claim counts should be reported in accordance with the pooling arrangement and should reflect the company’s proportionate share of the total number of claims. If the company’s losses are 40% of the pool, then 40% of the claim count should be reported.

The pooling percentage is to reflect the company’s participation in the pool as of year-end. When changes to pooling agreements impact prior policy years, historical data values in Schedule MG Parts, 1 and 2 should be restated based on the new pooling percentage. This should be done to present meaningful development patterns in Schedule MG. When pooling changes only impact future policy years, no restatement of historical values should be made.
<table>
<thead>
<tr>
<th>Column 7</th>
<th>Premiums Earned and Other Income Net</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Should equal Columns 3 + 4 + 5 – 6.</td>
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<tr>
<th>Column 16</th>
<th>Total Net Loss and Expense Paid</th>
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<td></td>
<td>Should equal Columns 8 + 9 – 10 + 11 + 12 – 13 + 15.</td>
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<table>
<thead>
<tr>
<th>Column 25</th>
<th>Total Net Loss and LAE Unpaid</th>
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<table>
<thead>
<tr>
<th>Column 27</th>
<th>Losses and Defense &amp; Cost Containment Expenses Incurred Direct</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Should equal Columns 8 + 11 + 18 + 21.</td>
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<thead>
<tr>
<th>Column 28</th>
<th>Losses and Defense &amp; Cost Containment Expenses Incurred Assumed</th>
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<tbody>
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<td></td>
<td>Should equal Columns 9 + 12 + 19 + 22.</td>
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<th>Column 29</th>
<th>Losses and Defense &amp; Cost Containment Expenses Incurred Ceded</th>
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<tr>
<td></td>
<td>Should equal Columns 10 + 13 + 20 + 23.</td>
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<table>
<thead>
<tr>
<th>Column 30</th>
<th>Losses and Defense &amp; Cost Containment Expenses Incurred Net</th>
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<tbody>
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<td>Should equal Columns 27 + 28 – 29.</td>
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</table>

<table>
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<tr>
<th>Column 31</th>
<th>Loss and LAE Ratio Direct Basis</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Should equal (Columns 15 + 24 + 27)/Column 3.</td>
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</table>

<table>
<thead>
<tr>
<th>Column 32</th>
<th>Loss and LAE Ratio Net Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Should equal (Columns 15 + 24 + 30)/(Columns 7 – 5).</td>
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<table>
<thead>
<tr>
<th>Column 33</th>
<th>Net Loss &amp; LAE Coverage</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Should equal (Columns 15 + 24 + 30)/Column 1.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Column 34</th>
<th>Net Reserves</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Should equal Columns 25 – 33.</td>
</tr>
</tbody>
</table>
SCHEDULE MG – PARTS, 1A and 1B

Reporting entities should complete Schedule MG in thousands only but must report all claim counts in whole numbers.

NOTE: For “prior,” report amounts paid or received in current year only. Report cumulative amounts paid or received for specific years. Report loss payments net of salvage and subrogation received.

The number of claims reported is to be cumulative by accident year. The number of claims reported in each accident year is equal to the number of open claims at the end of the current year plus cumulative claims closed with or without payment for current and prior calendar years.

Column 7 – Premiums Earned and Other Income Net
Should equal Columns 3 + 4 + 5 – 6.

Column 16 – Total Net Loss and Expense Paid
Should equal Columns 8 + 9 – 10 + 11 + 12 – 13 + 15.

Column 25 – Total Net Loss and LAE Unpaid

Column 27 – Losses and Defense & Cost Containment Expenses Incurred Direct
Should equal Columns 8 + 11 + 18 + 21.

Column 28 – Losses and Defense & Cost Containment Expenses Incurred Assumed
Should equal Columns 9 + 12 + 19 + 22.

Column 29 – Losses and Defense & Cost Containment Expenses Incurred Ceded
Should equal Columns 10 + 13 + 20 + 23.

Column 30 – Losses and Defense & Cost Containment Expenses Incurred Net
Should equal Columns 27 + 28 – 29.

Column 31 – Loss and LAE Ratio Direct Basis
Should equal (Columns 15 + 24 + 27)/Column 3.

Column 32 – Loss and LAE Ratio Net Basis
Should equal (Columns 15 + 24 + 30)/(Columns 7 – 5).

Column 33 – Net Loss & LAE Coverage
Should equal (Columns 15 + 24 + 30)/Column 1.

Column 34 – Net Reserves
Should equal Columns 25 – 33.
SCHEDULE MG- PART 1A – PRIMARY FLOW BUSINESS

Part 1A provides a summary of primary flow business premium, payments, claims, and reserves by policy year. Columnar headings provide instructions necessary for completion.

SCHEDULE MG- PART 1B – POOL AND BULK BUSINESS

Part 1B provides a summary of pool and bulk flow business premium, payments, claims, and reserves by policy year. Columnar headings provide instructions necessary for completion.

SCHEDULE MG- PART 2
POLICY YEAR DIRECT INCURRED LOSS AND DEFENSE & COST CONTAINMENT EXPENSE

Part 2 provides a historical summary of loss and defense & cost containment expenses development by policy year. Columnar headings provide instructions necessary for completion.

