Meeting Agenda

Statutory Accounting Principles (E) Working Group
Meeting Agenda
August 13, 2024

A. <u>Consideration of Maintenance Agenda – Pending List</u>

1. Ref #2022-14: NMTC Project Issue Paper
2. Ref #2024-18: Clarifications to NMTC Project
3. Ref #2023-24: CECL Issue Paper
4. Ref #2024-15: ALM Derivatives
5. Ref #2024-16: Repacks and Derivative Wrapper Investments
6. Ref #2024-17: SSAP No. 108 – VM-01
7. Ref #2024-19: ASU 2024-02, Codification Improvements

Ref #	Title	Attachment #
2022-14 (Wil)	**New Market Tax Credit Project**	**A – Issue Paper**

<u>*Summary:*</u>
On March 16, 2024, the Working Group adopted agenda item 2022-14: New Market Tax Credits which revised *SSAP No. 93—Low Income Housing Tax Credit Property Investments* and *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits*. This issue paper documents the discussions and decisions within the New Market Tax Credit project and has been updated to reflect the final actions. Additionally, consistency edits and reorganization has been reflected as the authoritative SAP revisions have been adopted. (As a reminder, issue papers are not authoritative, and simply provide background and discussion elements for historical reference.)

<u>*Recommendation:*</u>
NAIC staff recommends that the Working Group expose the draft issue paper. This item is proposed for exposure until September 27 to allow for consideration at the Fall National Meeting.

As part of the New Market Tax Credit Project, the Working Group directed NAIC staff to work with industry and draft revisions to the annual statement and instructions. We are pleased to inform the Working Group that the agenda item addressing these changes, #2024-11BWG, was adopted by the Blanks (E) Working Group on August 7.

Ref #	Title	Attachment #
2024-18 (Wil)	**Clarifications to NMTC Project**	**B – Form A**

<u>*Summary:*</u>
On March 16, 2024, the Statutory Accounting Principles (E) Working Group adopted, as final, agenda item 2022-14 which exposed revisions to *SSAP No. 34—Investment Income Due and Accrued*, *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, *SSAP No. 93—Low Income Housing Tax Credit Property Investments*, and *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits* to expand and amend

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statutory guidance to include all tax credit investments regardless of structure and type of state or federal tax credit program, and all state and federal purchased tax credits.

After adoption of agenda item 2022-014, NAIC staff received questions from public accounting firms on the accounting guidance and example journal entries provided in the new guidance. It was noted that the SSAP No. 94R accounting guidance appeared inconsistent with the journal entry examples and the guidance in SSAP No. 93R for recognizing allocated tax credits was confusing when compared to the journal entry examples. Both Interested Parties and NAIC staff agreed that the journal entries accurately reflected the accounting for recognition and utilization of tax credits, as such revisions have been drafted to revise the accounting guidance to more accurately match up with the journal entry examples.

It was also noted that a sentence in SSAP No. 48 was inadvertently not updated as part of the New Market Tax Credit project. Updates to this sentence are proposed in the attached Form A.

Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, *SSAP No. 93R—Investments in Tax Credit Structures*, and *SSAP No. 94R—State and Federal Tax Credit*, to be effective as of January 1, 2025.

This item is planned for exposure until September 27 to allow for consideration at the Fall National Meeting.

Ref #	Title	Attachment #
2023-24 (Wil)	**Current Expected Credit Losses**	**C – Issue Paper**

Summary:
On January 10, 2024, the Working Group adopted agenda item 2023-24: Current Expected Credit Losses (CECL) which rejects *ASU 2016-13 Financial Instruments–Credit Losses (Topic 326), Measurement of Credit Losses on Financial Instruments* and five other related ASUs. At the direction of the Working Group, this issue paper was drafted to maintain pre-CECL Generally Accepted Accounting Principles impairment and OTTI guidance for historical purposes.

Recommendation:
NAIC staff recommends that the Working Group expose the draft issue paper. This item is proposed for exposure until September 27 to allow for consideration at the Fall National Meeting.

Ref #	Title	Attachment #
2024-15 (Julie)	**ALM Derivatives**	**D – Form A**

Summary:
This agenda item has been developed to consider new statutory accounting guidance for interest-rate hedging derivatives that do not qualify as effective hedges under *SSAP No. 86—Derivatives*, but that are used for asset-liability management (ALM). Specifically, industry has proposed two assessment metrics for macro-hedges, the "ALM Risk Reduction Approach," which is a hedging approach to reduce mismatches between identified assets and liabilities and the "ALM Target Management Approach," which is a hedging approach to keep an asset portfolio aligned with a liability target. These programs do not qualify for effective hedge treatment under SSAP No. 86 (or any accounting regime) as they reflect macro-hedges.

This agenda item originated from discussions at the IMR Ad Hoc Group, noting that full Working Group discussion is needed on this topic. Industry has communicated that these hedging derivatives, although not accounting effective under SSAP No. 86, are economically effective (meaning effective in achieving the hedge intent). With this industry assessment, and their interpretation of the Annual Statement Instructions, the fair value fluctuations reported as unrealized gains and losses while the derivative is open have been allocated by some life entities to the interest maintenance reserve (IMR) upon derivative termination. This approach essentially reverses the surplus impact from the unrealized position and defers the realized impact from these derivative structures through the IMR formula with subsequent amortization into income over time.

INT 23-01: Net Negative (Disallowed) IMR, allows losses for interest-rate hedging derivatives that do not qualify for "hedge accounting" under SSAP No. 86 to continue to be allocated to IMR (and admitted if IMR is net negative) if the company has historically followed the same process for interest-rate hedging derivatives that were terminated in a gain position. The guidance does not permit entities to allocate current derivative losses to IMR without evidence illustrating the historical treatment for gains. This INT was established to provide limited-time exception guidance while IMR is further discussed and is effective through Dec. 31, 2025, with automatic nullification on Jan. 1, 2026. The treatment of the gains and losses from these non-accounting effective hedges is a key element in the long-term guidance for clarifying IMR.

SSAP No. 86 provides guidance on designations that hedge a variety of exposures, with assessments of effectiveness adopted from U.S. GAAP. Derivatives that qualify as "highly effective hedges" are permitted "hedge accounting treatment," which means that the measurement method of the derivative mirrors the measurement method of the hedged item. (This measurement method is different than US GAAP, which requires all derivatives to be at fair value. This different measurement method is necessary under SAP to prevent a measurement mismatch between the hedged item and derivative, which would result in surplus volatility for accounting effective hedges.) Derivatives that do not qualify as "highly effective hedges" under SSAP No. 86 are reported at fair value, which does mirror the measurement method under U.S. GAAP. Pursuant to the IMR Ad Hoc Group discussion, this item is focused on hedges that address interest-rate risk exposure used in macro-hedges, that would not qualify under the effective hedge requirements under SSAP No. 86.

If the Working Group wants to pursue accounting guidance for macro-hedges focused on hedging interest-rate risk that results with different treatment than what is detailed in SSAP No. 86, the resulting guidance is anticipated to detail:

1) The requirements for the interest-rate hedging derivatives, including effectiveness assessments.

2) The accounting for the derivatives and the resulting gains/losses (including amortization if those gains/losses are deferred from immediate recognition), and

3) Disclosure and reporting requirements for the derivatives.

If developing new guidance, it is anticipated that the concepts of *SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees* will be followed to the extent possible, but there would need to be variations based on the specific intent and application of these derivatives. A key item to note is that SSAP No. 108 does not use IMR for the reporting of deferred derivative gains and losses and this approach will also be considered within the new guidance for consistency purposes.

Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, classified as a new statutory accounting concept, with exposure of this agenda item to obtain comments from Working Group members, as well as interested regulators and interested parties on the potential to develop statutory guidance for macro-derivative programs that hedge interest rate risk for asset-liability matching purposes.

This item is proposed for exposure until November 8 to provide more time for review and comments. Discussion on this exposure is not planned at the Fall National Meeting. Discussion could occur via an interim call before the 2025 Spring National Meeting.

Initially, NAIC staff is requesting feedback on the following key concepts:

1) Do Working Group members support the development of statutory accounting guidance that would defer derivative gains/losses for structures that hedge interest rate risk with amortization over time into income? (These derivative programs would not qualify as accounting effective under SSAP No. 86 and are not captured within the specific variable annuity guarantee guidance in SSAP No. 108.)

2) If further development / consideration of guidance is supported, the following items are noted for discussion:

    a. Determination of effectiveness that permits the derivative program to qualify for the special accounting treatment.

    b. Discussion of whether net deferred losses (reported as assets) would be admissible, and if so, any admittance limitations.

    c. Macro-limits on admittable net deferred losses (reported as assets) and other "soft" assets. (For example, capturing IMR and derivative deferred net losses, and then perhaps considering other soft assets, such as DTAs, EDP equipment and software, goodwill, etc.)

    d. Timeframes over which deferred items are amortized into income.

    e. Extent of application across the industry. (NAIC staff notes that SSAP No. 108 is only applied by 9 entities, and from a review of the derivative disclosures for INT 23-01, only 14 entities captured derivative gains/losses in the IMR balance.)

NAIC staff requests direction to work with regulators and industry during the interim to continue discussions and in the consideration of guidance.

Ref #	Title	Attachment #
2024-16 (Julie)	**Repacks and Derivative Wrapper Investments**	**E – Form A**

Summary:
This agenda item has been developed to address debt security investments with derivative components that do not qualify as structured notes. Although the original focus was on specific "credit repack" investments, the agenda item has been expanded to ensure that all debt security investments with derivative wrappers / components are captured.

As an overview of a special purpose vehicle (SPV) "repacking," the structure consists of an SPV acquiring a debt security and reprofiling the cash flows by entering a derivative transaction with a derivative counterparty (known as "credit repacks"). The redesigned debt instrument (reflecting the combined debt security and derivative) is then sold to an investor. NAIC staff has recently received calls on the classification of repacks under the bond definition, but the discussions of these transactions have identified that additional guidance may be warranted to ensure consistent reporting of these transactions within the statutory financial statements. From the discussions, there are initiatives for these combined investments to become more prevalent with U.S. insurance entities, but investment makers have noted that these investments are already common in other countries.

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As a key element, repacking (and potentially other derivative wrapped debt structures) takes two separate items (debt security and derivative) and combines them into one instrument that resembles a debt security. This is done at an SPV, with the SPV issuing a new debt security to the reporting entity. From discussions, there are several variations of the derivative components that can be combined with the debt security. Some of them are very simple (such as a cross-currency swap), but others are complex, altering both the amount and timing of cash flows. The structures can be customized allowing for ongoing innovation, benefiting insurers with the ability of entering derivative transactions to appropriately reduce risk, but creating difficulty in the ability to group repacks structures into limited exception guidance.

For all of these structures, the derivative arrangements could be entered into separately and do not need to be entered into as a combined transaction, however, the noted benefits for entering into a combined structure include:

1) **Derivative Margin / Collateral Requirement:** There is no daily settling of a margin requirement at the derivative counterparty based on fair value changes in the derivative. **This is because the debt security in the structure serves as constant collateral, and any amount owed to the derivative counterparty would be taken first from debt instrument cash flows before payment is made to the investor. (The derivative counterparty is senior in priority.)** The repack structure limits the collateral obligation to the debt security in the structure, so there is no potential for the reporting entity to be obligated for more collateral beyond the linked debt security. This is a benefit of a repack in comparison to normal derivatives that do not have a collateral limit.

    - Although perceived as a benefit from the entity / investment maker as it reduces liquidity risk associated with margin calls, from a statutory accounting perspective, if the transactions were reported separately and the debt investment was pledged as collateral, the debt instrument would be identified as a restricted asset. If the repack is collectively reported as a debt instrument, there would be no identification that the debt instrument is restricted or encumbered as collateral to the derivative counterparty. This is because the restriction is at the SPV and not the reporting entity. Also, if separately engaging in derivative transactions, the derivative counterparty is known and reported. If a repack is collectively reported as a debt instrument, it is uncertain if the affiliation between the derivative counterparty and reporting entity would be known.

2) **Bond Reporting:** If these structures are accounted for as bonds, **reporting entities would determine measurement method and RBC impact based on the NAIC designation. Ultimately, this structure provides the reporting entity with a derivative arrangement, with no separate reporting or acknowledgement of the derivative instrument within the financial statements.**

    - From a statutory accounting perspective, if reporting is combined in a repack, derivatives would not be captured on Schedule DB and reporting entities would not be required to assess whether the derivative is effective under *SSAP No. 86—Derivatives*. (There is also a question on whether these arrangements would be captured in a reporting entity's derivative use plan filed with the domiciliary state.) Any obligation based on the performance of the derivative would not be reported in the investor's financials.

3) **RBC Impact:** By reporting as a bond investment, the reporting entity would incur a single RBC factor charge based on the NAIC designation on the debt security issued by the SPV.

    - From a statutory perspective, if the investment had been reported separately as a bond and a derivative, there would be RBC impacts for both components. The collateral pledged to the derivative counterparty (bond) would also be coded as a restricted asset. Whether the combined reporting results in a benefit to RBC depends on how the derivative would have been reported separately (at amortized cost or fair value) and whether the derivative is in a loss position. However, if reported separately, these components are captured in the RBC formula to reflect those dynamics.

The following identifies specific elements for discussion:

1) **<u>Sale / Reacquisition:</u>** A "credit repack" can be originated with a reporting entity's currently held debt security. In those situations, the insurer would sell the debt security to an SPV, that security would be combined with a derivative at the SPV, and the SPV would sell the restructured combined instrument back to the insurer.

