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Statutory Accounting Principles (E) Working Group

Tampa, Florida

December 13, 2022

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met in Tampa, FL, Dec. 13, 2022. The following Working Group members participated: Dale Bruggeman, Chair (OH); Kevin Clark, Vice Chair (IA); Sheila Travis and Todrick Burks (AL); Kim Hudson and Ted Chang (CA); William Arfanis and Jack Broccoli (CT); Rylynn Brown (DE); Cindy Andersen (IL); Melissa Gibson (LA); Judy Weaver (MI); Pat Gosselin (NH); Bob Kasinow (NY); Melissa Greiner, Matt Milford, and Diana Sherman (PA); Jamie Walker (TX); Doug Stolte and Greg Chew (VA); and Amy Malm (WI). Also participating was: David Wolf (NJ).

1. Adopted its Nov. 16, Oct. 24, Oct. 6, and Summer National Meeting Minutes

The Working Group met Nov. 16 and Oct. 24. During its Nov. 16 meeting, the Working Group exposed revisions to agenda item 2019-21: Proposed Bond Definition. The exposure included updated drafts of *Statement of Statutory Accounting Principle (SSAP) No. 26R—Bonds* and *SSAP No. 43R—Loan-Backed and Securities*. The revised drafts also include proposed transition guidance, which includes identification of the Jan. 1, 2025, effective date. The exposure included a document that details “Other SSAP Revisions” that proposes revisions to various SSAPs, including *SSAP No. 2R—Cash, Cash Equivalents, Drafts and Short-Term Investments* to exclude asset-backed securities (ABS) from short-term/cash equivalent classification and *SSAP No. 21R—Other Admitted Assets* to establish guidance for debt securities that do not qualify as bonds. The comment deadline for these exposures is Feb. 10, 2023. The Working Group also exposed revisions to *Interpretation (INT) 22-02: Third Quarter 2022 through First Quarter 2023 Reporting of the Inflation Reduction Act – Corporate Alternative Minimum Tax*, to extend the INT through year-end 2022 and the first quarter of 2023 with an additional disclosure regarding applicable entities, for a public comment period ending Dec. 1, 2022. The Working Group noted that the amended INT 22-02 would be automatically nullified on June 15, 2023.

During its Oct. 24 meeting, the Working Group adopted INT 22-02 for third-quarter 2022 reporting with edits to paragraph 13b recommended by interested parties. The edits are more explicit on whether a reporting entity is expected to pay in 2023 and that the corporate alternative minimum tax (CAMT) is calculated based on multiple reporting entities if a reporting entity files a consolidated tax return.

Additionally, the Working Group conducted an e-vote that concluded Oct. 6 to expose INT 22-02 and *INT 22-03: Inflation Reduction Act – Corporate Alternative Minimum Tax*. These interpretations are in response to the federal Inflation Reduction Act, which is effective for tax years 2023 and after*.* The federal Inflation Reduction Act includes the concept of CAMT, and under the existing statutory accounting guidance, an entity must consider the impact of the tax change in the statutory valuation allowance and the admissibility of deferred tax assets in the period of enactment. The proposed INTs provide exceptions to statutory accounting based on whether reasonable estimates can be made.

The Working Group also met Dec. 8 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) and paragraph 6 (consultations with NAIC staff related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings to discuss its Fall National Meeting agenda.

Walker made a motion, seconded by Malm, to adopt the Working Group’s Nov. 16 (Attachment One-A), Oct. 24 (Attachment One-B), Oct. 6 (Attachment One-C), and Summer National Meeting (*see NAIC Proceedings – Summer 2022, Accounting Practices and Procedures (E) Task Force*) minutes. The motion passed unanimously.

1. Adopted Non-Contested Positions

The Working Group held a public hearing to review comments (Attachment One-D) on previously exposed items.

Malm made a motion, seconded by Arfanis, to adopt the revisions detailed below as non-contested statutory accounting revisions. The motion passed unanimously.