The definition of “prior years” should be the same as that used by the company in Part 1.

SCHEDULE MG- PART 2A
POLICY YEAR DIRECT PAID LOSS AND DEFENSE & COST CONTAINMENT EXPENSE

Part 2A shows cumulative direct loss and defense & cost containment expense payments by year the policy was written as of December 31 of each year shown in Columns 1 to 10.

SCHEDULE MG- PART 2B
POLICY YEAR DIRECT CURRENT RISK IN FORCE

Part 2B provides a policy year summary of direct risk in force.

SCHEDULE MG- PART 2C
POLICY YEAR DIRECT EARNED PREMIUM

For Schedule MG, Part 2C, the premiums to be reported are exposure or coverage year earned premiums, recalculated each subsequent year to reflect audits, retrospective adjustments based on loss experience, accounting lags, etc. Mechanically, the earned premium file would be restated and the earned premium calculation repeated each year. Premium adjustments for policy periods that cover more than one calendar year should be proportionately distributed between the calendar years covered by the policy period. The objective is to develop earned premiums by calendar year of coverage consistent with the loss and Defense & Cost Containment expense by policy year. Only accident years 1993 and subsequent must be reported.
SCHEDULE MG- PART 2D
POLICY YEAR DIRECT CALCULATED SRMICS

Part 2D provides a policy year summary of direct calculated State Regulatory Mortgage Insurance Capital Standard (SRMIC).

SCHEDULE MG- PART 2E
POLICY YEAR DIRECT DELINQUENCIES

Part 2E provides a policy year summary of direct delinquencies.
ANNUAL STATEMENT BLANK - PROPERTY

MORTGAGE GUARANTY INSURANCE EXHIBIT

FOR THE YEAR ENDED DECEMBER 31, 20XX

(To Be Filed by April 1)

Of: ...........................................................................

NAIC Group Code .......... NAIC Company Code ............... Employer’s ID Number ..................................
# SCHEDULE MG- PART 1 – SUMMARY
($000 OMITTED)

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<th>Years in Which Policies Written</th>
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<td>Adjusting &amp; Other Expense Payments</td>
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<td>Total Net Loss and LAE Unpaid</td>
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<td>Number of Claims Reported (Direct)</td>
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<td>Loss and LAE Ratio</td>
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| Totals | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ | ............................ |
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|        | Direct | Assumed | Ceded | Direct | Assumed | Ceded | Direct | Assumed | Ceded | Direct | Assumed | Ceded | Direct | Assumed | Ceded |

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### SCHEDULE MG- PART 1A – PRIMARY FLOW BUSINESS

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<th>Years in Which Policies Were Written</th>
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© 2021 National Association of Insurance Commissioners
## SCHEDULE MG- PART 1B – POOL AND BULK BUSINESS

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*State Regulatory Mortgage Insurance Capital Standard

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Delinquencies = 3 or more consecutive missed payments

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© 2021 National Association of Insurance Commissioners
The National Treatment and Coordination (E) Working Group of the Financial Condition (E) Committee met March 4, 2021. The following Working Group members participated: Debbie Doggett, Co-Chair (MO); Linda Johnson, Co-Chair (WY); Cindy Hathaway (CO); Joan Nakano and William Mitchell (CT); Alisa Pritchard (DE); Virginia Christy (FL); Stewart Guerin (LA); Kari Leonard (MT); Cameron Piatt (OH); Greg Lathrop (OR); Cressinda Bybee (PA); Robert Rudnai (TX); Jay Sueoka (UT); Susan Baker and Ron Pastuch (WA); and Amy Malm (WI).

1. **Adopted its Revised 2021 Charges**

The Working Group adopted its revised 2021 charges to absorb the charges from the Biographical Third-Party Review (E) Subgroup and disband the Subgroup. Ms. Doggett said the Biographical Third-Party Review (E) Subgroup was established in 2011 when the Working Group determined there was a need to establish uniformity in the background investigation reports prepared by a third-party. She added that since August 2017, the Subgroup has been chaired by Cameron Piatt (OH), and with the development of a biographical database in the near future, the current work of the Subgroup has been completed. She thanked Mr. Piatt for his diligent work on this Subgroup. She also thanked the Subgroup members: Amy Stuart (IL), Jay Sueoka (UT) and Ron Pastuch (WA), as well as Kathy Kelley (NV) and Joel Sander (OK), who have both since retired.

Ms. Malm made a motion, seconded by Mr. Lathrop, to adopt the revised 2021 charges (Attachment Five-A) and disband the Biographical Third-Party Review (E) Subgroup. The motion passed unanimously.

2. **Discussed a Change of Control Referral**

Ms. Doggett said that an ad hoc group from the Chief Financial Regulators submitted this referral to the Working Group. Ms. Bybee said that Pennsylvania was recently aware that the Form A database allows for the notice of closing to be recorded. She said she is curious if other states were using that status and if providing the details of the closing as part of their procedures and would solve the issue raised. Ms. Doggett said that using the closed date would remove the filing from the list of open files for each state but would not trigger any other action within the NAIC database for the company demographics to update the group code for the target entity or to the acquiring party that corporate amendment filings must be submitted to the foreign states. Ms. Bybee said that Pennsylvania has developed an internal process to make sure that its records are updated and that information is sent to the NAIC to update the group code. Companies are not consistent in regard to contacting the NAIC to have the group code, CoCode or company name updated after the transaction is closed. Jane Barr (NAIC) reminded the states that the Form A database does have a specific tab that pertains to updated information after the transaction has closed that allows the state to provide the updated group code, CoCode and company name. She did add that it does not send an automatic email notification to the NAIC but can consider this an enhancement if the states choose to use the post-acquisition page. There are procedures established in the *Company Licensing Best Practices Handbook* that detail the steps regarding post acquisitions.