From the discussions held, inconsistent interpretations may exist on whether the initial debt security should be reflected as disposed, with the reporting entity acquiring a new investment for the "repack." The discussions have referred to "substantially similar" U.S. GAAP guidance and have noted that the base investment (original debt security) has not changed, therefore the action did not warrant disposal / new acquisition reporting. If this interpretation was applied, the original debt security would still be shown on the financial statements, but with the repack the issuer, yield and NAIC designation have been impacted. If it is concluded that the revised instrument is substantially similar to what was originally held and did not require a disposal / reacquisition, it is likely that there would be no indication in the financial statements that the entity has entered into a new arrangement that combines a debt security and derivative instrument. NAIC staff does not agree with interpretations that the repack is substantially similar based on existing guidance in SSAP No. 103, paragraph 52, but this has been noted as part of the discussions. Under SSAP No. 103, to be considered substantially the same, an investment needs to have the same primary obligor, identical contractual interest rates and identical form and type to provide the same risks and rights. Under a repack, the issuer, yield and designation are impacted as follows, disallowing consideration that the instrument is substantially the same:

- The revised issuer is the SPV and the new instrument is a combined instrument of the debt instrument and the derivative.

- The fees for engaging in this instrument are built into the investment yield, resulting in a lower yield than what would have been received if the original debt instrument was still held.

- The NAIC designation (CRP rating) could also be impacted, as the revised instrument reflects the credit quality of both the original issuer and the derivative counterparty. From discussions, this is often a 1-level decrease in rating.

Not all repacks involve a previously held debt instrument. An entity may acquire a repack directly from the SPV rather than sell a currently owned debt security to the SPV. From the discussions, if this was to occur, it is believed that entities would report the acquired investment as a bond (under existing SSAP guidance), unless the structure is considered to be a structured note under paragraph 5.g. of *SSAP No. 86—Derivatives:*

> 5.g. "Structured Notes" in scope of this statement are instruments defined in *SSAP No. 26R—Bonds* (often in the form of debt instruments), in which the amount of principal repayment or return of original investment is contingent on an underlying variable/interest[1]. Structured notes that are "mortgage-referenced securities" are captured in *SSAP No. 43R—Loan-Backed and Structured Securities.*

There is also a question on whether all repacks should be considered structured notes. In a repack structure, if the debt security is liquidated early and there is an amount owed from the derivative performance, the SPV must first satisfy that amount to the derivative counterparty. This could result in a payment less than the principal amount

[1] The "structured notes" captured within scope of this statement is specific to instruments in which the terms of the agreement make it possible that the reporting entity could lose all or a portion of its original investment amount (for other than failure of the issuer to pay the contractual amounts due). These instruments incorporate both the credit risk of the issuer, as well as the risk of an underlying variable/interest (such as the performance of an equity index or the performance of an unrelated security). Securities that are labeled "principal-protected notes" are captured within scope of this statement if the "principal protection" involves only a portion of the principal and/or if the principal protection requires the reporting entity to meet qualifying conditions in order to be safeguarded from the risk of loss from the underlying linked variable. Securities that may have changing positive interest rates in response to a linked underlying variable or the passage of time, or that have the potential for increased principal repayments in response to a linked variable (such as U.S. Treasury Inflation-Indexed Securities) that do not incorporate risk of original investment/principal loss (outside of default risk) are not captured as structured notes in scope of this statement.

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being remitted to the insurer holder. Although the repack designs differ based on the derivative instrument and intent, in some situations this is only driven by the early liquidation of the structure and not a component that comes into play if the structure is held to maturity. In those structures, the design would not be considered a structured note. However, in other designs, the repack may reflect a structured note regardless, and the structured note guidance should be followed.

2) **Derivative Obligation**: A credit repack investment ultimately could allow an insurer to enter into derivative arrangements that are not separately reported or assessed within the scope of SSAP No. 86, which is currently explicit that embedded derivatives shall not be separated from the host contract. If the derivative was to be separately reported, it would only qualify for amortized cost treatment if determined to be highly effective pursuant to SSAP No. 86, otherwise it would be reported at fair value.

From discussions of these investment / derivative designs, NAIC staff has the impression that these derivative arrangements would be reported at fair value if held separately from the debt instrument. (Discussions have indicated that they would be separately reported at fair value under U.S. GAAP.) By combining with the debt security, and if permitted to follow bond accounting, reporting entities would utilize an amortized cost measurement for the combined credit repack based on the NAIC designation pursuant to current guidance within SSAP No. 26 / SSAP No. 43.

Although it has been communicated that the derivative is designed to match the maturity duration of the debt instrument, if the investment was to be liquidated in advance of the maturity date, the obligation with the derivative counterparty must still be satisfied. If the derivative was in a liability position, upon liquidation of the debt instrument, the SPV would collect the proceeds from the debt instrument and first remit any amount owed to the derivative counterparty before providing the remaining balance to the reporting entity. Although it depends on the derivative arrangement, in some designs, the reporting entity could receive less than the stated principal amount of the bond. For these designs, unless the derivative was reported separately (or the repack was reported at fair value), the amount to be received at any point in time for the repack investment may be overstated due to the derivative impact. *(The inverse is also true, whereas if the derivative was in an asset position, the SPV would collect funds from the derivative counterparty and the reporting entity would receive an amount that exceeds the principal amount of the bond.)*

3) **Principles-Based Bond Definition Application**: The discussion with NAIC staff on credit repacks initially occurred due to questions on whether the repack is an issuer credit obligation (ICO) or an asset-backed security (ABS) under the principles-based bond definition. Initially, it was noted that a repack with a derivative that simply converted cash flows (fixed to floating or foreign currency), but which did not impact the timing or extent of cash flows could still potentially reflect an ICO obligation under the single-entity payer provision, assuming that the investment did not reflect a structured note. However, any design that was to alter the timing or amount of cash flows would result in an ABS classification. For example, if the repack altered the timing of cash flows so instead of periodic interest in line with the debt security terms, all interest payments were accumulated at the SPV and provided at maturity, this would require an ABS classification. If classified as an ABS, it was noted that there would be no substantive credit enhancement (as the structure simply passes through cash flows) and the structure would fail to qualify as a bond. However, after further assessment of these structures, NAIC staff recommends explicit guidance for the accounting of these combined debt / derivative structures. From discussions on these investments, a key driver is getting the combined structure classified as a Schedule D investment. From information shared, a vast array of different derivative structures could be combined with the debt security to form a combined item, with many different cashflow desired outcomes.

Ultimately, NAIC staff believes the issue goes further than bond classification as ICO or ABS. As such, this agenda item proposes SSAP guidance / interpretation to address all situations in which a debt security may be wrapped or combined with a derivative structure to ensure consistent and transparent reporting as well as information to the regulators on these investment transactions. NAIC staff believes the potential for these structures originates from the existing SSAP No. 86 guidance that indicates that embedded derivatives shall not be separated from the host contract and accounted for separately as a derivative instrument. NAIC staff notes that this SSAP No. 86 guidance

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allows these investment structures to be reported in ways that were perhaps not intended when that embedded derivative guidance was originally established.

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing as a new SAP concept and expose proposed edits to *SSAP No. 86—Derivatives*, to establish guidance that requires separate accounting and reporting of derivatives that are captured in debt security structures. This is a change from existing guidance that explicitly precludes the separation of embedded derivatives. In addition to these changes, minor revisions are also proposed to *SSAP No. 26—Bonds* and to the annual statement instructions to clarify application guidance. NAIC staff will also draft an issue paper to document these revisions.

This item is planned for exposure until September 27 to allow for consideration at the Fall National Meeting.

From initial discussions with banks / investment makers, guidance to separate the derivative from the debt security is believed to be preferred over a conclusion that would preclude bond treatment for the combined structure. With the proposal, debt security repack structures will be treated similarly to investments where the bond and derivative are not combined. (Ultimately, there would be no capital benefit or detriment due to the structure.) Additionally, this proposal will allow transparency as to the derivatives being used and ensure compliance with the reporting entity's derivative use plan. (If this proposed guidance is not supported, the combined repack, which represents a debt structure, would need to be assessed under the bond definition. This may require more detailed guidance to assess different types of derivative structures to determine whether the repack should qualify as a bond or as a non-bond debt security.)

NAIC staff has not proposed revisions to SSAP No. 103 as the existing guidance is clear that a sale of a debt security which is subsequently or simultaneously reacquired as a credit repack would not meet the criteria of substantially the same. This is because a credit repack generally has a revised issuer, yield and NAIC designation to reflect the additional derivative risk. As noted, minor revisions have been proposed to the annual statement instructions to clarify that the sale of a security that is reacquired with different terms shall be reported as a sale on Schedule D-Part 4 and a new acquisition on Schedule D-Part 3.

Ref #	Title	Attachment #
2024-17 (Julie)	**SSAP No. 108 – VM-01**	**F – Form A**

Summary:

This agenda item has been prepared to update the guidance in *SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees* for a clearly defined hedging strategy (CDHS) to mirror guidance adopted by the Life Actuarial (A) Task Force in 2022, and in effect starting with the 2023 version of the Valuation Manual. The guidance previously included in SSAP No. 108 referred to the CDHS defined in VM-21, and the actuarial guidance has been modified to ensure consistent definitions of a CDHS in both VM-20 and VM-21 and is now captured within VM-01.

The proposed revisions are limited to the definition of a CDHS in paragraph 7 of SSAP No. 108 as well as references in SSAP No. 108 that refer to VM-21 as the location of the definition of a CDHS.

Recommendation:

NAIC staff recommends that the Working Group move this item to the active listing and expose revisions to SSAP No. 108 to update the definition of a clearly defined hedging strategy (CDHS) to reflect the revised guidance pursuant to VM-01. (Only references to the CDHS are being revised to VM-01. Other references to VM-21 are product specific to variable annuity contracts and shall be retained in SSAP No. 108.)

This item is planned for exposure until September 27 to allow for consideration at the Fall National Meeting.

Ref #	Title	Attachment #
2024-19 (Wil)	**ASU 2024-02, Codification Improvements**	**G – Form A**

<u>*Summary:*</u>
FASB issued *ASU 2024-02, Codification Improvements—Amendments to Remove References to the Concepts Statements*, which removes references to FASB Concept Statements from the Codification. The main rationale for this amendment is to simplify the Codification by removing Concepts Statements in the guidance and draw a clear distinction between authoritative and nonauthoritative literature. The Board was concerned that references to Concept Statements would result in users incorrectly inferring that the referenced Concept Statements were authoritative.

The FASB Concept Statements are referenced in the *Accounting Policies and Procedures Manual* within the Statutory Hierarchy as either level 4 or 5, but the revisions in ASU 2024-02 are not applicable to this and other references to FASB Concept Statements in the AP&P Manual.

<u>*Recommendation:*</u>
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject *ASU 2024-02, Codification Improvements—Amendments to Remove References to the Concepts Statements* as not applicable to statutory accounting. This guidance is not considered relevant to the existing statutory accounting references to FASB Concept statements.

This item is planned for exposure until September 27 to allow for consideration at the Fall National Meeting.

B. <u>Consideration of Items on the Active Maintenance Agenda</u>

1. Ref #2023-28: Collateral Loan Reporting

Ref #	Title	Attachment #
2023-28 (Julie)	**Collateral Loan Reporting**	**H – Form A**

<u>*Summary:*</u>
The Working Group has had many discussions on collateral loans within the last couple of years. Most recently, on May 15, the Working Group took two key actions:

1) Directed NAIC staff to prepare a memo to the Blanks (E) Working Group to incorporate an instructional change to the AVR instructions that allows collateral loans backed by mortgages to flow through AVR as an "Other Invested Asset with Underlying Characteristics of Mortgage Loans" as an interim step while further consideration occurs on the reporting of collateral loans and how collateral loans should flow through AVR. This action was contingent on RBC revisions, which were adopted by the Life Risk-Based Capital (E) Working Group on June 18, 2024. As such, this correspondence to the Blanks (E) Working Group was provided and received by the BWG on August 7.

2) Directed NAIC staff to proceed with sponsoring a blanks proposal for the reporting of collateral loans considering interested parties' comments. NAIC staff notes that specific comments were not received on whether certain collateral loans should flow through AVR, so NAIC staff will be working in the interim with regulators and RBC staff to develop a proposal for initial consideration.

Recommendation:
As detail of all collateral types will be collected in the data-captured disclosure, NAIC staff proposes only limited reporting lines on Schedule BA reporting lines focusing on categories for which look-through to underlying collateral for AVR and RBC purposes is warranted. The proposed categories shown below reflect where separate reporting and AVR/RBC consideration has been suggested. With the receipt of the 2024 data-captured disclosure, an assessment will occur to determine whether additional Schedule BA reporting lines should be considered based on the extent certain types of investments are backed by collateral loans. **NAIC staff recommend exposure of this agenda item with a request for comments on the following potential Schedule BA collateral loan reporting lines. With exposure, NAIC staff recommends sponsoring a blanks proposal to begin detailing the revisions to Schedule BA and AVR that would occur with these changes. As the resulting AVR and RBC factors would be contingent on the actions of the Capital Adequacy (E) Task Force (and its RBC Working Groups), NAIC staff recommend Working Group direction to notify those groups of this action.**

(Although the effective date of revisions is always contingent on the direction of the Working Group, it is currently anticipated that a Jan. 1, 2026, effective date would be considered. This would allow the revisions to begin at the start of a statutory filing year. Revisions would need to be adopted by August 2025 to meet that timeframe.)

This item is proposed for exposure until September 27 to allow for consideration at the Fall National Meeting.

Proposed Schedule BA Revisions:

(The existing collateral loan line will be deleted.)

Collateral Loans – Reported by Collateral that Secures the Loan

Backed by Mortgage Loans
Unaffiliated..
Affiliated..

(Collateral loans backed by mortgage loans that would be in scope of SSAP No. 37 if held directly.)

Backed by Investments in Joint Ventures, Partnerships or Limited Liability Companies
Unaffiliated..
Affiliated..

(Collateral loans backed by an investment that would be in scope of SSAP No. 48 if held directly.)

Backed by Residual Interests
Unaffiliated..
Affiliated..

(Collateral loans backed by an investment that would be in SSAP No. 21 as a residual if held directly.)

Backed by Debt Securities
Unaffiliated..
Affiliated..

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(Collateral loans backed by an investment that would be assessed under SSAP No. 26 for bond reporting. This classification does not require confirmation that the debt security would qualify as a bond.)