1. Agenda Item 2022-09

Bruggeman directed the Working Group to agenda item 2022-09: ASU 2022-01, Fair Value Hedging – Portfolio Layer Method (Attachment One-E). Julie Gann (NAIC) stated that this is the third agenda item addressing derivatives coming from *Accounting Standards Update* (*ASU) 2017-12, Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities* and stated that this agenda item also reviews *ASU 2022-01, Fair Value Hedging – Portfolio Layer Method*. She stated that this guidance adopts U.S. generally accepted accounting principles (GAAP) for the portfolio layer method and incorporates revisions for partial term hedges with the intent to converge with GAAP to the extent possible, so if something is an effective hedge under GAAP, it would be an effective hedge under statutory accounting. Gann stated that there is a deviation for partial term hedges because the statutory accounting guidance is limited to financial asset hedges only, which mirrors the provisions for the portfolio layer method. She stated that the revisions reflect new statutory accounting principles (SAP) concepts detailed in *SSAP No. 86—Derivatives* and are effective Jan. 1, 2023, with early application permitted. Gann stated that this concludes the review of ASU 2017-12 and that anything that comes after this would be addressed in a new agenda item. She stated that there is an issue paper proposed for exposure which will be discussed the meeting portion of the agenda that documents the revisions from the derivative review from ASU 2017-12 for historical purposes.

1. Agenda Item 2022-10

Bruggeman directed the Working Group to agenda item 2022-10: ASU 2022-02: Troubled Debt Restructurings and Vintage Disclosures (Attachment One-F). Gann stated that this agenda item reviews *ASU 2022-02: Troubled Debt Restructurings and Vintage Disclosures* and revises the relevant literature section of *SSAP No. 36*—*Troubled Debt Restructuring*. She stated that although previously GAAP guidance was adopted related to troubled debt restructuring, the new GAAP guidance is being rejected for this topic as it was revised in line with their current expected credit loss (CECL) standard. Since CECL has not been adopted for statutory accounting, the SAP clarification revisions retain the guidance in SSAP No. 36 and identify the rejection of U.S. GAAP.

1. Agenda Item 2022-13

Bruggeman directed the Working Group to agenda item 2022-13: Related Parties – Footnote Updates (Attachment One-G). Jake Stultz (NAIC) stated that this agenda item was exposed at the Summer National Meeting to incorporate SAP clarification language to exempt foreign open-ended investment funds, governed and authorized in accordance with regulations established by applicable foreign jurisdictions, from look-through provisions in *SSAP No. 25—Affiliated and Other Related Parties* unless the reporting entity has the ability to control the foreign fund.

1. Reviewed Comments on Exposed Items – Minimal Discussion
2. Agenda Item 2021-25

Bruggeman directed the Working Group to agenda item 2021-25: Leasehold Improvements after Lease Termination. Stultz stated that this agenda item was most recently exposed at the Summer National Meeting and that it contains edits to clarify that amortization of leasehold improvements will immediately end when the lease is terminated and will require that any remaining unamortized leasehold improvement balance be immediately expensed. This includes scenarios where the lease terminates naturally or when the lessee purchases the property. Stultz stated that the agenda item includes a specific exclusion in *SSAP No. 73—Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities* that allows leasehold improvements necessary for the functionality of specific health care delivery assets to be excluded, in some cases, from the purchase cost of the real estate.

Stultz stated that the final issue with this agenda item related to leasehold improvements where the lessee purchases real estate that they had been previously leasing. He stated that the guidance that is being proposed would clarify that in this situation, leasehold improvements should be expensed, just like any other lease termination. He noted that the industry position is that the value of the leasehold improvements is essentially being excluded from the purchase price of the real estate, when in practice it is unlikely that a professional real estate company would not work to get any value that they can out of the sale of the property, as they are obligated to their investors to do so. He noted that if the industry recommendation were followed, after the purchase, the real estate would be at its market value on the books, plus the remaining unamortized balance of leasehold improvements, thereby overstating fixed assets by the remaining balance of the leasehold improvements.

Stultz stated that interested parties provided a detailed comment letter that is included in the meeting materials. He stated that the comment letter included a minor revision suggesting an update to *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements*, paragraph 9. Stultz stated that NAIC staff recommend adoption of this agenda item, with the minor revisions to SSAP No. 19, paragraph 9.

Malm made a motion, seconded by Weaver, to adopt the exposed SAP clarification, which clarifies that amortization of leasehold improvements will immediately end when the lease is terminated and will require that any remaining unamortized leasehold improvement balance be immediately expensed in SSAP No. 19 and SSAP No. 73, with the additional revisions to SSAP No. 19, paragraph 9 suggested by interested parties (Attachment One-H). The motion passed unanimously.