Ms. Doggett said that the Working Group will continue discussion of this referral during future meetings to determine the best solution on where instructions or enhancements should be added to current processes.

3. **Exposed Proposal 2021-01**

Ms. Johnson said the purpose of the revised primary application is to separate initial start-up companies and companies that are redomesticating. Since its inception, the primary application and instructions were developed to include start-ups and redomestication applications filed with a domiciliary state in hard copy. The primary application and instructions have been revised and refined for start-up companies only. She said that two new forms have been created to capture management information (Form 4P) and holding company debt to equity information (Form 5P). With the implementation of the electronic application, state-specific requirements will be captured, as well as electronic signatures. The anticipated production date for the primary electronic application is 2022. She said that Form 2P will include surplus lines insurer designations for those states that have enacted the domestic surplus lines legislation.

Ms. Johnson said the Primary Ad Hoc group has recommended exposing the proposal for a 45-day public comment period ending April 19.
4. **Exposed Proposal 2021-02**

Ms. Johnson said the redomestication application (Proposal 2021-02) is intended for companies that are redomicating from one state to another. The original primary application was revised to remove all requirements for start-up companies, and the electronic format will capture state-specific requirements. The redomestication forms will be labeled as 1R, 2R and so on. The production release is anticipated in late 2022.

Ms. Johnson said that the Primary Ad Hoc group also recommended exposing the proposal for a 45-day public comment period ending April 19. She added that once the comments are received and the proposals are adopted, an effective date will be determined on when the forms will be posted to the Uniform Certificate of Authority Application (UCAA) website for use.

5. **Received a Status Update on the Electronic Application Ad Hoc Group**

Ms. Barr said that the ad hoc group began meeting in August 2020 to gather business rules for the primary (start-up) application and then the redomestication application. She said the ad hoc group is currently discussing business rules for domestic corporate amendment applications. From there, it will begin working on an electronic Form A application and create forms based on the Insurance Holding Company System Regulatory Act (#440). The intent of the electronic Form A application will be to prepopulate pertinent information into the Form A database. She added that future enhancements will include Form B, C, D and E of Model #440 and asked if anyone was interested in joining the ad hoc group to contact her directly. The ad hoc group meets every two weeks to review mock-up forms and discuss state requirements. Ms. Barr said that once all the electronic applications have been developed and current applications enhanced, the ad hoc group will begin developing the biographical affidavit database. She added that a specific timeline has not been laid out because the developers are finishing a current project, which has caused some delays.

Ms. Johnson asked if the Form A database ad hoc group could look into some items from the change of control referral to enhance the processes. Ms. Barr concurred and asked if the Working Group, through its discussion, could provide some objectives for the ad hoc group to consider incorporating into the electronic format or how it could trigger some automated notifications for state insurance regulators, the NAIC and the applicant company.

6. **Received an Update on the Domestic Surplus Lines Ad Hoc Group**

Crystal Brown (NAIC) said that the ad hoc group was formed last year based on a referral the Working Group received from the Chief Regulator Forum regarding domestic surplus lines carriers and whether they have enacted the new legislation. A survey was sent to the states to determine which states had enacted the legislation and found that 19 states of the 41 states that responded adopted the domestic surplus lines legislation. Ms. Brown said the ad hoc group will review the state statutes and regulations from the 19 states to identify similarities that can be incorporated into guidance or used to clarify the annual statement instructions or code list for the reporting of these types of carriers on Schedule T.

7. **Discussed Other Matters**

a. **Forms 2 and 14**

Ms. Barr said that a couple of states have reached out to the NAIC staff regarding an enhancement to the current Form 2 and Form 12 to capture the applicant company’s web address. When there is a change of control, there may be a gap when the company is providing its financial reports to the NAIC, so the NAIC database may not have the most current company information.

Another request to Form 2 was to include: 1) the first and last name of the contacts currently listed on Form 2; 2) premium tax, producer licensing, and rate and form filing contacts; and 3) the company compliance contact. Ms. Barr said that these suggestions were not included in the items to be exposed to avoid confusion with the current proposals being exposed that include Form 2P and Form 2R, but they could be included for consideration during the Working Group’s next meeting. Ms. Doggett said that the changes are not significant and agreed that the Working Group could consider them during its next meeting. Ms. Barr said that there could be a delay when these changes could be implemented into the electronic applications.

b. **Company Licensing Collaboration Page**
The **National Treatment and Coordination (E) Working Group** will:

A. Increase utilization and implementation of the *Company Licensing Best Practices Handbook*.

B. Encourage synergies between corporate changes/amendments and rate and form filing review and approval to improve efficiency.