Backed by Real Estate
Unaffiliated...
Affiliated...

(Collateral loans backed by an investment that would be captured in scope of SSAP No. 40 if held directly.)
Collateral Loans – All Other
Unaffiliated...
Affiliated...

(Collateral loans not captured in the specific reporting lines.)

With the inclusion of these new reporting lines, this recommendation also supports the inclusion of the following Schedule BA electronic-only columns for all collateral loan investments:

- Fair Value of Collateral Backing the Collateral Loan
- Percentage of Collateral to the Collateral Loan

Proposed AVR Revisions:
This exposure suggests a new category within the AVR Reporting Schedule to capture collateral loans. This is currently proposed to be a new category inserted after "residuals" (AVR lines 81-93) and before "All Other Investments" (AVR lines 94-99). The following illustrates the simple proposed addition to the schedule.

The following elements are requested for feedback during the exposure:

1) Should collateral loans backed by mortgage loans be included in the new collateral loan category, or should those continue to flow through the "Investments with the Underlying Characteristics of Mortgage Loans" permitted during the interim as the long-term resolution? If captured in the new collateral loan AVR category, to what extent should the underlying characteristic lines detailing quality / past due / foreclosure status (AVR lines 38-64) be duplicated?

2) What additional reporting lines (breakouts) of the proposed AVR categories are necessary to ensure appropriate look-through for RBC assessment purposes?

	RESIDUAL TRANCHES OR INTERESTS
81	Fixed Income Instruments – Unaffiliated.....
82	Fixed Income Instruments – Affiliated ....
83	Common Stock – Unaffiliated.....................
84	Common Stock – Affiliated ....
85	Preferred Stock – Unaffiliated.....................
86	Preferred Stock – Affiliated ....
87	Real Estate – Unaffiliated ....
88	Real Estate – Affiliated ....
89	Mortgage Loans – Unaffiliated ....
90	Mortgage Loans – Affiliated ....
91	Other – Unaffiliated ....
92	Other – Affiliated ....
93	Total Residual Tranches or Interests (Sum of Lines 81 through 92)

COLLATERAL LOANS
Backed by Mortgage Loans – Unaffiliated
Backed by Mortgage Loans - Affiliated
Backed by SSAP No. 48 Investments – Unaffiliated
Backed by SSAP No. 48 Investments - Affiliated
Backed by Residuals – Unaffiliated
Backed by Residuals – Affiliated
Backed by Debt Securities – Unaffiliated
Backed by Debt Securities – Affiliated
Backed by Real Estate – Unaffiliated
Backed by Real Estate - Affiliated
All Other – Unaffiliated
All Other – Affiliated

(Renumbering will Occur Based on the Resulting Lines)

	ALL OTHER INVESTMENTS
94	NAIC 1 Working Capital Finance Investments
95	NAIC 2 Working Capital Finance Investments
96	Other Invested Assets - Schedule BA ....
97	Other Short-Term Invested Assets - Schedule DA
98	Total All Other (Sum of Lines 94, 95, 96 and 97)
99	Total Other Invested Assets - Schedules BA & DA (Sum of Lines 29, 37, 64, 70, 74, 80, 93 and 98)

C. Any Other Matters

a. Review of U.S. GAAP Exposures (Jason – Attachment I)

The attachment details the items currently exposed by the FASB. Comments are not recommended at this time – NAIC staff recommend review of the final issued ASU under the SAP Maintenance Process as detailed in *Appendix F—Policy Statements.*

b. Update on Valuation Manual Adoptions (Robin – Attachment J)

The attachment summarizes the revisions the Life Actuarial (A) Task Force reported as adopted updates to the *Valuation Manual* for the following year. No items were identified that require Working Group coordination under the *NAIC Policy Statement on Coordination with the Valuation Manual*.

c. Update on the IMR Ad Hoc Subgroup – (Julie – Attachment K)

The IMR Ad Hoc group has met regularly since their first meeting in Oct. 2023. Since the Spring National Meeting, the discussions have focused on 1) IMR from "economic effective" derivatives (derivatives that do not qualify as accounting effective under *SSAP No. 86—Derivatives*), 2) IMR from asset transfers for cash between the general account and separate account, and 3) IMR from reinsurance transactions.

As a result of these discussions the group has elected to move the derivative discussion and the separate account transfer discussion to the full Working Group. These discussions are moving towards the establishment of new statutory accounting guidance, which goes beyond ad hoc discussions and should occur within the Working Group / Committee structure. The group anticipates further discussion on IMR from reinsurance transactions as well as overall concepts on the admittance of net negative IMR.

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As an additional note, preliminary assessments have occurred to review how companies treated the admitted negative IMR in cash flow testing (CFT). From this limited review, companies are not consistently reflecting negative IMR in CFT. Information was shared with the Chief Financial Regulators on examples of the correct, incorrect and potential misreporting that has been noted to assist with review of domiciliary companies. Regulators are requested to contact NAIC staff with any questions.

d. Update on the Bond Project Implementation / Bond Small Group – (Julie)

The adopted statutory accounting and reporting revisions related to the principles-based bond definition are effective January 1, 2025. An NAIC provided self-study educational program is available to all participants without a course fee for 2024. (A course fee is expected for non-regulators in 2025.) The course is designed to begin any Monday, and anyone wanting to register must do so no later than the Wednesday prior to the Monday for which they would like to start the course. (There is no participation limit for any week, but those trying to enroll after the Wednesday timeframe will receive notice that the course is not available.) The course is required to be completed within the week and is estimated to take approximately 3 hours of time. The link to enroll can be found on the NAIC Education & Training website.

A small group comprised predominantly of regulators and AICPA representatives with a few interested parties was formed to discuss application questions of the bond definition on specific investment designs or characteristics. The discussions of this small group have resulted with a proposed Question & Implementation Guide that was exposed for comment earlier under the Hearing agenda. As deemed necessary, further discussions may expand the Q&A.

e. IAIS Audit and Accounting Working Group (AAWG Update) – (Julie)

Julie Gann and Maggie Chang (NAIC) monitor IAIS discussions, including the following:

- Climate Risk Disclosure Subgroup – The activities of this Subgroup have currently concluded. The IAIS has released a draft application paper on public disclosure and supervisory reporting on climate risk and draft supporting materials on macroprudential and group supervisory issues and climate risk. Feedback on these materials is invited by September 30, 2024. A public background session will be held on Aug. 27. The documents and link to register for the public stakeholder session are available on the IAIS website:

  https://www.iaisweb.org/2024/07/public-consultation-on-climate-risk-supervisory-guidance/

- Accounting and Auditing Working Group - The AAWG met in Washington DC May 21-22, with NAIC staff (Maggie Chang) attending in-person. Items discussed included a post first year implementation update and the impact to financial soundness indicators from *IFRS 17: Insurance Contracts*, a presentation on the topic of independent audit oversight, as well as various international monitoring and other jurisdictional updates. The next AAWG meeting is Sept. 4-5 in Zurich. NAIC staff will participate virtually.

This update simply intends to inform the SAPWG regulators and interested parties of these ongoing NAIC staff actions to monitor and participate in the IAIS AAWG. Any questions on discussions or if additional information is requested, please contact NAIC staff.

Comment Deadline: The timeframe until the Fall National Meeting is shorter than normal. All items unless otherwise noted have been proposed for a comment deadline of September 27 to allow for discussion at the Fall National Meeting. Ref # 2024-01 has a shortened comment deadline of September 6 to allow for interim discussion. Ref # 2024-10 and Ref #2024-15 have a comment deadline of November 8 with discussion planned in the interim before the 2025 Spring National Meeting.

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Statutory Issue Paper No. xxx

New Market Tax Credit Project

STATUS
Exposure Draft – August 13, 2024

Original SSAP: SSAP No. 93 and SSAP No. 94R
Current Authoritative Guidance: SSAP No. 93R and SSAP No. 94R

Type of Issue:
Common Area

SUMMARY OF ISSUE

1. The purpose of this issue paper is to document for the historical record the substantive changes to statutory accounting guidance detailed in *SSAP No. 93R—Investments in Tax Credit Structures* and *SSAP No. 94R—Transferable and Non-Transferable Tax Credits*, respectively.

2. This issue paper illustrates tracked changes in SSAP No. 93 and SSAP No. 94R, effective January 1, 2025. The substantive revisions to SSAP No. 93 and SSAP No. 94R include revised accounting guidance on tax equity and bond investments, and tax credits earned or purchased. The adopted revisions to SSAP No. 93, SSAP No. 94R, *SSAP No. 34—Investment Income Due and Accrued*, and *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* are illustrated as tracked changes in Exhibits A, B, and C, respectively. Exhibit D is a flowchart which details the order of operations for applying the revised SSAP No. 93R.

DISCUSSION

3. This issue paper provides a historical reference that includes tracked changes adopted within SSAP No. 34, SSAP No. 48, SSAP No. 93 and SSAP No. 94R. The conceptual changes were a result of the passage of the Inflation Reduction Act (IRA) and the Financial Accounting Standards Board (FASB) adopting *ASU 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method* (ASU 2023-02) which amends ASC Topic 323 to allow reporting entities to consistently account for equity investments made primarily for the purpose of receiving income tax credits and other income tax benefits.

4. The IRA was signed into law by President Biden effective August 16, 2022. The tax law was expansive but had a significant effect on the tax laws underlying several significant federal tax credit programs. The changes to the wind and solar tax credit programs, which were effectively extended for 12 years (10 years plus a 2-year phase out), were particularly significant as the programs had previously been extended for brief periods of time at each renewal. Additionally, while the overall base tax credit rate was lowered for most tax credit programs, the total potential tax credits generated from these tax credit programs was increased (potentially as much as 5x to 6x the base rate) through the provision of bonus tax credits. To qualify for these bonus tax credits the project must meet specific wage, labor, material, or project location requirements. Other significant changes included expansion of the ability to transfer/sell certain types of tax credits to for-profit entities and the creation of a 2025 statutory transition for the technology specific Production Tax Credits (PTCs) and Investment Tax Credits (ITCs). Subsequent to 2025, PTCs and ITCs will be superseded by technology neutral tax credits known as Clean Electricity Production Tax Credits (CEPTC).

5. From a statutory accounting perspective, a tax credit investment is an asset representing a future stream of tax credits and benefits, which can be used to pay policyholder obligations by either offsetting tax liabilities, selling the allocated tax credits on a secondary market, or through receipt of a tax refund for

the tax credits. This definition is one of the main foundational concepts used while formulating the SSAP No. 93R draft. While most tax credit investments may be sold, the primary purpose of acquiring a tax credit investment is to generate tax credits which benefit reporting entities, most commonly through a reduction in tax liability or, when permitted by IRS or state tax provisions, through the sale of certificated/transferable tax credits. As the primary purpose of these investments is the generation of tax credits, impairment guidance focuses on the investment's ability to generate tax credits and admittance guidance focuses on the ability of the company to utilize the tax credits to be received (clean initial tax opinion and unqualified annual audits) and the reporting entity's ability to utilize these tax credits (prospective utilization assessment).

6. While ASU 2023-02 was adopted with modification, it should be noted that the revisions to SSAP No. 93 were ultimately more expansive than those adopted to U.S. GAAP by ASU 2023-02. These departures are discussed in detail in SSAP No. 93R, paragraph 36.

Actions of the Statutory Accounting Principles (E) Working Group

7. In August 2022, FASB issued *Proposed Accounting Standards Update Investments—Equity Method and Joint Ventures (Topic 323)—Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. On December 13, 2022, the Working Group moved agenda item *2022-14: New Market Tax Credits* to the active listing, categorized as a new SAP concept, and exposed a discussion document to expand current statutory accounting guidance for low-income housing tax credits to capture all tax equity investments that provide general federal business tax credit and state premium tax credits if they meet specified criteria. The initial discussion document utilized the August 2022 Proposed ASU as the basis for the changes to SSAP No. 93 and included 12 specific discussion items.

8. On February 10, 2023, the Working Group received a comment letter from interested parties which provided responses to the discussion items detailed in document 2022-14b. Interested parties' comments and the Working Group's responses are detailed below:

a. **Comment:** Interested parties agreed that all investments, no matter what legal form, which primarily earn tax credits should utilize the proportional amortization method. It is noted that the discussion document appeared to only scope in tax equity investments and that interested parties would suggest the inclusion of language to either include tax credit bonds or clarify their exclusion from SSAP No. 93. As part of this clarification, interested parties asked if the Working Group intends to change CAPCO guidance or continue to allow CAPCOs to be reported on Schedule D. Interested parties noted that tax credit bonds are currently being reported on Schedule D and if the intent is to move these investments to Schedule BA, then interested parties would request that they be allowed to report with an NAIC designation, which reflects the low-risk nature and high-credit quality implicit in tax credit bonds.

   i. **Response:** As a result of interested parties' comments, the Working Group directed NAIC staff to expand its draft of SSAP No. 93R to include tax credit bonds but directed that the CAPCO guidance remain in place and not be extended to other tax credit bonds as this is a legacy one-off exception. Additionally, it is the intent of both the bond project and the draft of SSAP No. 93R that investments in which the primary returns are tax credits are to be reported on Schedule BA.

b. **Comment:** Interested parties noted no issues with requiring the proportional amortization method under statutory accounting, which is a departure from U.S. GAAP which makes the proportional amortization method an election. Interested parties would also like to

confirm that the 'Substantially All Projected Benefits" criterion along with the rest of the criteria are assessed at the time of purchase of the investment and not at every reporting period. Interested parties also noted that if NAIC staff intend to include tax credit bonds in the scope of SSAP No. 93, then the scoping criteria will need to be amended. Additionally, interested parties included an appendix of tax credit investments issued in debt/bond form to aid NAIC staff.

i. **Response:** NAIC staff noted that the paragraph which precedes the scope criterions notes that investments must meet these criteria at the point of initial investment. The Working Group reviewed interested parties' list of tax credit bond investments and noted the following:

(a) *CAPCOs:* As noted above, the Working Group does not intend to amend the existing carveout guidance for CAPCO investments as part of the SSAP No. 93R draft.