1. INT 22-02

Bruggeman directed the Working Group to INT 22-02: *Third Quarter 2022 through First Quarter 2023 Reporting of the Inflation Reduction Act – Corporate Alternative Minimum Tax*. Robin Marcotte (NAIC) stated that the Working Group exposed revisions to this agenda item on Nov. 16, and that it was originally issued to only cover the third quarter of 2022, but it has been extended through the first-quarter 2023 financial statements. She stated that the guidance in INT 22-02 provides statutory exceptions to the impacts of the CAMT, as reasonable estimates cannot be made. She stated that the extension includes disclosures previously included in INT 22-02, with a new disclosure to identify whether the reporting entity or the controlled group of corporations for which the reporting entity is a member has determined that they expect to be required to perform calculations to determine if they will owe the CAMT. Marcotte stated that this expands a subsequent event exception to include events identified through Dec. 31, 2022. She stated that INT 22-02 has a nullification date of June 15, 2023. She stated that interested parties support adoption of INT 22-02, indicating that many entities will not have information they need until the second quarter of 2023. Marcotte stated that NAIC staff recommend adoption of the revisions as exposed to INT 22-02.

Rosemarie Albrizio (Equitable), representing interested parties, stated that interested parties support adoption of the amended interpretation to allow additional time for additional guidance to be provided by the U.S. Department of the Treasury (Treasury Department). She stated that adoption of this amended interpretation would also allow time to determine allocation from the consolidated tax to the reporting entities and to determine the impact on tax-sharing arrangements.

Weaver made a motion, seconded by Clark, to adopt the exposed revisions to INT 22-02 (Attachment One-I). The motion passed unanimously.

1. Reviewed Comments on Exposed Items
2. Agenda Item 2022-01

Bruggeman directed the Working Group to agenda item 2022-01: Conceptual Framework – Updates for Liabilities. Marcotte stated that the Financial Accounting Standards Board (FASB) updated *Concepts Statement No. 8, Conceptual Framework for Financial Reporting,* Chapter 4—Elements of Financial Statements, which updates the definitions of an asset and a liability. The FASB also updated *Concepts Statement No. 8, Conceptual Framework for Financial Reporting,* Chapter 7—Presentation*,* which identifies factors to consider when deciding how items should be displayed on the financial statements. She stated that at the Summer National Meeting, the Working Group adopted changes to the preamble, updates to the definition of an asset in *SSAP No. 4—Assets and Nonadmitted Assets* and *Issue Paper No. 166—Updates to the Definition of an Asset*. The Working Group also re-exposed revisions to the definition of a liability in a draft issue paper.

She stated that FASB treats the asset and liability definitions in the same manner as statutory accounting treats the Statement of Concepts when developing guidance. So, the updates do not change FASB authoritative literature. By contrast, statutory accounting has treated SSAP No. 4 and *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets,* which incorporated these FASB definitions, as authoritative statements. Marcotte stated that FASB noted that some existing authoritative FASB literature, particularly for liabilities, is inconsistent with the definition changes in the *Concepts Statement No. 8*. Marcotte stated that interested parties suggested that an additional footnote be added to both the definition of an asset and a liability due to the different treatment between GAAP and SAP on these definitions. She stated that NAIC staff recommend that the Working Group re-expose, with some footnote language proposed by NAIC staff, or just re-expose to allow additional work on a footnote to point to topic-specific guidance in other SSAPs when there is a conflict with SSAP No. 5R.

Bruggeman stated that there are items where the guidance is in the NAIC Annual Statement Instructions and not in the SSAPs. He stated that he understands industry’s concern with the possibility of having conflicting guidance.

Albrizio stated that the issue is that the annual statement instructions have accounting guidance, so the wording should be carefully considered. Additional time would be helpful to work with NAIC staff. Bruggeman stated that the recommendation is to continue the exposure to allow time to collaborate with interested parties to adjust the language. Hudson stated support for giving additional time to consider this issue.

Weaver made a motion, seconded by Clark, to re-expose in order to allow for additional time for all parties to discuss the issue. The motion passed unanimously.