C. Continue to monitor the usage and make enhancements to the Form A Database.

D. Maintain educational courses in the existing NAIC Insurance Regulator Professional Designation Program for company licensing regulators.

E. Make necessary enhancements to promote electronic submission of all company licensing applications.

F. Monitor the ongoing adherence of background investigation reports and third-party vendors and increase uniformity of state requirements regarding concerns or changes to key individuals’ fitness and propriety.

H. **The Biographical Third-Party Review (E) Subgroup** of the National Treatment and Coordination (E) Working Group will:

   a. Increase the uniformity of the third-party vendors that prepare background investigative reports to those state insurance departments that require them. Reduce the inefficiency of applications by developing procedures and approval processes.

   b. Monitor the ongoing adherence of background investigation reports and third-party vendors.

   c. Encourage uniformity of requirements in relation to individuals’ fitness and propriety and the company's responsibility in notifying state insurance departments of concerns or changes to key individuals.
PROJECT HISTORY

GUIDELINE FOR DEFINITION OF RECIPROCAL STATE IN RECEIVERSHIP LAWS

1. Description of the Project, Issues Addressed, etc.

The Receivership and Insolvency (E) Task Force has an active and ongoing charge, which was adopted in each year of this project by the Executive (EX) Committee and Plenary that reads as follows:

Perform additional work as directed by the Financial Condition (E) Committee and/or received through referral by other groups.

In 2020, the Task Force finalized its study, which began in 2019, and recommendations to address the referral from the Financial Stability (EX) Task Force to address an evaluation of receivership and guaranty fund laws and practices in the context of the Macroprudential Initiative (MPI). The Task Force surveyed state insurance regulators and interested parties on each of the key provisions of receivership and guaranty fund laws that states should consider adopting into their laws, particularly with respect to receivership of insurers operating in multiple states. While a receivership of a multi-jurisdictional insurer would not likely have a material impact on financial stability or the broader financial markets, this project highlighted areas of our receivership process that may need attention, including laws related to full faith and credit of stays and injunctions.

The Task Force discussed the effect of whether a stay or injunction entered into a receivership court is honored in another state. This has been the subject of a lot of litigation, and receivers have expressed concern about this issue. The receivership laws of most states address the coordination of receiverships involving multiple states. However, in many states’ laws, these provisions may apply only if the domiciliary state is a “reciprocal state.” Frequently, the definition of a reciprocal state is based on NAIC model laws adopted more than 20 years ago.

The Task Force drafted this Guideline as an alternative to address how states define “reciprocal state.” This Guideline provides an optional statutory definition that may be used by states with a reciprocity requirement to effectuate the purposes of provisions regarding the coordination of receiverships involving multiple states.

2. Name of Group Responsible for Drafting the Model and States Participating.

The Receivership and Insolvency (E) Task Force was responsible for drafting the Guideline. The 2020 and 2021 members of the Task Force were:

2020: Texas (Chair); District of Columbia (Vice Chair); Alaska; American Samoa; Arkansas; California; Colorado; Connecticut; Florida; Illinois; Iowa; Kansas; Kentucky; Maine; Massachusetts; Michigan; Missouri; Montana; Nebraska; New Jersey; North Carolina; Oklahoma; Pennsylvania; Rhode Island; South Carolina; Tennessee; and Utah.

2021: Texas (Chair); Louisiana (Vice Chair); American Samoa; Arizona; Colorado; Connecticut; Florida; Hawaii; Illinois; Iowa; Kansas; Kentucky; Maine; Massachusetts; Michigan; Missouri; Montana; Nebraska; New Jersey; New Mexico; North Carolina; Northern Mariana Islands; Oklahoma; Pennsylvania; Rhode Island; South Carolina; and Utah.

3. Project Authorized by What Charge and Date First Given to the Group.

As described in paragraph 1, on its Oct. 7, 2020, meeting, the Task Force agreed to draft a guideline to address this issue, which was identified through the results of the MPI study and the subsequent survey regarding key provisions of receivership and guaranty fund laws that states should consider adopting into their laws.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc.). Include any parties outside the members that participated.

The Guideline was drafted by Task Force members: Florida; Maine; Texas; and Patrick Cantilo (Cantilo and Bennett LLP), an interested party. This drafting group met Oct. 19, 2020, and considered language contained in both the Florida and Maine laws.
Rather than identifying a list of specific key provisions in law that would be required for a state to be defined as “reciprocal,” the drafting group agreed to use the same criteria used by the NAIC Financial Regulation Standards and Accreditation Program. Under this definition, any state meeting the applicable NAIC Part A accreditation standards for receivership laws, which requires a state to have a “receivership scheme,” will be treated as a reciprocal state. The definition recognizes the diversity of existing state receivership laws, and it should avoid unnecessary litigation regarding the recognition of a state as a reciprocal state.

5. **A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited).**

On Nov. 19, 2020, the Task Force met to release the draft Guideline for a 42-day public comment period ending Dec. 31, 2020. The exposure was distributed by email to members, interested state insurance regulators, and interested parties of the Task Force and posted to the NAIC website.

The Task Force did not receive any comments.

The Task Force adopted the Guideline on March 12, 2021.