(b) *Other State Tax Credits issued in Bond Form and Federal NMTC Programs:* As the described investment vehicles issue securities to investors through the issuance of equity, these tax credit investment examples would firmly fall within the tax equity investment category rather than as true tax credit bonds. Further revisions will be made within the SSAP No. 93R draft guidance that any tax investment which includes an equity component, however nominal, would be considered a tax equity investment rather than a tax credit bond.

(c) *State or Municipal Tax Credit Bond Strips***:** At the Working Group's direction, NAIC staff have included Tax Credit Bond Strips within the SSAP No. 93R draft guidance as an example of a tax credit bond (Note: This was later clarified to only include tax credit strips which had stripped the future stream of tax credits from a debt security). NAIC staff also included a footnote noting that BABs and QTCBs are examples of tax credit bonds.

c. **Comment:** Interested parties noted that guidance needs clarification on the inclusion of tax credit investments structured as bonds. Additionally, interested parties noted that there are other exceptions to the "at-risk" requirement for tax credit investments as well as the guaranteed returns exclusion.

i. **Response:** At the Working Group's direction, NAIC staff removed references to yield/return guarantees and at-risk requirements for certain tax credit programs from the SSAP No. 93R draft. As these requirements and exclusions can change program to program and state to state, trying to detail specific guidance on these issues would be cumbersome and easily made out-of-date. Additionally, the current version of the SSAP No. 93R draft requires a fund level tax opinion for tax credit investments which would be required to provide a high confidence level on the efficacy of any yield/return guarantees and whether the investment vehicle is subject to 'at-risk' rules.

d. **Comment:** Interested parties noted that existing statutory accounting guidance requires the amortization of LIHTC tax equity investments be recorded in net investment income, whereas U.S. GAAP has proportional amortization recorded to the income tax line along with the earned and utilized tax credits.

i. **Response:** The initial draft proposed revisions to make the statutory accounting treatment for PAM expense substantially consistent with U.S. GAAP. The original intent for segregating proportional amortization activity from the income tax line was out of concern for any non-tax income or gains recognized from the investment. Current U.S. GAAP guidance stipulates that any non-tax income or gains are to be recognized as investment income which addresses this concern. However, upon further discussion with the Working Group it was determined that inclusion of the proportional amortization in income taxes would result in errors on the Schedule BA Verification between Years and on the Exhibit of Net Investment Income. The cost basis of Tax Credit Investments would be recorded to Schedule BA, but if the amortization were to be excluded from net investment income, then the change in the book value of investments would not roll. Upon review of the initial draft proposal, the Working Group determined that while changes could be made to the Schedule BA Verification between Years and the Exhibit of Net Investment Income, these updates would represent significant changes to these forms. The Working Group decided that the best path forward was to map out the changes that this would require to both schedules and then present it to the state insurance regulators for input (Note: Discussions with state insurance regulators and interested parties later determined that convergence with U.S. GAAP on this issue was not feasible due to the significance of the changes needed to the annual statement).

e. **Comment:** Interested parties noted that one additional difference between statutory and U.S. GAAP accounting treatment of proportional amortization is that under U.S. GAAP, there are no DTAs set up for tax credit carryovers since the amortization and the tax credits are reported in the same line.

i. **Response:** As of the NAIC 2023 Spring National Meeting, the Working Group directed NAIC Staff to expand the New Market Tax Credit Project to also include SSAP No. 94R, which addresses the recognition of purchased tax credits. Based on current revisions, federal tax credits which cannot be utilized are subject to DTA guidance as detailed in *SSAP No. 101—Income Taxes*.

f. **Comment:** Interested parties believe that the non-admittance criteria detailed in the discussion document are too punitive as it would require the reporting entity to non-admit the entire investment if it does not have taxable income in a given year. Interested parties also questioned whether there is overlap between the non-admittance criteria and the impairment criteria. Additionally, interested parties requested clarification that the tax opinion requirement was only for the initial year of investment.

i. **Response:** At the Working Group's direction, the non-admittance criteria was modified to ensure that it was clearly separate for impairment guidance and relax the non-admittance criteria so that the investment is not fully non-admitted if the entity has a short period of no taxable income. As part of these changes, a 3-year window in which the tax investment is fully admitted less any tax credit amounts not anticipated to be used. The updated guidance is intended to non-admit tax credit investments only to the extent a portion of the credits earned during that period cannot be used. In the event the reporting entity cannot substantially utilize those 3 years of tax credits an assessment must be performed to determine how much of the total investment cost basis can be admitted. (Note: The admittance test described here was substantially revised in 2024. See the prospective utilization assessment.)

Revisions were also made to clarify that the tax opinion requirement is required at the point of initial investment by the reporting entity, as well as to add additional guidance on the scope and required confidence level expressed by the tax opinion.

g. **Comment:** Interested parties agreed that loss contingency guidance is appropriate for determining if future contributions give rise to a liability.

   i. **Response:** None.

h. **Comment:** Interested parties did not have an objection to incorporating fair value in the assessment of impairment.

   i. **Response:** None.

i. **Comment:** Interested parties noted that under question 8.f, non-admitting the entire investment appears too punitive for companies that expect to utilize the credits in a later year. Interested parties agreed that impairment would occur when the credits will not emerge at all. Question #6 needs to be clarified to explain these concepts since the way it is currently written, it seems to scope in the impairment criteria into the non-admission review.

   i. **Response:** See the response detailed in paragraph 8.f.

j. **Comment:** Interested parties did not have an objection to disclosing information about the nature of investments for which tax credits are earned. Paragraph 27(b) seems repetitive with the other information that is being required under paragraph 28 regarding the amount of tax credits and other tax benefits during the years presented.

   i. **Response:** The Working Group aims to conform to U.S. GAAP where feasible and these disclosures were pulled from the proposed ASU. Regarding the concerns of duplication, the guidance in paragraph 27 requires qualitative disclosures on tax credit investments (method of accounting used, nature of the investment, etc.) whereas paragraph 28 requires primarily quantitative disclosures of tax investment financial data.

k. **Comment:** Interested parties noted that while most disclosures are substantively the same as was previously required under SSAP No. 93, except the 15-year future realization of tax credit disclosure which is more detailed than most other investments and would require additional work to prepare.

   i. **Response:** The Working Group agreed with Industry that the 15-year future realization disclosure was more detailed than is required for other investments, and directed NAIC Staff to remove these disclosures, and reduce the future realization disclosure to 5 years and thereafter.

l. **Comment:** Interested parties noted that the additional disclosure requirements for tax credit investments in excess of 10% of admitted assets should be removed as they believe the detail does not provide relevant information and it would be quite rare for an insurer to have tax credit investments of such significance.

   i. **Response:** The Working Group agreed that such a situation would be rare, and that it does not make sense to codify a separate set of disclosure requirements for

such an unusual situation. NAIC staff were directed to remove these additional disclosures in their entirety.

m. **Comment:** Interested parties provided several other general comments on the discussion document which were: 1) Clarification on the difference between SSAP No. 93 and SSAP No. 94R on the matter of certificated tax credits. 2) SSAP No. 94R currently requires purchased tax credits to be recorded under "Aggregate Write-Ins for Other Than Invested Assets". 3) Gains and Losses on certificated tax credits are required to be reported in other income per SSAP No. 94R whereas SSAP No. 93 requires inclusion of gains and losses from tax equity investments to be reported in net investment income.

i. **Response:** The Working Group direct NAIC Staff to draft revisions to SSAP No. 93R and SSAP No. 94R to clarify the usage and inter-relationship of these SSAPs. As part of the revisions to SSAP No. 94R directed by the Working Group, NAIC staff will propose moving the reporting of federal tax credits from within the "Aggregate Write-ins for Other Than Invested Assets" line to inclusion within the reporting line for DTAs. The SSAP No. 93R draft will also be revised to provide guidance on tax credit investments whereas SSAP No. 94R would provide guidance on both allocated and purchased tax credits. (Note: The guidance discussed in this paragraph was substantially revised later on during 2023. As in, tax credits allocated from SSAP No. 93R investment are NOT within the scope of SSAP No. 94R.)

9. In March 2023, FASB issued and adopted ASU 2023-02. A comparison of the final ASU to the proposed ASU and noted during that most of the changes made to the final ASU would have no effect on the revisions proposed for SSAP No. 93 as the use of the proportional amortization would be a requirement under statutory accounting rather than an election. As a result of its review of the final ASU, new language to replace existing SSAP No. 93 language in SSAP No. 48 was drafted for Working Group review.

10. At the NAIC 2023 Spring National Meeting, the Working Group directed NAIC staff to draft statutory accounting guidance in the form of a new or revised SSAP that expands the current LIHTC guidance for equity investments that general federal business tax credit and state premium tax credits.

11. During April 2023, the Working Group discussed further proposed changes to the SSAP No. 93R draft. Significant changes resulting from this discussion were as follows:

a. References to equity and bond style tax credit investments were further simplified to generically refer to 'tax credit investments' with the intent to capture any investment vehicle that generates returns primarily in the form of tax credits and tax benefits. Additionally, there were concerns expressed that the inclusion of bond terminology within the SSAP No. 93R draft could cause confusion or conflict once the Principles Based Bond Definition (PBBD) project was completed and adopted for statutory accounting purposes. Tax credit debt instruments would certainly not qualify as bonds under the new bond guidance and the decision was made to remove references to "tax credit bonds" or "tax equity investments" except where strictly necessary for clarification purposes.

b. Admittance of tax credit investments were discussed in detail and the determination was made to separate the requirements into three parts: 1) Require companies to obtain an initial year tax opinion thus defined to include the fund and the projects and, as part of this definition, guidance was added regarding the confidence level required for the tax

opinion to support admittance. 2) Require annual audits of tax credit investments. Based on discussion with industry experts, an audited financial statement requirement should not result in additional costs incurred by insurers as audits are typically performed as a matter of course on tax equity investment entities. To ensure that valid tax investments aren't nonadmitted due to a delay in audit completion, an allowance for insurers to use the prior year's audit as an alternative as well as a carve out from the annual audit requirement for any tax credit investments which, by virtue of their structure, could not be audited. It should be noted that the intent of the carve out was to prevent the annual audit requirement effectively non-admitting tax credit investments structured as debt securities. However, it was also the intent that any component of equity ownership involved in the investment, no matter how nominal, would exclude it from this carve out.

c. Additional changes were made to the sections detailing accounting guidance on future equity contributions and additional tax credits. It was noted that the version presented in the discussion document could result in a situation where the reporting entity would be required to recognize a liability and expense on future contributions as the SSAP No. 93R draft requires any equity contributions not resulting in additional tax credits to be expensed. The Working Group determined that not only did this miss the mark on proper application of the matching principle, but it was also unnecessarily punitive. Based on this discussion, the proposal was amended to require the accrual of a liability for future equity contributions which result in additional tax credits, but only disclosures are required if the future equity contributions do NOT result in additional tax credits. Furthermore, the Working Group discussed what potential benefit would be gained by requiring companies to segregate additional tax credits allocated from future equity contributions and determined that no value was gained from this requirement. As such, the revisions to the SSAP No. 93R draft were changed to allow for the existing amortization schedule for the investment to be adjusted on a prospective basis for additional tax credits allocated.

d. NAIC staff noted that one of the more significant departures from existing U.S. GAAP and statutory accounting guidance was the exclusion of proportional amortization from income taxes. Under current statutory accounting guidance, proportional amortization from LIHTC investments is recorded to net investment income which (above the line or as component of net income) on the annual statement, whereas U.S. GAAP accounting guidance has proportional amortization recorded as a component of income taxes (below the line or after net income). At the direction of the Working Group, NAIC began to explore converging with U.S. GAAP on this issue. Initially, NAIC staff believed that guidance it would be fairly simple to converge statutory accounting with existing U.S. GAAP guidance on this issue but upon further review and discussion of the annual statement NAIC staff became unsure whether this was feasible. One of the main concerns identified was that if proportional amortization from tax credit investments was not run through net investment income, then a reconciling item would be required to ensure the Exhibit of Net Investment Income and Schedule BA Verification between Years rolls properly. Otherwise, net investment income per Schedule BA would not be recalculable to the exhibit of net investment income and the Schedule BA verification would fail its cross-checks. NAIC staff mapped out the changes that would be required to the blanks to conform statutory recognition of proportional amortization to U.S. GAAP. NAIC staff's initial draft Blanks proposal included a reconciling item to the Exhibit of Net Investment income to back-out proportional amortization from tax credit investment recognized in income taxes, and bi-furcation of row 8, 'Deduct amortization of premium and depreciation' between amounts recognized from SSAP No. 93R investments and other types of investments. Based on this initial draft, the Working Group determined that

convergence with U.S. GAAP was not practical as it would require a number of changes to the blanks, verifications, and instructions. While it would be possible, tax credit investments do not currently represent a significant position on insurer portfolios, and it would not be reasonable to substantially change reporting lines and schedules simply to convergence with U.S. GAAP on what amounts to a minor reporting variance. At the direction of the Working Group, the changes to the SSAP No. 93R draft to converge statutory reporting of proportional amortization expense with U.S. GAAP were scrapped.

12. On May 16, 2023, the Working Group exposed revisions to SSAP No. 93 and SSAP No. 94R. The revisions to SSAP No. 93 propose adoption with modification of ASU 2023-02, which would include modifications to scope in all qualifying state and federal tax credit investments regardless of structure or the underlying tax credit program. The revisions to SSAP No. 94R expanded its scope to include all state and federal tax credits whether purchased or allocated, and that tax credits received should be recorded at face value with losses realized immediately and gains deferred on the balance sheet.