1. Agenda Item 2022-11

Bruggeman directed the Working Group to agenda item 2022-11: Collateral for Loans. Marcotte stated that the Working Group exposed revisions to SSAP No. 21R at the Summer National Meeting to clarify that invested assets pledged as collateral for admitted collateral loans must qualify as admitted invested assets. She stated that this agenda item was drafted to address an inconsistency regarding the collateral loan guidance in *SSAP No. 20—Nonadmitted Assets* and SSAP 21R, as both identify the need for adequate collateral that qualifies as an invested asset. She stated that SSAP No. 20 was more explicit than the guidance in SSAP No. 21R. Marcotte stated that interested parties provided comments recommending the inclusion of a footnote indicating that *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* investments would not need to be audited if provided as support for a collateral loan to be admitted. If the loan defaulted and the reporting entity takes possession of the collateral, an audit would be required for the investment to be admitted pursuant to SSAP No. 48. She stated that NAIC staff recommend the Working Group discuss the exposed revisions to SSAP No. 21R, as well as the footnote provided by interested parties. She stated that some state insurance regulators have expressed that an audit is required. Other state insurance regulators have noted a heightened concern with loans secured by related parties. Marcotte stated that NAIC staff defer to the Working Group on the action to take at this meeting. The Working Group could adopt as exposed, consider re-exposure, or expose with a proposed footnote.

Bruggeman stated that there needs to be more discussion and expressed support for a re-exposure. Hudson stated support for more consideration on this agenda item and a re-exposure.

Andrew Morse (Global Atlantic Financial Group), representing interested parties, stated that various companies have landed on generally the same accounting treatment and that the comment letter was meant to ask the Working Group’s consideration about whether this treatment could become the official prescribed guidance going forward. He stated that, currently, SSAP No. 21R has two criteria for collateral. First, it must be an investment. Second, the fair value of the collateral must be sufficient to support the collateral loan. He stated that companies have built accounting controls and processes around ensuring that collateral is an investment and that fair value is sufficient. Morse stated that missing in that framework is that there is no concept of an audit for the collateral asset. He stated that per SSAP No. 48 and *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*, an audit is required if held directly, but an audit does not necessarily include a fair value confirmation of the pledged LLC investment, which is the foundation of the SSAP No. 21R guidance. Companies recognize that if they were eventually to take possession of the collateral directly, at that point they would need to obtain an audit. He stated that various companies have applied this same rationale and have been operating under this framework up until now. Morse stated that the Working Group’s exposure redefines the first collateral requirement to be not just an investment, but an admitted invested asset, which means an audit would need to be performed of the collateral asset. He stated that is not the current practice that companies have been performing and interested parties have concerns since an audit does not validate fair value. As such, this adds additional costs and processes to reporting entities when completing the evaluation process. He stated it may cause confusion because an audit would determine an audited GAAP book value, which will not be used to evaluate the sufficiency of the collateral. He stated that interested parties believe that cases of default are rare, and they are not aware of any cases where collateral assets of this type have been taken on directly, perhaps due to the creditworthiness of the loan borrowers. He stated that their expectation is that there is only a remote likelihood that collateral assets would be owned outright. He stated that if further verification is needed, a fair value assessment would be better suited for the task. Morse stated that companies want to avoid performing duplicative and costly audits on these assets.

Bruggeman inquired how interested parties would recognize fair value for assets supporting related party collateral loans and whether they would have an independent party assess fair value.

Morse stated that they currently follow *SSAP No. 100R—Fair Value,* where there are a number of different steps taken to determine fair value, but that these would likely be classified as level 2 or level 3 fair values. He stated that interested parties have had discussions and that instead of requiring an audit, it would be better to either have an audit or a third-party assessment of the fair value. He stated that this would save companies from having to perform two processes.

In response to Clark’s request for further clarification of the interested parties’ proposal, Morse stated that various companies looked to SSAP No. 21R first and adopted policies around the guidance. With that experience, they believe that it is a sound approach given their opinion that a GAAP audit is not useful for this topic.

Clark made a motion, seconded by Walker, to re-expose the proposed revisions to allow for further discussion. The motion passed unanimously.