6. **A Discussion of the Significant Issues (items of some controversy raised during the due process and the group’s response).**

There were no issues of significance raised during the exposure periods or during meetings.

7. **List the key provisions of the model (sections considered most essential to state adoption).**

The Guideline provides the following definition as well as an explanatory drafting note:

“Reciprocal state” means a state that has enacted a law that sets forth a scheme for the administration of an insurer in receivership by the state’s insurance commissioner [or substitute the equivalent title used by the state, such as superintendent or director] or comparable insurance regulatory official.

8. **Any Other Important Information (e.g., amending an accreditation standard).**

The Guideline will not be considered for any accreditation standard.
GUIDELINE FOR DEFINITION OF RECIPROCAL STATE IN RECEIVERSHIP LAWS

Drafting Note: The receivership laws of most states address the coordination of receiverships involving multiple states. Typically, these laws provide that a domiciliary receiver appointed in another state has certain rights and protections, such as the following:

- The domiciliary receiver is vested with the title to the insurer’s assets in the state.
- Attachments, garnishments or levies against the insurer or its assets are prohibited.
- Actions against the insurer and its insureds are stayed for a specified period of time.

In many states’ laws, these provisions apply only if the domiciliary state is a “reciprocal state.” Frequently, the definition of a reciprocal state is based on NAIC model laws adopted more than 20 years ago. These definitions may be inconsistent with laws in other states, and they may be more prescriptive than the Part A standards of the NAIC Financial Regulation Standards and Accreditation Program for state receivership laws. As a result, the assets of a receivership estate might not be protected outside of the domiciliary state, and the receiver may be forced to defend litigation in multiple forums.

The provisions described above are intended to promote judicial economy, which benefits all participants in the receivership process. This guideline provides a statutory definition that may be used by states with a reciprocity requirement to effectuate the purposes of these provisions. Under this definition, any state meeting the applicable NAIC Part A Accreditation standards for receivership laws will be treated as a reciprocal state. The definition recognizes the diversity of existing state receivership laws and should avoid unnecessary litigation regarding the recognition of a state as a reciprocal state.

Definition of Reciprocal State for Receivership

“Reciprocal state” means a state that has enacted a law that sets forth a scheme for the administration of an insurer in receivership by the state’s insurance commissioner [or substitute the equivalent title used by the state, such as superintendent or director] or comparable insurance regulatory official.

Chronological Summary of Action (all references are to the Proceedings of the NAIC)
[insert reference if adopted]
2021 Proposed Amended Charges

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE

The mission of the Receivership and Insolvency (E) Task Force shall be administrative and substantive as it relates to issues concerning insurer insolvencies and insolvency guarantees. Such duties include, without limitation, monitoring the effectiveness and performance of state administration of receiverships and the state guaranty fund system; coordinating cooperation and communication among regulators, receivers and guaranty funds; monitoring ongoing receiverships and reporting on such receiverships to NAIC members; developing and providing educational and training programs in the area of insurer insolvencies and insolvency guarantees to regulators, professionals and consumers; developing and monitoring relevant model laws, guidelines and products; and providing resources for regulators and professionals to promote efficient operations of receiverships and guaranty funds.

Ongoing Support of NAIC Programs, Products or Services

1. The Receivership and Insolvency (E) Task Force will:
   A. Monitor and promote efficient operations of insurance receiverships and guaranty associations.
   B. Monitor and promote state adoption of insurance receivership and guaranty association model acts and regulations and monitor other legislation related to insurance receiverships and guaranty associations.
   C. Provide input and comments to the International Association of Insurance Supervisors (IAIS), the Financial Stability Board (FSB), or other related groups on issues regarding international resolution authority.
   D. Monitor, review, and provide input on federal rulemaking and studies related to insurance receiverships.
   F. Monitor the work of other NAIC committees, task forces and working groups to identify and address any issues that affect receivership law and/or regulatory guidance.
   G. Perform additional work as directed by the Financial Condition (E) Committee and/or received through referral by other groups.

2. The Receivership Financial Analysis (E) Working Group will:
   A. Monitor receiverships involving nationally significant insurers/groups to support, encourage, promote and coordinate multistate efforts in addressing problems.
   B. Interact with the Financial Analysis (E) Working Group, domiciliary regulators, and lead states to assist and advise as to what might be the most appropriate regulatory strategies, methods and/or action(s) regarding potential or pending receiverships.

3. The Receivership Law (E) Working Group will:
   A. Review and provide recommendations on any issues identified that may affect states’ receivership and guaranty association laws (e.g., any issues that arise as a result of market conditions; insurer insolvencies; federal rulemaking and studies; international resolution initiatives; or as a result of the work performed by or referred from other NAIC committees, task forces and/or working groups).
   B. Discuss significant cases that may impact the administration of receiverships.
   C. Complete work as assigned from the Receivership and Insolvency (E) Task Force to address recommendations from the Financial Stability (EX) Task Force’s Macroprudential Initiative (MPI) referral:
      1. Complete work related to qualified financial contracts (QFCs), including: 1) explore if bridge institutions could be implemented under regulatory oversight pre-receivership to address an early termination of QFCs and, if appropriate, develop applicable guidance; 2) develop enhancements to the Receiver's Handbook guidance on QFCs; and 3) identify related pre-receivership considerations related to QFCs and, if necessary, make referrals to other relevant groups to enhance pre-receivership planning, examination and analysis guidance.
      2. Review and provide recommendations for remedies to ensure the continuity of essential services and functions to an insurer in receivership by affiliated entities, including non-regulated entities. Among other solutions, this will
encompass a review of the Insurance Holding Company System Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450) to provide proposed revisions to address the continuation of essential services through affiliated intercompany agreements in a receivership.