13. On June 30, 2023, the Working Group received a comment letter from interested parties on the exposed revisions to SSAP No. 93 and SSAP No. 94R. Interested parties provided several comments on both SSAPs which are summarized below along with the Working Group's responses. The interested party comments provided on the SSAP No. 93R draft were:

a. **Comment:** Interested parties noted that paragraph 3 does not provide specific direction for which SSAPs would be applicable for tax credit investment which do not fall within SSAP No. 93.

    i. **Response:** The Working Group agreed with the recommendation and directed NAIC Staff to update SSAP No. 93R, paragraph 3 to provide readers with specific SSAPs which could apply to non-qualifying equity or debt structure tax credit investments.

b. **Comment:** Interested parties noted that the current draft directed readers to refer to SSAP No. 94R for how to account for tax credits allocated from tax credit investments. They felt that this cross-reference was confusing and could potentially lead to conflicting interpretations.

    i. **Response:** To reduce confusion, the Working Group directed NAIC staff to remove the paragraph directing readers to SSAP No. 94R and instead pulled in the specific paragraphs from SSAP No. 94R which would be applicable to tax credits allocated from tax credit investments.

c. **Comment:** Interest Parties noted that they were unclear on whether the tax credits earned, or the tax credit investments were subject to the admittance criteria detailed in SSAP No. 93R paragraphs 18.a.-18.c. Interested parties felt that admissibility concerns are adequately addressed by the tax opinion and audit requirements. Additionally, if NAIC staff's concern is the admittance of tax credits carried forward to a future period, then this should be adequately addressed by the admittance rules detailed in SSAP No. 101 for deferred tax assets. Interested parties suggested that paragraphs 18.a.-18.c. be deleted in full.

    i. **Response:** NAIC staff noted that the admittance rules detailed in SSAP No. 93R paragraphs 18.a.-18.c. do NOT provide guidance on the admittance of allocated tax credits. For tax credit investment structures to fall within the scope of the SSAP No. 93R draft, substantially all benefits must be from tax credits or other

tax benefits which essentially means that balance of a tax credit investment represents a future stream of tax credits and tax benefit. As such, the admittance rules in paragraph 18.a.-18.c. would require a company to assess its ability to utilize that future stream of tax credits to what amount of the tax credit investment would be non-admitted. If the company's projections determine it will be unable to substantially utilize the future stream of tax credits (i.e., the tax credit investment balance) then potentially all or a portion of the tax credit investment would be considered non-admitted as the company is unable to utilize the future stream of tax credits to offset tax liabilities. (Note: The admittance test discussed in this paragraph was substantially revised in 2024. See the prospective utilization assessment.)

ii. In response to these comments, the Working Group directed NAIC staff to revise SSAP No. 93R paragraphs 18 through 18.c. to further clarify the intent and purpose of the guidance, as well as the order of operations to be followed when assessing the reporting entity's ability to utilize unallocated tax credits from the investment were incorporated.

iii. Tax credit investments are essentially an asset representing a future stream of tax credits and benefits, which could be used to pay policyholder obligations by either offsetting tax liabilities, sale on a secondary market, or through receipt of a refund. However, if a reporting entity is unable to utilize the tax credits and benefits received from these investments due to the reporting entity's financial performance then the benefits received from the tax credit investment would no longer represent an asset that can be used to pay policyholder obligations. SSAP No. 93R paragraphs 18 and 18.a. would require the reporting entity to nonadmit the investment, either partially or fully, due to its inability to utilize the future stream of tax credits and benefits. This differs from impairment as the intent is not to assess the investment's viability, but rather to assess the company's ability to utilize the future stream of tax credits and benefits. Without these paragraphs, there would exist no mechanism in statutory accounting guidance, which would require a poorly performing company (for example, one which has fallen below the RBC control threshold) to nonadmit tax credit investments, even though they cannot be used to pay policyholder benefits since the tax credits cannot be utilized. Paragraphs 18.b. and 18.c. provide a carve out for the admittance of tax credit investments which provide transferable/certificated or refundable tax credits. (Note: The admittance test discussed in this paragraph was substantially revised in 2024. See the prospective utilization assessment.)

d. **Comment:** Interested parties noted that U.S. GAAP requires retrospective adoption of ASU 2023-02 and that this would result in U.S. GAAP vs. statutory accounting differences.

i. **Response:** In response to industry's concerns on differences between U.S. GAAP vs. Statutory implementation, the Working Group directed NAIC Staff to update the draft of SSAP No. 93R to be adopted retrospectively to conform with industry's request. (Note: It was later clarified by interested parties that this comment was a question rather than a request. Upon adoption in 2024, the revisions in the SSAP No. 93R draft are to be applied prospectively.)

14. The interested party comments provided on SSAP No. 94R were:

a. **Comment:** Interested parties requested that paragraph 1 of the Scope of Statement section be amended to clarify which types of tax credits are within scope of SSAP No. 94R. Interested parties felt that the key difference between SSAP No. 94R and SSAP No. 93 is that the former is for purchased tax credits and the ladder is for tax credits earned from investments.

i. **Response:** The Working Group generally agreed with the comments provided but directed NAIC staff to remove the term "certificate" from the requested changes. The intent of SSAP No. 94R is to provide guidance on all purchased state and federal tax credits, not just certificated tax credits. Additional language was also added to clarify the scope of SSAP No. 94R for allocated tax credits, as detailed in the next Response paragraph.

b. **Comment:** Interested parties noted that they do not believe allocated tax credits from SSAP No. 93 investments should be within the scope of SSAP No. 94R as the guidance was confusing and could potentially lead to conflicting interpretations. Additionally, Interested Parties believe that tax credits from investments vs. purchased tax credits are distinctly different assets. The only similarity in accounting for the tax credits relates to instances when the credits earned under a SSAP No. 93 investment cannot be utilized in the current year. Under that scenario, a DTA would be recorded, which would be subject to the admissibility rules under SSAP No. 101.

i. **Response:** In response to the interested parties' comments, the Working Group elected to remove tax credits allocated from SSAP No. 93R investments from the scope of SSAP No. 94R to avoid confusion when application the statutory accounting guidance. As a general note from the Working Group, irrespective of whether the tax credits are allocated from an investment or purchased outright, the tax credits received represent the same type of financial instruments which can be utilized as an offset to tax liabilities, sold, or redeemed for cash as a tax refund. Additionally, irrespective of how the tax credits are received they are recorded at face value upon acquisition. The only significant difference is that tax credits purchased at a premium or discount may result in a recognized loss or deferred gain, respectively, whereas any premium or discount on an allocated tax credit is implicit in the recognition of the proportional amortization.

ii. At the direction of the Working Group, additional language was also added noting that allocated tax credits earned from tax credit investments NOT within the scope of SSAP No. 93R should refer to SSAP No. 94R for guidance on how to record allocated tax credits. It was noted that without this language there would be no guidance within Accounting Practices and Procedures Manual for how to account for tax credits allocated from Non-SSAP No. 93R investments (see issue paper paragraph 15 below for further discussion on this guidance).

c. **Comment:** Interested parties noted that most tax certificates reduce a reporting entity's tax liability and do not directly impact the income statement at the time they are used. In addition, interested parties believe that upon purchase, the tax credits should be reported as an other-than-invested asset since the asset represents a right to receive future benefits. As the tax credits become available for use, a reduction to the insurer's income tax payable or premium/state taxes payable should take place.

i. **Response:** The Working Group disagrees with this proposed change as purchased federal tax credits would be reported as other-than-invested assets,

versus allocated federal tax credits which would be reported as a deferred tax asset. This would result in the same type of asset being reported on two separate lines based on the manner in which it was acquired. As noted above, the Working Group position is that allocated and purchased tax credits are substantially the same assets irrespective of the way in which they are acquired. Additionally, interested parties also propose that if a tax credit cannot be utilized in the same period in which it was purchased it should be transferred to Deferred Tax Assets. This would not resolve the short-term reporting discrepancy noted previously and adds further complications to the accounting process by requiring a reporting line transfer if the asset is held for longer than a year. As such, at the direction of the Working Group, these changes were not incorporated into the proposed revisions.

d. **Comment:** Interested parties noted that the accounting for purchased tax credits in the SSAP No. 94R exposure is different from the current guidance in that the credits will be recorded at face value instead of at cost. This is not an issue perse, but interested parties did want to point out this discrepancy as compared to the accounting treatment for other assets like bonds and mortgage loans.

i. **Response:** The Working Group's position is that tax credits, whether received via purchase or allocation, do not represent investments, and has opted to propose accounting guidance that differs from bonds or mortgage loans. The position that tax credits do not represent investments was the main reason for the original SSAP No. 94R guidance which required state tax credits be recorded to Other Than Invested Assets and effectively required tax credits purchased at a discount to defer the gain off the balance sheet by recording the acquired tax credit at cost. The revised guidance currently proposed should be less confusing and provide a more accurate financial picture to record acquired tax credits at face value and defer any gains from discount purchases on the balance sheet.

e. **Comment:** Interested parties proposed changes to Exhibit B to reflect a pro-rata utilization of purchased tax credits in relation to the quarterly accrual of income tax liabilities. The main purpose of these changes was to reflect interested parties' proposed changes in item #2.

i. **Response:** Exhibit B was updated to incorporate revisions proposed by interested parties and recognizing tax credit utilization is also applicable to exposed draft of SSAP No. 94R.

15. Outside of the changes made in response to the interested parties' comment letter, both exhibits in the SSAP No. 93R draft were revised based on discussions with the Working Group to provide example journal entries of the Proportional Amortization method. As part of this revision, the assumptions in Exhibit B were revised so that a journal entry example could be provided for a residual sale at the end of the proportional amortization period. Additionally, a new footnote was also added to SSAP No. 94R based on informal comments the Working Group received from the public. The new footnote provides clarification on what constitutes a purchased tax credit vs. an allocated tax credit. Purchased tax credits are typically acquired through receipt of a tax credit certificate (certificated) or execution of a transfer form (transferable).

a. The distinction made between a purchased vs. allocated tax credits is intended to address concerns that companies could improperly recognize tax credit investment transactions as tax credit purchases (e.g. expensing equity contributions). Insurers should first consider whether their tax credits are purchases, as defined by footnote 1 in SSAP No. 94R. If the tax credits

are received through other means, for example a Form K-1, are indicative of an allocation from an investment. Any investment which allocates tax credits must be assessed to determine if it is within the scope of SSAP No. 93R.

b. Assuming this assessment has already been performed, the insurer may still look to SSAP No. 94R for accounting guidance on how to recognize and utilize tax credits allocated from investments NOT within the scope of SSAP No. 93R. The Working Group's intent with the revised guidance was to clearly disallow tax credit investments from being accounted for under SSAP No. 94R, while still providing some measure of accounting guidance for how to recognize and utilize tax credits allocated from investments NOT within the scope of SSAP No. 93R.

16. In June of 2023, the Working Group received a comment letter from interested parties on the Bond Definition Project which addressed the Schedule BA reporting lines. Included in this comment letter were notes on changes to the Blanks for tax credit investments. Based on NAIC staff's review, the following Blanks Instruction pages identified as potentially needing updates to conform with the proposed revisions to SSAP No. 93 and SSAP No. 94R (the following page numbers are from the Life blank instructions):

a. *Other Invested Assets - Pg. 29:* Line 8 to be updated for new title of SSAP No. 93R.

b. *Disclosures - Pgs. 165, 241, 268, 273:* Page 165 to be replaced with disclosures detailed in SSAP No. 93R, and update page 241 for new language. Page 268 & 273 to be replaced with disclosures detailed in SSAP No. 94R.

c. *Reserve Calculation Instructions - Pg. 372:* Update instructions for changes.

d. *Schedule BA Instructions - Pgs. 522, 523, 527:* Replacement of all existing Low Income Housing Tax Credit categories, Line Numbers 3599999-4499999, and replacement of instructions for these lines on page 527.

e. *Schedule BA Examples - Pg 526:* Update for new language and examples in updated SSAP No. 93R.

17. The following Blanks forms require update for the current proposal (the following page numbers are from the Life Blanks):

a. *Exhibit of Net Investment Income (Pg. 8):* No changes required.

b. *Schedule BA (Pgs. E07-09):* No changes required.

c. *Schedule BA Verification (Pg. SI03):* Add proportional amortization to the title of row 8.

d. *Asset Valuation Reserve (Pg. 35):* Update LIHTC language for updated line numbers, as noted in 13.3i. – 13.3iii above.

18. At the NAIC 2023 Summer National Meeting, the Working Group exposed additional revisions made to SSAP No. 93 and SSAP No. 94R, and directed NAIC staff to work with interested parties to draft revisions to the annual statement instructions and reporting updates.