1. Agenda Item 2022-12

Bruggeman directed the Working Group to agenda item 2022-12: Review of INT 03-02: Modifications to an Existing Intercompany Pooling Arrangement. Marcotte stated that at the Summer National Meeting, the Working Group exposed the intent to nullify INT 03-02 as it is inconsistent with SSAP No. 25guidance regarding economic and noneconomic transactions between related parties. She stated that the guidance in INT 03-02 can result in unrecognized gains or losses through the use of statutory book value when using assets, such as bonds, to make payments to affiliates for modifications to existing intercompany reinsurance pooling agreements. Marcotte stated that NAIC staff continue to recommend nullification of INT 03-02 and not have long-term differences between SSAPs and INTs. She stated that NAIC staff recommend the Working Group re-expose the intent to nullify INT 03-02 to allow for further discussion.

Marcotte stated that with the exposure, the Working Group should request comments on the effective date and identified key points for consideration during the exposure in response to some of the interested parties’ comments received. Key points identified included that: 1) in the current interest rate environment, the fair value of many bonds is below book value; 2) SSAP No. 25 requires such transfers of assets between affiliates to use fair value and that using book value for the measurement of payments between affiliates can result in either unrecognized, or in effect, dividends or losses; 3) at the ultimate parent level, such transfer of assets (in accordance with SSAP No. 25 guidance) may be noneconomic in that the parent continues to hold an interest in the same assets; 4) while an entity can still choose to pay with assets, the transfer should be valued consistently with SSAP No. 25 guidance; 5) many of the interested parties’ comments regarding GAAP’s use of book value are more relevant to consolidated basis accounting, which is not consistent with the legal entity basis of statutory accounting; 6) addressing comments regarding valuation and timing of settlement compared to the effective date of the contract; 7) identifying if there is a need for differences in treatment for intercompany pooling participants that are not 100% owned by the same ultimate controlling entity; and 8) comments on *SSAP No. 62R—Property and Casualty Reinsurance* paragraphs 36d and 37 provide different treatment, noting that the regulatory objective is not to avoid gain but to properly account for intercompany retroactive contracts that include gains.

Brendan Bridgeland (Center for Insurance Research—CIR) questioned whether INT 03-02 is going to be replaced by a different INT to address pooling changes. He stated that he is aware of where changes in pooling agreements have affected consumers of particular companies.

Bruggeman stated that there is no intention to replace the INT. He stated that SSAP No. 25 is applicable for this topic. Bruggeman stated that there are footnotes and disclosures in place that address this issue.

Weaver made a motion, seconded by Gosselin, to re-expose the intent to nullify INT 03-02 and that gathering additional comments on key areas identified would also be included in the exposure. The motion passed unanimously.

1. Considered Maintenance Agenda – Pending Listing – Exposures

Walker made a motion, seconded by Gosselin, to expose agenda items 2022-14, 2022-15, 2022-16, 2022-17, and 2022-18. The motion passed unanimously.

1. Agenda Item 2022-14

Bruggeman directed the Working Group to agenda item 2022-14: ASU 2022-14: New Market Tax Credits. Gann stated that although the agenda item focuses on new market tax credits, as detailed in the recommendation, it is proposed that the topic go beyond named investment structures. She stated that the materials include a discussion document that proposes to expand *SSAP No. 93—Low-Income Housing Tax Credit Property Investments* to encompass all tax entity investments that meet certain criteria. She stated that there are four broad types that provide tax credits under federal IRS law: 1) new market tax credits; 2) low-income housing tax credits; 3) the rehabilitation tax credit; and 4) the investment tax credit, which focuses on solar and energy. Gann stated that the discussion document follows the theme of SSAP No. 93 and would require the proportional amortization method. She stated it has some revisions to nonadmittance and assessing impairment because the benefit for insurance companies is the tax benefits and if those tax benefits are not going to be obtained or cannot be used, then that would warrant either impairment or nonadmittance depending on the situation. She stated that proposed U.S. GAAP guidance was used in developing the document, and adjustments will need to be considered once the final U.S. GAAP guidance is issued. Gann stated that a recently exposed GAAP project on this topic is also being monitored. She stated that NAIC staff are recommending exposure of both the agenda item and the discussion document. Gann stated that there will also need to be blanks and RBC changes as current guidance is specific to low-income housing tax credits, but those proposals would be developed subsequently. She also stated that a review of *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits* will be upcoming.