3. Consult with and/or make referrals to other NAIC working groups, as deemed necessary, as the topic relates to affiliated intercompany agreements and pre-receivership considerations. Complete by the 2021 Fall National Meeting.

4. The Receiver’s Handbook (E) Subgroup will:
   A. Review the Receiver's Handbook to identify areas where information is outdated, updates are required, or additional guidance is needed. Based on this review, draft and propose recommended edits to the Receiver’s Handbook.
   B. Complete by the 2022 Fall National Meeting.

NAIC Support Staff: Jane Koenigsman/Sherry Flippo
MEMORANDUM

To: Financial Condition (E) Committee

From: Jamie Walker, Accounting Practices and Procedures (E) Task Force

Date: March 31, 2021

Re: Agenda item 2019-24: Levelized and Persistency Commission

This memorandum is to provide an overview of the key points of the levelized commission agenda item 2019-24, which affects SSAP No. 71—Policy Acquisition Costs and Commissions. The Statutory Accounting Principles (E) Working Group began discussion in August 2019 and on March 15, 2021, adopted revisions (see illustrated revisions page 5) which are effective Dec. 31, 2021. The Working Group vote was 13 states in favor and one state opposed. On March 23, 2021, the Accounting Practices and Procedures (E) Task Force adopted the revisions as adopted by the Working Group with a vote of 41 members in favor and two opposed (LA and OK).

- **Acquisition Costs**: Acquisition costs are expenses incurred in the acquisition of new and renewal insurance contracts. These are costs that vary with and are primarily related to the acquisition of insurance contracts (e.g., agent and broker commissions, certain underwriting and policy issue costs, and medical and inspection fees). It is a foundational concept for statutory accounting principles (SAP) that acquisition costs including commissions are expensed as incurred. This is because incurred costs are not available to pay policyholder claims. Both U.S. generally accepted accounting principles (GAAP) and SAP would calculate acquisition costs in a similar manner. GAAP treatment capitalizes acquisition costs and expenses them over time to match revenue and expenses. This is one of the major financial reporting differences between SAP and GAAP. These differences are intentional because SAP is measuring the ability to pay policyholder claims using the foundational principles of conservatism, consistency and recognition. GAAP, on the other hand, is focused on matching revenue to expenses.

- **Funding Agreement**: A funding agreement is using a third-party to pay commission costs on the insurer’s behalf, with the insurer repaying the third-party over time plus interest. To ensure consistent and conservative treatment, and appropriate recognition, SSAP No. 71 requires that the full amount of the funding agreement liability be recognized upfront by the insurer plus interest and fees owed to date. This is because the substance of the agreement is a LOAN. That is, the third-party is paying an insurer’s acquisition commission obligation and accepting repayment over time (e.g., over 3-8 years).
• **Persistency Commission Versus Loan with a Contingency Element:** A normal persistency commission is one in which additional commission is earned over time, when a policy is renewed or remains in force. A distinct difference is that persistency commission occurs subsequent to an initial sales commission. The triggering event is the continuation (or renewal) of a policy. An additional amount is owed if the policy persists overtime. A persistency commission is typically a much smaller payment than initial sales commission. For example, a small percentage if the policy is in force in years 2-10.

Note: Although traditional persistency commission is not required to be recognized before the triggering event (e.g., renewal), earlier comments from industry noted that they could be inadvertently scoped in with the initially exposed revisions. The adopted edits addressed this concern and are clear that the recognition of commission is based on the triggering event, which is the policy action, such as initial issuance or renewal.

The practice under dispute represents initial sales commission that is not being recognized by a limited number of insurers. With these designs, the insurer has an agreement to reimburse a third-party in the future (who has paid the commission cost to the agent on the insurer’s behalf) plus interest and fees. The third-party agreement notes that the insurer does not have to pay the future installments if the policy lapses. *(The impacted insurers have noted that this practice inserts a “persistency” element into the initial sales commission already incurred. This is actually a LOAN with a contingency element.)*

Note: Insurers are required to recognize the full initial commission cost when a policy is issued. If a policy is cancelled, at that time, an insurer can derecognize the liability to repay the third party.

**Disputed practice:** Those few insurers that are not recognizing the full liability under the funding agreement (to repay the parties who are paying acquisition costs on their behalf) are not following the long-standing guidance in SSAP No. 71. These limited companies are only recognizing a fraction of the acquisition commission expense, which results in misleading financial statements, and presents a better financial position than actually exists (as the company has unrecorded liabilities for commissions already paid on their behalf). SSAP No. 71 requires recognition of the full liability amount of such an agreement, even if repayment is not guaranteed. The small number of insurers have asserted that their reporting is a decades-long practice. However the SSAP No. 71 guidance that requires full accrual of the liability was adopted in 1998 and is based on even earlier statutory accounting guidance which notes that, “The accounting treatment for certain transactions, characterized as levelized commissions, which results in enhancement of surplus, has been determined to be inappropriate for statutory reporting.” The Working Group discussions identified that not recognizing the full liability appears to have been practiced by only a small minority of companies, which supports that the majority of industry is reporting correctly.