19. Subsequent to the NAIC 2023 Summer National Meeting, the Working Group direct NAIC staff to make the following changes:

a. *Tax Credit Strips from Equity Investments:* The Working Group received an informal comment from the public on footnote 4 in the SSAP No. 93R draft and amended it accordingly to note that tax credit strips created from equity method investment tax credit streams would NOT qualify for the audit exception as the underlying source of the tax credits is, in fact, from an auditable entity. A tax credit strip is simply an instrument which separates the ownership of the tax credits earned from the ownership of the tax credit investment. Stripping the future stream of tax credits from a tax equity investment entity to be sold separately from the equity ownership does not negate the requirement to audit the investor entity and, in turn, the underlying assets generating the stripped tax credit benefits. This clarification was specifically intended to prevent a practice that could be used to circumvent the audit requirement; simply because the stream of tax credits have been stripped from the tax equity investment and placed into a structure resembling a debt instrument does not mean the company can forgo annual audits. In this situation, the company would still need to receive qualifying audits from the tax equity entity which originally held the stream of tax credits.

b. *Unused Allocated Tax Credit Disclosures:* NAIC staff noted that the SSAP No. 93R draft did not have disclosures for unused allocated tax credits. As there is no fundamental difference between a tax credits asset that was acquired via allocation vs. purchase, it made no sense to exclude tax credits received from SSAP No. 93R investments from the majority of the tax credit disclosures required in SSAP No. 94R. The Working Group directed NAIC staff to pull in most of the tax credit disclosures from SSAP No. 94R into the disclosure section of the SSAP No. 93R draft.

c. *Investments in Variable Tax Credit Programs:* The Working Group received an informal comment from industry asking for clarification on whether the normal variations in tax credit allocations in certain tax credit programs (for example, production tax credits) would trigger impairment concerns. NAIC staff were directed by the Working Group to add a new paragraph to the impairment section noting that situations in which actual allocated tax credits from variable programs are less than estimated tax credit by more than 10% in a single period or have consistently returned less than estimated tax credits over multiple allocation periods must either record for impairment or specifically address the issue in its impairment analysis if variable tax credits are less than. The intent of this guidance was to be simple and easy to follow, but more importantly to clarify that companies did not need to consider their investments impaired due to normal and reasonable variations in allocated variable tax credits.

   i. On a practical note regarding the last sentence in SSAP No. 93R paragraph 29, if the tax credit allocation time frame has ended and the investment is in a net loss position when comparing actual tax credits allocated vs estimated tax credits then the remaining balance should be written off as an other-than-temporary-impairment loss in the same period the last tax credit is allocated.

d. *Awarded Tax Credits:* The Working Group received an informal comment from industry which noted that awarded tax credits would not be within the scope of SSAP No. 94R and asked if this was the intent. After discussing the matter, the Working Group felt that it did not make sense to extend the scope of SSAP No. 94R to include tax credits which were not acquired through a financial transaction and directed NAIC Staff to make edits to the Scope of Statement to define what an awarded tax credit is and that reporting entities should refer to SSAP No. 101.

e. *Commitments to Purchase Tax Credits:* NAIC staff noted that SSAP No. 94R provided no guidance on commitments to purchased tax credits. Based on this information, the Working Group directed NAIC staff to add a new paragraph to the end of the Accounting and Disclosure sections to address this issue.

20. On September 29, 2023, the Working Group received an interested party comment letter on the exposed revisions to SSAP No. 93 and SSAP No. 94R. Interested parties provided several comments on both SSAPs which are summarized below along with the Working Group's responses. Interested parties' comments on the SSAP No. 93R draft have been summarized for brevity and are shown below:

a. **Comment:** Interested parties noted that the SSAP No. 93R, paragraph 18, admittance test[1] requires reporting entities to annually assess the future utilization of the unallocated tax credits associated with an entity's ownership interest in a tax credit investment project to determine if the investment can be admitted. However, interested parties suggested that this admittance criteria only be applicable to investments which do not allocate transferable or refundable tax credit and if the reporting entity is contractually restricted from selling its ownership interest. Additionally, interested parties suggested deleting paragraphs 18.a. and 18.b. as admissibility is adequately addressed through the impairment analysis required in paragraph 25; mainly that since both the tax credits and investments are saleable there is not significant concern about the reporting entity's ability to utilize these investments and their tax credit returns for policyholder liabilities.

Response: The Working Group noted that interested parties' argument is twofold:

i. First, usage of the investment's fair value as a carve out in SSAP No. 93R paragraphs 18.a. and 18.b. is confusing due to the requirement to test for impairment based on fair value. At the direction of the Working Group, NAIC staff amended paragraph 18.a. to clarify that the carve out allows for admittance of the fair value of the unallocated transferable/certificated tax credits rather than the fair value of the tax credit investment. The tax credit investment balance would include other tax benefits which cannot be sold apart from the investment ownership. The intent of paragraph 18.a. is to allow a reporting entity to at least admit the fair value of the tax credits which can be readily liquidated to pay policyholder claims, which is potentially higher than the admitted amount calculated in paragraph 18.

ii. Second, since these investments may be sold, the admittance assessment of the reporting entity's ability to utilize the tax credits is not needed unless the reporting entity contractually restricted from the selling the investment. As part of this comment, it was noted that these investments may be actively managed and are readily saleable. NAIC staff noted that acquiring tax credit investments with the intent of re-sale puts an insurance company in a similar position as a syndicator in which tax credit investments are developed or acquired for the purpose of sale. At the direction of the Working Group, the SSAP No. 93R draft was revised under the assumption that tax credit investments are acquired for the purpose of obtaining returns through the receipt of tax credits and other tax benefits rather than through the sale of the tax credit investment. Additionally,

[1]The "paragraph 18 admittance test" is specifically referenced in both the meeting minutes and historical versions of the Form A; however, in 2024 the paragraph 18 admittance test was renamed the "Prospective Utilization Assessment" as the paragraph numbering changed due to revisions made to the SSAP No. 93R draft.

the Working Group does not believe the paragraph 18 admittance criteria should be amended to provide a carve out for actively managed tax credit investments as it is not feasible to delineate between tax credit investments purchased for sale vs. purchased for generation of tax benefits without introducing some kind of available-for-sale and held-to-maturity framework which is not compatible with statutory accounting concepts. NAIC staff noted that restrictions which prevent investors from selling their ownership represent a minority of tax credit programs. As such, limiting the scope of paragraph 18 to only tax credit investments which cannot be sold would effectively carve out the majority of tax credit investment structures from its scope. Additionally, the assertion that these investments are readily saleable does not change the fact that the balance sheet value of a tax credit investment is predicated on the assumption that the company can use the tax credits and benefits and if they company cannot use these tax credits then the investment returns have no value. Until the investment has been sold, its ability to satisfy future policyholder obligations is beholden to the company's ability to utilize the generated tax credits and benefits. Interested parties noted that there are other investments which do not have as stringent admittance criteria as have been proposed in paragraph 18. NAIC staff noted that other investments generate returns primarily through the receipt of fungible cash income or by providing a claim to the entity's earnings and assets (bonds, stocks, joint ventures, partnerships and LLCs). In comparison, the main purpose of a tax credit investment is to provide returns in the form of tax credits and other tax benefits, and this purpose is further borne out by the commonly used partnership flip structure for tax credit investments which typically retain zero, or occasionally nominal, residual value once the tax credits have been fully allocated.

iii. Additionally, the requirement to assess tax credit investments by looking at the company's ability to realize future tax credits is not a new concept. Under current SSAP No. 93 OTTI guidance, companies are required to record OTTI if the company determines it is probable that future tax benefits will not be received as expected. As stated in SSAP No. 93, paragraph 17, sentences 2 through 5, companies are required to assess whether the investment will continue to issue the tax credits as anticipated AND whether the company will be able to realize/utilize the future tax benefits to be received. As part of the SSAP No. 93R draft, the requirement to assess the company's ability to utilize future tax credits was moved out of impairment to admissibility. As currently revised, the impairment test specifically addresses the functionality of the investment whereas the paragraph 18 admittance test specifically addresses the ability of the company to realize/utilize the future tax benefits. This was done to simplify the impairment analysis by focusing on investment functionality, but also because that the company's ability to utilize future tax benefits is more accurately characterized as an admittance concern rather than impairment of the investment balance.

b. **Comment:** Interested parties suggested a number of editorial changes to effect clearer guidance in paragraphs 18 and 18.a. These included clarifying that the paragraph 18 assessment of unallocated tax credit utilization should be performed over the life of the tax credits rather than the life of the investments, including its carryforward periods. Interested parties also suggested clarifying in paragraph 18 that tax planning strategies are to be used when assessing the utilization of unallocated tax credits, similar to the valuation allowance requirements under SSAP No. 101. In paragraph 18.a. Interested

parties suggested removing the sentence detailing what to do if fair value is not non-determinable.

i. **Response:** The Working Group agreed with substantially all the editorial clarifications suggested by Interested parties and directed NAIC Staff to update accordingly.

c. **Comment:** Interested parties suggested adding a definitions section to the guidance regarding the following terminology:

"Unallocated Tax Credits" – The portion of tax credits expected to be earned and allocated to the reporting entity through the investment structure.

"Current Portion" – The credits to be allocated within one year of the reporting period.

i. **Response:** The Working Group agreed with the suggestion by interested parties to add definitions and directed NAIC staff to update accordingly with some minor modifications. Some additional definitions were also added to provide clarifications on other terms used in the SSAP No. 93R draft. (Note: The definition of "current portion" was later removed as this term was eliminated from the paragraph 18 admittance test in 2024.)

d. **Comment:** Interested parties suggested that the new SSAP No. 93 be applied prospectively effective January 1, 2025, but no early adoption.

i. **Response:** The Working Group agreed with the changes suggested by interested parties and directed NAIC Staff to update accordingly.

21. The comments provided on SSAP No. 94R are below and have been summarized for brevity:

a. **Comment:** Interested parties suggested that the revised SSAP No. 94R should also be applied prospectively, effective January 1, 2025, with early adoption permitted. Additionally, interested parties suggested a clarification to the scope of SSAP No. 94R by adding the following language to paragraph 1:

"This statement establishes statutory accounting principles for state and federal tax credits that are purchased by the reporting entity without being ~~an~~ bond or equity investor in the entity from which the tax credit were purchased."

i. **Response:** The Working Group agrees with prospective application of SSAP No. 94R with an effective date of January 1, 2025, however elected to not direct NAIC Staff to make the requested changes to the scope of SSAP No. 94R. The reasoning was that this guidance intends to exclude tax credits allocated from SSAP No. 93R investments, which does not specifically identify which tax credit investment structures are within scope of the guidance. However, other adjustments were made to the SSAP No. 94R Scope paragraph to better clarify that tax credits from SSAP No. 93R investments were not within the scope of SSAP No. 94R.

22. On December 1, 2023, the Working Group exposed revisions made to SSAP No. 34, SSAP No. 48, SSAP No. 93, and SSAP No. 94R as part of the new market tax credit project. Revisions to the SSAP No. 93R and SSAP No. 94R drafts included miscellaneous editorial updates and the items discussed above in issue paper paragraphs 19 through 21. The exposure also included new revisions to SSAP No. 34

and SSAP No. 48 which clarified that tax credits are not within the scope of investment income guidance and updated for new SSAP No. 93R language, respectively. Additionally, the Working Group requested comments from state insurance regulators and industry on new RBC reporting categories.

23. Subsequent to the NAIC 2023 Fall National Meeting, interested parties reached out to the Working Group to continue discussions on the paragraph 18 admittance test. The two main concerns raised were that the test would nonadmit previously admitted LIHTC investments and that the test's current structure would significantly increase the administrative burden on insurers who hold tax credit investments. Regarding the first concern, it was pointed out that for all intents and purposes the paragraph 18 admittance test already existed in a simplified form within the impairment LIHTC guidance shown within SSAP No. 93 (see discussion in issue paper paragraph 20). Further discussion developed an initial idea which would allow companies to forgo the paragraph 18 test if the company had no valuation allowance recorded against its DTAs. Based on these discussions and at the direction of the Working Group, NAIC staff drafted new language which would revise the paragraph 18 admittance test. The revisions were as follows:

a. The paragraph 18 admittance test was renamed "Prospective Utilization Assessment" (a specific name was deemed necessary as a new paragraph was added which would have re-numbered the paragraphs).

b. Rather than a practical expedient, language was drafted which would direct companies to perform the Prospective Utilization Assessment if either of two criteria were present in the current or prior period. The first criteria is the existence of a valuation allowance, the second criteria is if the company is aware of any other facts and circumstances which indicate the company would, more likely than not, be unable to substantially utilize the unallocated tax credits. NAIC staff noted that since the valuation allowance, under statutory accounting, is specific to federal income tax it could not be the sole criteria for the Prospective Utilization Assessment as tax credit investments which allocate state income tax or premium tax credits are commonplace. Other changes made to SSAP No. 93R as part of revising admittance test were:

   i. Included in the Glossary is a definition of the probability of "more likely than not," which is 50% or greater, as this probability concept already existed within SSAP No. 101. As these investments provide earnings primarily in the form of tax benefits it makes sense to utilize similar concepts as those used in SSAP No. 101.

   ii. For the other facts and circumstances criteria, to avoid requiring companies to prove a negative (e.g., prove to auditors that other facts and circumstances did not exist) as such the language specifically notes that the company only need perform the Prospective Utilization Assessment if it is aware of other facts and circumstances. However, for c this criterion is intentionally broad, and companies should not limit their consideration of other facts and circumstances to the confines of statutory accounting concepts. To this end, two examples of other facts and circumstances were included within the guidance that would meet criteria 2.

   iii. The Prospective Utilization Assessment test was also simplified by removing the requirement to perform an initial assessment of the utilization of the current portion of unallocated tax credits; the current portion definition was also removed from the glossary as this term was only used in what was previously referred to as the paragraph 18 admittance test.

24. On January 29, 2024, the Working Group exposed, through an evote, revisions made to SSAP No. 93 and SSAP No. 94R as part of the New Market Tax Credit project (see items discussed in issue paper paragraph 23) as well additional editorial updates. The comment period was accelerated to allow the Working Group the opportunity to adopt the New Market Tax Credit project at the 2024 Spring National Meeting.

25. On February 9, 2024, interested parties provided comments to the Working Group on the January 29th exposure. Interested parties noted that they agreed with the changes made to the Prospective Utilization Assessment (previously the paragraph 18 admittance test) and no further comments on this issue. Comments were provided on a consistency issue with Example 2 of the SSAP No. 93R draft and on the reporting categories that would be used to report tax credit investments for RBC purposes. The comments have been summarized below for brevity:

a. **Comment:** Interested parties noted that Schedule BA has reporting sections for Guaranteed, Non-Guaranteed, and All Other Low Income Housing Tax Credit (LIHTC) investments. The RBC charges are driven by these categories and are 0.14%, 2.6%, and 15%, respectively.

   i. **Suggestion 1:** Keep the same categories but remove all references to LIHTC tax credit investments if the expectation is that the RBC charges will remain the same regardless of tax credit program type.

   ii. **Suggestion 2:** Keep the same categories, but to have two separate sections in each category, for debt and equity investments.

   iii. **Suggestion 3:** Assuming the reporting lines delineate between debt and equity, provide separate RBC treatment for debt structured investments with SVO designation.

b. **Comment:** Interested parties also noted that the current annual statement instructions for LIHTC investments may need some clarity as there is diversity in interpretation as to what the instructions require. For example:

   i. Under the non-guaranteed section, there is a reference to "level of leverage below 50%". It is not clear why this requirement is included and whether this requirement is for the insurer to determine whether debt in the structure is below 50% of the total capitalization of the entity or how to classify the investment for accounting and reporting if leverage is higher than 50%.

   ii. The "all other" category refers to non-qualifying LIHTC investments. Interested parties are not clear on what non-qualifying means.

c. **Comment:** Interested parties noted that Example 2 was amended to include a residual value, but the computations for proportional amortization and journal entries were not updated for this fact.