1. Agenda Item 2022-15

Bruggeman directed the Working Group to agenda item 2022-15: Affiliate Reporting Clarification. Stultz stated that this agenda item resulted from work on previous agenda item 2021-21: Related Party Reporting*.* He stated that during the discussions, there was a question of when an investment is considered an affiliated investment and, therefore, reported on the parent, subsidiary, and affiliates reporting lines in the investment schedules. Stultz stated that NAIC staff recommend the Working Group expose the agenda item, including revisions to SSAP No. 25*,* to clarify that any invested asset held by a reporting entity, which is issued by an affiliated entity, or which included obligations of an affiliated entity, is an affiliated investment. He stated that NAIC staff are also recommending the Working Group direct the Blanks (E) Working Group to modify the annual statement instructions as described in the attached materials.

1. Agenda Item 2022-16

Bruggeman directed the Working Group to agenda item 2022-16: ASU 2022-03, Fair Value Measurement of Restricted Securities. Stultz stated this agenda item was created to clarify GAAP when measuring the fair value of equity securities subject to contractual sale restrictions that prohibit the sale of the equity security. Stultz stated this agenda item provides updated guidance for two specific scenarios: 1) where the restriction is based on the entity holding the equity security; and 2) where the restriction is a characteristic of the equity security. Stultz stated that NAIC staff recommend the Working Group expose revisions to SSAP No. 100R to adopt ASU 2022-03, with modifications to be consistent with statutory language in the respective statutory accounting statements. He also noted that the GAAP disclosures were not proposed to be adopted.

1. Agenda Item 2022-17

Bruggeman directed the Working Group to agenda item 2022-17: Interest Income Disclosure Update. Stultz stated that this agenda item resulted from comments related to the principles-based bond project. This agenda item proposed capturing the gross, nonadmitted and admitted amounts for interest income due and accrued, and also that a data element included in the bond proposal project be updated to reflect the cumulative amount of paid-in-kind (PIK) interest included in the current principal balance. Stultz stated that NAIC staff recommend the Working Group expose revisions to *SSAP No. 34—Investment Income Due and Accrued* to add additional disclosures to data capture the proposed items.

1. Agenda Item 2022-18

Bruggeman directed the Working Group to agenda item 2022-18: ASU 2022-04, Disclosure of Supplier Finance Program Obligations. Marcotte stated that the amendments in this ASU apply to all entities that use supplier finance programs. The amendments require that a buyer in a supplier finance program disclose sufficient information about the program to allow a user of the financial statements to understand the program’s nature, activity during the period, changes from period to period, and potential magnitude. She stated that these disclosures were developed as buyers who use these programs are getting a form of financing, but the amounts owed to the financial intermediaries may have been reported differently. The issue requires annual disclosures of qualitative and quantitative information about supplier finance programs. She stated that NAIC staff recommend the Working Group expose revisions in *SSAP No. 105R—Working Capital Finance Investments* to reject ASU 2022-04. This is because the insurers would not be the buyers as described in the ASU for supplier finance programs.

1. Agenda Item 2022-19

Bruggeman directed the Working Group to agenda item 2022-19: SSAP No. 7 – IMR. Gann stated that this agenda item details the background of interest maintenance reserve (IMR), current accounting guidance, and the recent discussion of the Life Actuarial (A) Task Force. It also includes broad financial results from 2021 and interim 2022 financial statements. She stated that when IMR goes negative, companies report a zero on the liability page and then are required to report a nonadmitted asset as an aggregate write-in on the asset page. In order to identify the information on companies with a net negative IMR as of the third quarter of 2022, NAIC staff did a manual review of the financial statements to identify the disallowed IMR. She stated that 60 companies were found to have negative IMR totaling $1 billion. Gann stated that the American Council of Life Insurers (ACLI) comment letter received indicated that the rising interest rates are favorable to the financial health of the insurance industry and policyholders, and negative IMR that is disallowed could affect rating agency reviews. Gann stated that NAIC staff do not have a recommendation on the agenda item and intend the drafted agenda item to facilitate discussion.