• **Lapse** - Lapse risk is a risk identified in Model 791 Life and Health Reinsurance, as a significant insurance risk therefore it cannot be transferred to a non-insurance entity. However, some employing the disputed practice have tried to assert that it has been transferred to the funding agent.

• **Overview of Edits:** Revisions clarify that an insurance entity cannot use third-party structures to recharacterize and delay recognition of liabilities for initial sales commission owed, regardless of how a third-party arrangement is structured with regards to the timing of the payment from the insurers. This guidance clarifies that it is the writing of the insurance contract that obligates the insurer and recognition of expense shall occur consistently among insurers. SSAP No. 71 does not require advanced recognition for expected renewals or normal persistency metrics. When an insurance policy is issued, renewed or when metrics are met that require additional commission, then SSAP No. 71 consistently requires expense recognition for all insurers.

• **Substantive / Nonsubstantive** - The determination of a change as substantive or nonsubstantive is based on whether the edits reflect original intent (nonsubstantive) or incorporates new accounting concepts (substantive). Throughout the discussion process, it has been reiterated that the edits simply clarify the original intent of SSAP No. 71. As such, the change was classified as nonsubstantive. The impact to companies or the number of companies that have incorrectly applied accounting guidance is not a factor in determining whether a clarifying edit is substantive or nonsubstantive. However, the incorrect application only seems to involve a limited number of linked-companies, with other entities following the original intent of SSAP No. 71, which supports that the changes are nonsubstantive and
consistent with original intent. The March 15 Working Group discussion affirmed the nonsubstantive classification of the revisions was consistent with the policy statement.

- **Correction of Error / Change in Accounting Principle**: An earlier comment from an impacted company identified that there is a process concern as the edits to SSAP No. 71 are classified as a change in accounting principle and not a correction of error. (Under SSAP No. 3—Accounting Changes and Correction of Errors, a mistake in the application of accounting principles is a correction of an error.) The edits proposed in July 2020 were to classify changes required from misapplication of SSAP No. 71 as a correction of error. However, in response to comments, the Working Group agreed to designate the impact as a change in accounting principle. This provision was provided to assist companies in reflecting the change. Both processes require the impact to be recognized to unassigned funds (surplus). If reported as a correction of an error, then an entity may be subject to filing amended financial statements for periods in which the error was reflected. As a change in accounting principle, then the entity calculates the change as a cumulative effect to the Jan. 1 balance in the current year financials.

- **Use of Funding Agreements**: SSAP No. 71 does not prohibit the use of funding agreements or the use of third parties to pay commission expense to selling agents. SSAP No. 71 simply requires consistent recognition of commission expense based on policy issuance or renewal. The involvement of third parties and funding agreements to front commission owed to selling agents is not a free service. These third-parties require fees and interest from these financing arrangements; which presumably exceeds the costs of commission only. The long-standing guidance in SSAP No. 71 requires recognition of the full amount of unpaid principal and interest accrued to date in these arrangements. One comment raised during the discussion was that the clarified guidance would hurt policyholders. This comment was never fully substantiated, but it was noted that failing to report expenses in line with SSAP No. 71 would result with inappropriate financial positions – which could hurt policyholders. Additionally, it was noted that if the process to defer expense recognition was sanctioned, then all insurers would have to engage in these arrangements to prevent competitive disadvantages with reporting.

- **Payments to the Direct Agent**: Some of the comments received from the impacted companies (or their representatives) have tried to indicate that the timing (and how) the initial sales commission is paid to the direct selling agent by the third-party should not impact the recognition of commission expense by the insurer. These comments were made because it has been highlighted that in the known situations, the third-party agents have already paid the direct selling agent the owed commission. Although the third-party payment to the direct selling agent substantiates that a commission was owed from policy issuance, the payment to the direct agent is not the triggering event. (Meaning, even if a third-party was to revise their agreements with direct agents to delay payment, this will not change that the insurer owes commission expense from policy issuance. The initial sales commission is triggered by policy issuance.)

- **Consistent Application Across Companies**: SSAP No. 71 is a “common area” SSAP and applies to all entities regardless of their line of business or product offerings. Some comments made to regulators have implied that certain large companies are permitted processes that are not in line with SSAP No. 71. It is speculated that these comments are trying to compare commission expenses from renewals (which are not required until policy renewal occurs) to the process engaged by these companies in which they have not recognized commission expense from the initial issuance of policies. This goes back to these impacted companies mischaracterizing these financing arrangements as “persistency” commission. These timing arrangements do not alter the requirement to recognize commission expense with the issuance of a policy. Because many of these funding agreements were mischaracterized, it was noted that the disputed practice is difficult to identify on financial examinations and audits. One Working Group member shared that they had dealt with an issue like this previously when $16 million of off-balance sheet commission liabilities was identified after a third party funding agent applied to the liquidator for reimbursement.