26. At the NAIC 2024 Spring National Meeting, the Working Group voted to adopt the exposed revisions, updated for the corrections to Example 2 in the SSAP No. 93R draft, and the revisions, which are as exposed, to SSAP No. 34, SSAP No. 48, and SSAP No. 94R. The effective date of the revisions is January 1, 2025. The Working Group also directed NAIC staff to:

a. Sponsor a blanks proposal on the annual statement reporting categories for tax credit investment RBC by using the suggestion from the interested parties comment letter to

maintain the same categories but without reference to LIHTC (suggestion 1) and to also update/clarify the instructions accordingly.

b. Send a referral to the Life Risk Based Capital (E) Working Group to inform them of the planned reporting line changes, which may indicate review of the RBC charges as different categories of tax credits will be reported in the form.

c. Draft an issue paper to document the discussions and revisions for agenda item 2022-14.

27. The Working Group sponsored a blanks proposal (#2024-11BWG) to update the annual statement instructions for changes made by the adoption of the New Market Tax Credit project. This agenda item was exposed by the Blanks (E) Working Group on April 1, 2024, and included the following updates:

a. Updates to the annual statement instructions in accordance with the SSAP No. 93R and SSAP No. 94R drafts (terminology, disclosures, etc.).

b. AVR/Schedule BA reporting lines were amended to replace references to "Low-Income Housing Tax Credits" with the general term "Tax Credit Investments." While the reporting lines and RBC factors were generally kept the same, the Working did elect to remove the Federal Guaranteed Tax Credit programs from the draft proposal because these types of tax credit investment structures with "make whole" guarantees were substantially eliminated by the Historic Boardwalk Hall, LLC v. Comm of Internal Revenue court decision in 2012.

28. On April 2, 2024, the Working Group sent a referral to the Capital Adequacy (E) Task Force and Life Risk-Based Capital (E) Working Group informing them of the changes made to the annual statement instructions in response to the adoption of the New Market Tax Credit Project.

29. Per discussion with industry, agenda item #2024-11BWG was updated for the following:

a. **Comment:** Interested parties noted that it would increase consistency in reporting if an example disclosure were provided for Note K(5).

i. **Response:** The Working agreed and directed NAIC Staff to add an example of the disclosure format for aggregate disclosure schedule of tax credits expected to be generated each year for the subsequent five years and thereafter.

b. **Comment:** Interested parties noted that the reporting line titles in the AVR/RBC Instructions were confusing as the guaranteed reporting line is only for yield guaranteed tax credit investments and the criteria for the non-guaranteed reporting line requires compliance guarantees.

i. **Response:** The Working agreed and directed NAIC Staff to update the reporting line titles to increase clarity; the "non-guaranteed" reporting lines were renamed "qualifying" and the "guaranteed" reporting line was renamed "yield guaranteed."

c. **Comment:** Interested parties requested some clarifying edits to the criteria for the yield guaranteed and qualifying tax credit investment categories.

i. **Response:** The Working agreed and directed NAIC Staff to add language to be clear that only yield guaranteed federal tax credit investment previously reported

under the federal guaranteed line would need to go to the Other Tax Credit Investments line (assuming it is within the scope of the revised SSAP No. 93).

ii. The criteria for Qualifying tax credit investments were also amended to be clear that investments must meet all of the stated criteria and that tax credit guarantee agreements from developers or an insurer are acceptable, assuming the transaction is executed at arm's length.

d. **Comment:** Interested parties requested that the duration of the tax credit guarantee agreement, "life of the investment structure" be deleted as often times the life of the investment structure exceeds that of the tax credit compliance period.

i. **Response:** The Working Group agreed that the life of the investment structure was too restrictive, but also noted that the preferential RBC factor for Qualifying Tax Credit Investments is because the guarantees help limit any potential losses from recapture. A tax credit guarantee agreement could have a compliance guarantee, but only during the construction phase. Without terminology setting the acceptable duration of the compliance guarantee, investments with compliance guarantees lasting only a fraction of the regulatory compliance period would receive the same RBC treatment as those with more robust compliance guarantees. When the LRBC Working Group originally set the RBC factors for the "Non-guaranteed" (now renamed "Qualifying") reporting lines, the presence of these guarantees over the course of the investment was one of the stated reasons for the preferential RBC factor. As a result of these discussion, the Working Group directed NAIC staff to retain a duration requirement but to replace the language "for the life of the investment structure" with "for the duration of the regulatory compliance period of the tax credit program."

30. During July 2024, NAIC Staff received informal questions from a public accounting firm on two topics, which are shown below:

Q1: *SSAP No. 93R paragraph 3 makes references to SSAP Nos. 26R and 48. Should this also include a reference to SSAP 94R for purchased credits?*

NAIC Staff noted that paragraph 3 is intended to be a redirect for investments which failed to meet the criteria in paragraph 2. Purchased tax credits wouldn't need to be considered under SSAP No. 93R as they aren't an investment structure. As stated in footnote 1 of SSAP No. 94R, a purchased tax credit typically refers to tax credits acquired via certification or transfer form. Whether purchased or allocated, tax credits are not an investment but rather a type of other than invested asset.

Q2: *SSAP No. 93R paragraph 14(iv) states, "The admissibility of tax credits are subject to SSAP No. 101." Is this meant to apply to federal credit carryovers only? If so, suggest clarifying this.*

NAIC Staff noted that SSAP No. 101 is applicable to both state and federal tax liabilities per the scope of statement in paragraph 1. While the majority of SSAP No. 101 pertains to federal taxes, paragraph 4 provides guidance on state taxes. Per SSAP No. 101 paragraph 4, the guidance is applicable to state taxes, including income and premium, and the last two sentences of the paragraph address the admissibility of state tax recoverables. The Working Group would consider an unused state tax credit to be synonymous with a state tax recoverable when applying this guidance.

31. On August 13, 2024, the Working Group exposed agenda item 2024-18 which proposes clarifying revisions to the adopted changes detailed agenda item 2022-14. These revisions would be effective 1/1/2025 and include:

a. Revisions to SSAP No. 94R accounting guidance as comments noted it was inconsistent with the journal entry examples.

b. Revisions to SSAP No. 93R accounting guidance for recognizing allocated tax credits as comments noted it confusing when compared to the journal entry examples.

c. Revisions to SSAP No. 48 Scope paragraph as it was noted that one sentence was accidentally not updated as part of the New Market Tax Credit project.

Effective Date

32. The new concept revisions to SSAP No. 93 and SSAP No. 94R and clarifying revisions to SSAP No. 34 and SSAP No. 48 are contained in Exhibit A. Users of the *Accounting Practices and Procedures Manual* should note that issue papers are not represented in the Statutory Hierarchy (see Section IV of the Preamble) and therefore the conclusions reached in this issue paper should not be applied until the corresponding revisions to SSAP No. 93 and SSAP No. 94R have been adopted by the Plenary of the NAIC. SSAP No. 93R is effective on January 1. 2025, no early adoption permitted. SSAP No. 94R is effective on January 1. 2025, with early adoption permitted.

RELEVANT STATUTORY ACCOUNTING AND U.S. GAAP GUIDANCE

Statutory Accounting

- *SSAP No. 93R—Investments in Tax Credit Structures*

- *SSAP No. 94R—Transferable and Non-Transferable Tax Credits*

Generally Accepted Accounting Principles

- *FASB Accounting Standards Update No. 2023-02*

33. FASB issued ASU 2023-02 to allow reporting entities to consistently account for equity investments made primarily for the purpose of receiving income tax credits and other income tax benefits. Prior to ASU 2023-02, U.S. GAAP allowed for the option to apply the proportional amortization method to tax equity investments, but the option was limited to investments in low-income-housing tax credit (LIHTC) structures. The amendments in ASU 2023-02 remove this limitation and permit reporting entities to elect to account for their tax equity investments, regardless of the tax credit program from which the income tax credits are received, using the proportional amortization method if certain conditions are met.

34. The proportional amortization method results in the cost of the investment being amortized in proportion to the income tax credits and other income tax benefits received, with the amortization of the investment and the income tax credits being presented net in the income statement as a component of income tax expense (benefit). Equity investments in other tax credit structures are typically accounted for using the equity method or Topic 321, Investments—Equity Securities, which results in investment income, gains and losses, and tax credits being presented gross on the income statement in their respective line items.

35. Stakeholders asserted that tax equity investors in economically similar investments that are made primarily for the purpose of receiving income tax credits and other income tax benefits should have the same election as LIHTC investors to account for those investments using the proportional amortization method. In their view, the proportional amortization method provides investors, lenders, creditors, and other allocators of capital (collectively, "investors") with a better understanding of the returns from such investments than the equity method or Topic 321. Because of the current limitation on the application of the proportional amortization method to account only for eligible LIHTC investments, stakeholders asked that the Board allow reporting entities to elect to apply the proportional amortization method to account for tax equity investments that generate income tax credits through other tax credit programs.

EXHIBIT A – TRACKED REVISIONS TO SSAP NO. 93

Statements of Statutory Accounting Principles No. 93R

~~Low-Income Housing Tax Credit Property~~ Investments in Tax Credit Structures

STATUS

Type of Issue	Common Area
Issued	June 13, 2005; Conceptually revised March 16, 2024
Effective Date	January 1, 2006 Conceptual revisions detailed in Issue Paper No. xxx effective January 1, 2025
Affects	No other pronouncements
Affected by	No other pronouncements
Interpreted by	INT 06-07
Relevant Appendix A Guidance	None

~~STATUS 1~~

~~SCOPE OF STATEMENT 1~~

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~~EXHIBIT A – LOW-INCOME HOUSING TAX CREDIT PROPERTY INVESTMENTS 8~~

STATUS .... ERROR! BOOKMARK NOT DEFINED.
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Relevant Issue Papers .... **Error! Bookmark not defined.**
EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD **40**

~~SCOPE OF STATEMENT~~

~~1. This statement establishes statutory accounting principles for investments in federal and certain state sponsored Low-Income Housing Tax Credit (LIHTC) properties owned through limited liability entities that are flow-through entities for tax purposes. State sponsored LIHTC programs that have the following characteristics are within the scope of and shall be accounted for in accordance with this statement:~~

~~a. The program is based upon Internal Revenue Code (IRC) section 42.~~

~~b. The investment requires an ongoing interest in a limited liability entity, which is a flow-through entity, and cannot be transferred apart from this interest.~~

~~c. Resale value of the investment is not based upon the fair value of the underlying real estate.~~

~~d. Fair value of the investment is directly tied to the remaining stream of tax credits and deductible losses available to investors.~~

~~e. The critical element of value is known with a high degree of certainty before being marketed to investors.~~

~~f. The proportional amortization method (as modified by this statement) is more indicative of liquidation value than the equity method.~~

~~State sponsored LIHTC programs requiring ownership in a partnership or limited liability entity that do not have the foregoing characteristics shall continue to be accounted for in accordance with the requirements of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*.~~

~~2. Some states have enacted laws that create programs by which transferable and non-transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). Investments in transferable and non-transferable state tax credits are~~

~~not within the scope of this statement. See *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits*.~~

~~SUMMARY CONCLUSION~~

~~3. LIHTC investments held by reporting entities meet the definition of an asset as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement.~~

~~4. Resale valuation of these investments is based on the present value of the future stream of tax credits and deductible losses, and not the fair value of the underlying real estate.~~

~~5. Investors in entities that manage or invest in low-income housing projects receive tax benefits in the form of tax deductions from operating losses and tax credits. The tax credits are allowable on the tax return each year over a 10-year period as a result of renting a sufficient number of units to qualifying tenants and are subject to restrictions on gross rentals paid by those tenants. These credits are subject to recapture over a 15-year period starting with the first year tax credits are earned. Corporate investors generally purchase an interest in a limited liability entity that manages or invests in the low-income housing projects.~~

~~Accounting~~

~~6. LIHTC investments shall be initially recorded at cost and carried at proportional amortized cost as specified in this statement unless considered impaired as discussed in paragraphs 16-19. An illustration has been provided in Exhibit A of this statement.~~

~~7. A reporting entity investor using the proportional amortized cost method shall amortize any excess of the carrying amount of the investment over its estimated residual value during the periods in which tax benefits are allocated to the investor. The estimated residual value used in determining the amount to be amortized is the estimated residual value at the end of the last period in which tax benefits are allocated to the investor and should not reflect anticipated inflation. Annual amortization shall be based on the proportion of tax benefits received in the current year to total estimated tax benefits to be allocated to the investor. The amortization amount shall be calculated as follows:~~

~~a. The initial investment balance less any expected residual value of the investment, multiplied by,~~

~~b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the life of the investment.~~

~~8. Under the proportional amortized cost method, the amortization of the investment in the limited liability entity is recognized in the income statement as a component of net investment income/expense. The current tax credit (or benefit) shall be accounted for as a component of income tax expense.~~

~~9. Federal tax credits shall be recognized in the income statement as an offset to federal taxes in the tax reporting year in which the tax credit is utilized in accordance with *SSAP No. 101—Income Taxes*. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101.~~

~~10. At the time of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of an investment in a low-income housing project is not appropriate. (That is,~~

~~low-income housing tax credits shall not be recognized in the financial statements before their inclusion in the investor's tax return.)~~

~~11. Many LIHTC investments require future equity contributions by the investor (equity contributions), that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. If the commitment by the investor to provide equity contributions meets the definition of a liability as defined in *SSAP No. 5R—Liabilities Contingencies and Impairments of Assets,* a liability shall be recorded.~~