Michael Reis (Northwestern Mutual), representing interested parties, stated that IMR is a safeguard for statutory accounting. He stated that when IMR was developed, it was theoretically intended to have no minimums or maximums for positive or negative IMR. He stated that when IMR was adopted, it was only adopted for the net positive realized capital gains (net of realized capital losses) and that if there were net negative capital losses, the amount was disallowed (nonadmitted). He attributed this due to a prolonged period of declining interest rates. Reis stated industry’s belief that addressing negative IMR is an urgent issue.

Bruggeman stated that the challenge within statutory accounting, under the concept of conservatism, is that recognizing the deferred capital loss as an asset is troubling because these amounts cannot be used to pay policyholder claims. He requested additional discussion, with industry-proposed viable guardrails to protect surplus and policyholders. As initial suggestions, he identified: requiring bond reinvestment; recording special surplus to limit dividends; restricting the amount of negative IMR to a percentage of surplus, bonds, invested assets, or total assets; implementing shorter time frames for when negative IMR would be amortized; and adding asset adequacy testing adjustments (potential haircutting when in net negative IMR).

Malm stated that the Working Group needs feedback from industry on specific situations, with actuaries in attendance, so all parties are in alignment going forward. Walker stated that a joint presentation with the Life Actuarial (A) Task Force could be helpful. Chang stated that it is important to look at the motivation of why a company is selling a bond. Weaver stated that the Working Group should discuss this issue with actuaries and should distribute to state insurance regulators a list of potential guardrails. Wolf stated that permitted practices for 2022 would have to be determined and finalized no later than the filing of the annual statement.

Malm made a motion, seconded by Walker, to expose agenda item 2022-19 with a request for comments by industry on potential guardrails and details on unique considerations. The Working Group directed NAIC staff to coordinate with the Life Actuarial (A) Task Force and request regulator-only sessions with industry to receive specific company information. The motion passed unanimously.

1. Considered Maintenance Agenda – Active Listing
2. Agenda Item 2017-33

Bruggeman directed the Working Group to agenda item 2017-33: ASU 2017-12 – Derivatives and Hedging. Gann stated that this agenda item is an issue paper, containing all of the adoptions for GAAP derivative guidance, of all the previously adopted agenda items for historical documentation.

Clark made a motion, seconded by Malm, to expose the draft issue paper. The motion passed unanimously.

1. Agenda Item 2019-12

Bruggeman directed the Working Group to agenda item 2019-12: Proposed Bond Definition. Gann stated that the issue paper has been updated to include discussions and revisions from its Nov. 16 meeting. She stated that there are three documents for reporting changes. Two of them were previously exposed and have been modified to reflect industry comments related to the general instructions for Schedule D, as well as the new annual statement instructions for Schedule D, Part 1, Section 1 and Schedule D, Part 1, Section 2. Gann stated that there is a new document, referred to as Other Reporting Changes, which summarizes all reporting schedules and instructions that refer to bonds with recommendations to reflect changes under the bond project. She stated that most are minor edits, although some schedules will have significant revisions, including the summary investment schedule, summary by country, and Schedule D, Part 1A. Gann stated that the recommended exposure period will have a Feb. 10, 2023, exposure deadline.

Clark made a motion, seconded by Stolte, to expose the documents and the agenda item. The motion passed unanimously.

1. Discussed Other Matters
2. Update on the Macroprudential Referral

Marcotte stated that the Working Group received a referral from the Macroprudential (E) Working Group at the Summer National Meeting. She stated that the status update memorandum detailed that several items had already been addressed and some are still in progress (Attachment One-J). She noted that the Working Group will continue to respond to issues and that a status update has also been forwarded to the Macroprudential (E) Working Group.

1. Review of U.S. GAAP Exposures

Stultz identified four items with disclosure deadlines from December 2022 to February 2023 that will be reviewed by NAIC staff in the normal process (Attachment One-K).

Mike Monahan (ACLI) stated that the FASB indicated a final ASU, addressing insurance companies that sold business, will be available in Dec. 2022.

Having no further business, the Statutory Accounting Principles (E) Working Group adjourned.

https://naiconline.sharepoint.com/teams/frsstatutoryaccounting/national meetings/a. national meeting materials/2023/3-22-23 - spring/hearing/01 - sapwg minutes 12.13.22.docx