- **Impacted Companies**: Throughout the discussion, key industry representatives continued to highlight that the impacted companies were less “than 10” and likely “5 or less.” The impacted companies were requested to reach out to domiciliary states to provide information. However the impact for these few companies is expected to be material. A consumer representative also voiced concerns about the illusory surplus and unlevel playing field such arrangements create. Because of the unfair competitive advantages that are perceived, the Working Group was not in favor of grandfathering the practices. However the Working Group did discuss that companies could have discussions with their
domiciliary states regarding obtaining a permitted practice for phasing in the financial impact. A permitted practice approach was favored because the impact to the affected companies may vary.

- **Effective Date:** Although nonsubstantive revisions are generally effective upon adoption, the Working Group ultimately determined to have a Dec. 31, 2021 effective date. Two of the industry commenters (Guggenheim and interested parties (Delaware Life)) stated support for an effective date no sooner than Dec. 31,2021 at the March meeting. Annual 2020 effective dates were previously deferred. While some members of the Working Group supported an effective date earlier in 2021, it was discussed that a year end 2021 effective date would allow insurers, to assess the impact and review contracts, and additionally allow the issue to be fully through the NAIC committee process. During the March meeting, the National Council of Insurance Legislators (NCOIL) comments were supportive of a later effective date or an extended phase-in period. The Working Group determined that a year-end 2021 effective date was preferred because of the competitive issues and because the revisions were viewed as a clarification of long-standing guidance. The Working Group also reiterated its prior comments that the limited number of companies seeking phase in application could seek a permitted practice and that the permitted practices disclosures would provide regulatory transparency.
Adopted Revisions to SSAP No. 71 (new text from the prior exposure is shown as shaded):

2. Acquisition costs are those costs that are incurred in the acquisition of new and renewal insurance contracts and include those costs that vary with and are primarily related to the acquisition of insurance contracts (e.g., agent and broker commissions, certain underwriting and policy issue costs, and medical and inspection fees). Acquisition costs and commissions shall be expensed as incurred. Determination of when acquisition costs and commissions have been incurred shall be made in accordance with SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets.

3. Contingent commission liabilities shall be determined in accordance with the terms of each individual commission agreement. Commission liabilities determined on the basis of a formula that relates to loss experience shall be established for the earned portion. Assumptions used to calculate the contingent commission liability shall be consistent with the terms of the policy contract and with the assumptions made in recording other assets and liabilities necessary to reflect underwriting results of the reporting entity such as retrospective premium adjustments and loss reserves, including incurred but not reported.

4. Levelized commissions occur in situations where agents receive normal (non-level) commissions with payments made by a third party. It is intended, but not necessarily guaranteed, that the amounts paid to the agents by the third party would ultimately be repaid (with interest explicit or implied) to the third party by levelized payments (which are less than the normal first year commissions but exceed the normal renewal commissions) from the reporting entity. (Note: levelized repayments made by the reporting entity extend the repayment period but might not be a straight-line repayment.) These transactions are, in fact, funding agreements between a reporting entity and a third party, regardless of how the payment to the third party is characterized. The continuance of the stream of payments specified in the levelized commission contract is a mechanism which attempts to bypass recognition of those expenses which are ordinarily charged to expense in the first year of the contract. Consequently, the normal link between the persistency of the policy, the continuance of the premium payment or the maintenance of the agent's license with the reporting entity is not maintained with respect to the payment stream.

5. The use of an arrangement such as a levelized commission arrangement where commission payments are not linked to traditional elements such as premium payments and policy persistency, but rather are linked to the repayment of an advance amount paid by a third party to the direct selling agents requires the establishment of a liability by the reporting entity for the full amount of the unpaid principal and accrued interest which is payable to a third party related to levelized commissions. Arrangements that use a third party to pay agents who write policies for the reporting entity and the insured can be an attempt to de-link the relationship between the insurer and those agents and defer or levelize the acquisition commissions. The insurance reporting entity is required to recognize the full amount of earned commission costs to the direct policy writing agents even if those costs are paid indirectly to the agents by a third party through the use of levelized commission, or similar arrangement, which is in substance a funding arrangement. Having a third party pay commission costs to the selling agent is strong evidence of a potential funding arrangement which shall be recognized as a liability because the substance of the arrangement indicates that repayment is reasonable and probable, even if a contingency has been incorporated into the funding arrangement, until the underlying policy has been cancelled. A third-party structure cannot recharacterize (e.g. by referencing policy persistency) and delay recognition of liabilities for initial sales commission owed from the writing of policies regardless of how a third-party arrangement is structured with regards to the timing of payment from the insurer. The amount owed for full initial sales commission shall be recognized immediately as the writing
of an insurance contract is the event that obligates the insurer, and such action shall occur consistently among insurers. As such, this recognition is required regardless of if the insurer owes a selling agent directly or if a third-party has been contracted to provide payment to the selling agent.

**Effective Date and Transition**

7. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with *SSAP No. 3—Accounting Changes and Corrections of Errors*. The nonsubstantive revisions adopted March 15, 2021 regarding levelized commission are to clarify the original intent of this statement and apply to existing contracts in effect as of December 31, 2021 and new contracts thereafter.