~~12. If the commitment to provide equity contributions does not meet the definition of a liability, the contingent commitment shall be disclosed in the notes to the financial statements with other contingent commitments. A liability shall also be recognized for equity contributions that are contingent on a future event when that contingent event becomes probable.~~

~~13. Additional funding that does not result in additional tax credits for the reporting entity (investor) shall be expensed as a component of net investment income. In the event a reporting entity obtains additional tax credits for a LIHTC investment, the following shall be applied:~~

~~a. If additional tax credits are allocated without additional funding, the additional tax credits shall not be afforded any value; rather, the tax benefit is only recognized when realized.~~

~~b. If additional funding directly related to the additional tax credits is required, the provisions of this statement shall be followed as if the additional funding were a new investment in LIHTC property.~~

~~14. An investment amortized to residual value in accordance with paragraph 7 of this statement shall not be revalued under any other method during or subsequent to the amortization period, other than as discussed in this statement.~~

~~15. Changes in estimated losses shall be accounted for in accordance with *SSAP No. 3—Accounting Changes and Corrections of Errors* as a change in estimate and included as a component of net investment income.~~

~~**Impairment**~~

~~16. Reporting entities with investments in LIHTC properties shall complete and document an impairment analysis at each reporting period. If it is determined that an impairment exists, the book value of the LIHTC investment shall be compared to the present value of future tax benefits discounted at a risk free rate of return, i.e., the rate on U.S. Treasury obligations of a similar duration, and the investment shall be written-down if the book value is higher. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value.~~

~~17. Among other things, an other-than-temporary impairment(INT 06-07) shall be considered to have occurred if it is probable that future tax benefits will not be received as expected. For example, for LIHTC properties based on state tax credits, if the reporting entity intends to decrease premium volume in that state, it may affect whether or not the tax credits in that state are realizable. The best available information about market share or premiums by state and premiums by line of business generally should be used to estimate the amount of future tax credits that are realizable. For purposes of determining impairment, future tax benefits consist of both estimated tax losses and anticipated tax credits. Loan default or a reasonable probability of credit recapture would signify that tax benefits would not be received as expected.~~

18. In a multi-tiered partnership, whereby one limited partnership exists only to hold interests in other limited partnerships that are each invested in different developments, the impairment should be determined at the lowest tier. The partnership that holds the assets in which the impairment is determined to exist will be adjusted to a new cost basis representing the lower of book value or the present value of future tax benefits discounted at a risk-free rate of interest. This new cost basis and related realized loss shall be recognized by the holder of a LIHTC investment.

1. It should be noted that a foreclosure of a single property within an LIHTC investment fund only affects the loss of tax credits on a proportional basis. For example, a foreclosure of one property in a six-property fund generating equal levels of credits would only eliminate 1/6 of the credits, thereby, only affecting 1/6 of the LIHTC investment fund value to the individual investors.

Audited Financial Statements

2. The reporting entity's return and book value of an LIHTC investment is reliant upon maintaining tax credit eligibility and not its share of the equity as reported on a financial statement. As such, a reporting entity shall monitor the tax credit eligibility of an LIHTC investment through requiring either audited GAAP or audited tax basis financial statements. In the event an audited GAAP or audited tax basis financial statement is not obtained, the asset shall be nonadmitted.

Disclosures

3. Disclose the number of remaining years of unexpired tax credits and the required holding period for the LIHTC investments.

4. Disclose the amount of low-income housing tax credits and other tax benefits recognized during the years presented.

5. Disclose the balance of the investment recognized in the statement of financial position for the reporting period(s) presented.

6. Disclose if the LIHTC property is currently subject to any regulatory reviews and the status of such review. (Example investigations by the housing authority.)

7. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of equity contributions that are contingent commitments related to LIHTC properties investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.

8. The significance of an investment to the reporting entity's financial position and results of operations shall be considered in evaluating the extent of disclosures of the financial position and results of operations of an investment in a LIHTC. If in the aggregate the LIHTC investments exceed 10% of the total admitted assets of the reporting entity the following disclosures shall be made:

a. (i) The name of each partnership or limited liability entity and percentage of ownership, (ii) the accounting policies of the reporting entity with respect to investments in partnerships and limited liability entities (iii) the difference, if any, between the amount at which the investment is carried and the amount of underlying equity in net assets (i.e., nonadmitted goodwill or other nonadmitted assets) and (iv) the accounting treatment of the difference;

b. For partnerships, and limited liability entities for which a quoted fair value is available, the aggregate value of each partnership, or limited liability entity investment based on the quoted fair value; and

c. Summarized information as to assets, liabilities and results of operations for partnerships, and limited liability entities, either individually or in groups.

9. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:

a. A description of the impaired assets and the facts and circumstances leading to the impairment; and

b. The amount of the impairment and how fair value was determined.

10. Disclose the amount and nature of the write-downs or reclassifications made during the year resulting from the forfeiture or ineligibility of tax credits, etc. These write-downs may be based on actual property level foreclosure, loss of qualification due to occupancy levels, compliance issues with tax code provisions within an LIHTC investment, or other issues.

11. Refer to the Preamble for further discussion regarding disclosure requirements.

Relevant Literature

12. This statement adopts with modification *ASU 2014-01, Investments—Equity Method and Joint Ventures (Topic 323): Accounting for Investments in Qualified Affordable Housing Projects*. The modifications include:

a. ASU 2014-01 allows the election of using the proportional amortization method if an affordable housing project investment meets several criteria, including the lack of significant influence. This statement requires the proportional amortization method, with modifications as discussed in this statement, for all investments within its scope. Although the terminology is updated, the balance sheet amount and timing of amortization should be the same under this statement and the proportional amortization method in ASU 2014-01.

b. The proportional amortization method in ASU 2014-01 utilizes a net presentation in the income statement by including the amortized initial cost of the investment and the tax credits and benefits received within income tax expense. This statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.

c. Paragraphs 323-740-50-2c and 323-740-50-2d related to disclosures of the optionality of the method used and net reporting, are rejected as not applicable to statutory accounting.

d. Disclosures should be followed as indicated in the disclosures section in this statement.

13. This statement adopts with modification *EITF 94-1: Accounting for Tax Benefits from Investments in Affordable Housing Projects* as applicable to statutory accounting to the extent it is not modified by ASU 2014-01. In 2006, this statement modified *Issue Paper No. 99—Nonapplicable GAAP Pronouncements* to remove the reference to EITF 94-1.

~~14. ASU 2014-01 and EITF 94-1 are modified for the following statutory concepts:~~

~~a. The elective effective yield method and the net income statement reporting in EITF 94-1 are rejected. The elective proportional amortization method in ASU 2014-01, which replaced the effective yield method, is required for only the balance sheet calculation reflecting the timing and amount of amortization. The proportional amortization method net income statement reporting in ASU 2014-01 is rejected for statutory accounting.~~

~~b. Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements, with amortization in investment income.~~

~~c. Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with *SSAP No. 101—Income Taxes*. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.~~

~~d. Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.~~

~~e. Reporting entities shall follow the guidance in paragraphs 11 and 12 regarding the application of the definition of a liability and contingent commitments from *SSAP No. 5R—Liabilities Contingencies and Impairments of Assets* to equity contributions.~~

~~f. *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities* shall be utilized to account for investments that qualify as subsidiary, controlled or affiliated entities.~~

~~g. The impairment guidance contained in this statement shall be followed.~~

~~h. For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).~~

~~15. *AICPA Statement of Position 78-9, Accounting for Investments in Real Estate Ventures* (SOP 78-9) is rejected for purposes of statutory accounting in SSAP No. 48. This statement does not intend to establish SOP 78-9 as applicable to statutory accounting.~~

~~16. *FASB Interpretation No. 46, Consolidation of Variable Interest Entities* (FIN 46) is rejected for purposes of statutory accounting in SSAP No. 3. This statement does not intend to establish FIN 46 as applicable to statutory accounting.~~

~~17. *EITF 85-16: Leveraged Leases* (EITF 85-16) is adopted for purposes of statutory accounting in *SSAP No. 22R—Leases*. This statement does not intend to readdress the conclusions reached in SSAP No. 22R.~~

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for qualifying tax credit investments[2] in programs made primarily for the purpose of receiving allowable general business federal tax credits and/or state tax credits, including state premium tax credit programs. Although these investments are often in the form of equity, this statement shall be applied to all investments (regardless of the structure of the investment) that qualify pursuant to paragraph 2.

2. A reporting entity that invests in projects or programs that generate general business federal tax credits, corresponding state tax credits or state premium tax credits that meet the following conditions at the time of initial investment are required to capture the investment in scope of this statement:

   a. It is probable that the tax credits allocable to the investor will be available.

   b. Reporting entity investor does not have the ability to exercise significant influence over the operating and financial policies of the underlying projects.

   c. Substantially all the projected benefits are from tax credits and other tax benefits, determined on a discounted basis using a discount rate that is consistent with the cash flow assumptions utilized by the reporting entity for the purpose of deciding to invest in the project.

   d. The reporting entity's projected yield based solely on the cash flows from the tax credits and other tax benefits is positive.

3. Tax credit investments that do not meet the conditions in paragraph 2 shall be captured within the statutory accounting statement that addresses the underlying investment structure. Equity structured tax credit investments would generally fall within *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*. Debt structured tax credit investments should be assessed in accordance with *SSAP No. 26R—Bonds* to determine eligibility for reporting as a bond.

4. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors, to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the reporting entity is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the reporting entity will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

5. Investments in tax credit structures are generally acquired to obtain a positive yield through tax credits and other tax benefits. The value of the investment is primarily based on the value of the remaining stream of tax credits and deductible expenses available to the reporting entity investor. The

[2] The scope of *ASC 323-740–Investments—Equity Method and Joint Ventures—Income Taxes—Proportional Amortization Method* only extends to income tax equity investments, whereas this statement is intended to capture all tax credit investments which meet the criteria in paragraphs 2.a.-2.d., regardless of structure. This includes, but is not limited to, tax equity investments and tax credit debt investments.

primary purpose of investing in these tax credit structures is to generate tax credits which benefit reporting entities, most commonly through a reduction in tax liability or, when permitted by IRS or state tax provisions, through the sale of certificated/transferable tax credits.

6. Investments in tax credit structures held by reporting entities meet the definition of an asset as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement.

Accounting

7. This guidance addresses the methodology for measuring an investment that is accounted for using the proportional amortization method. At initial recognition, investments in scope of this statement shall be recorded at cost.

8. Subsequent to initial recognition, the investment shall be carried at proportional amortized cost. Under the proportional amortization method, the reporting entity amortizes the initial cost of the investment in proportion to the tax credits and other tax benefits allocated to the investor. The amortization amount shall be calculated as follows:

   a. The initial investment balance less any expected residual value of the investment, multiplied by;

   b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the amortization timeframe (life of the investment).

9. Reporting entities shall recognize tax credits in the period they are allocated to the investor for tax purposes. Unless all tax credits are allocated to the reporting entity at the date of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of the investment project that generates tax credits and other tax benefits is not permitted. Tax credits shall not be recognized in the financial statements before the year in which the tax credits are allocated.

10. Any expected residual value of the investment shall be excluded from the proportional amortization calculation. Non-tax related benefits received from the investment shall be included as a component of net investment income when realized or realizable. Gains or losses on the sale of the investment, if any, shall be included as a capital gain or loss at the time of the sale. Determination of gain or loss will depend on the reported value (e.g., residual value at the end of the amortization timeframe) compared to the amount received in exchange for the investment. Liquidation of the investment commonly occurs at the end of the tax credit timeframe through a put or call agreement, often reflecting a nominal residual value that was established at the time of acquisition. The liquidation amount from such agreements shall reflect the expected residual value when available.

11. At the end of the amortization timeframe, if the reporting entity retains the investment, the investment shall be subsequently measured and assessed within the statutory accounting statement applicable to the investment held. Retained investments will remain on Schedule BA until disposal and cannot exceed the initial expected residual value.

12. Exhibit A illustrates the application of accounting guidance in two examples that generate tax credits and tax benefits using the proportional amortization method. The first example illustrates the application of a standard project. The second example illustrates the application of accounting guidance in a project that has expected residual value and generates non-tax related benefits in addition to tax credits and other tax benefits using the proportional amortization method.

Application of Proportional Amortization Method

13. Under the proportional amortized cost method, the amortization of the investment is to be recognized in the income statement as an expense component of the net investment income calculation. Non-tax related benefits received from operations, or sale of the investment should be accounted for in accordance with paragraph 10.

14. Tax credits and other tax benefits, not to include amortization of the investment, shall be reflected as follows:

Drafting Note: The proposed revisions in agenda item 2024-18 would revise paragraphs 14.a.i. through 14.a.iii., and, if adopted, would also be effective 1/1/2025.

a. Tax credits shall be recognized in the period that they are allocated to the reporting entity for tax purposes:

i. Federal tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101—Income Taxes*. Federal tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.

ii. State tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested assets (not to be reported net).

iii. Use of tax credits carried forward in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.

iv. Tax credits allocated from tax credit investments, as defined within this SSAP, and held by reporting entities meet the definition of assets as specified in SSAP No. 4 and are admitted assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.

b. Federal tax benefits other than tax credits (e.g., tax benefits from investment depreciation) shall be recognized in the year allocated pursuant to SSAP No. 101. When utilized, the federal tax benefits are recognized as a component of income tax expense.

c. State tax benefits other than tax credits shall be recognized in the year allocated gross of any related state tax liabilities pursuant to SSAP No. 101. When utilized, the state tax benefits are recognized as a component of taxes, licenses, and fees.

Admittance of Tax Credit Investments

15. Although investments in tax credit programs do not represent investments that can be readily liquidated for policyholder claims, the reduction of tax liability or sale of allocated tax credits represents a benefit that supports admittance of these investments, but only if the tax credits will be received and can be utilized by the reporting entity. Investments in tax credit programs that will not result in any of the

anticipated tax credits or that will result in tax credits which cannot be utilized or sold by the reporting entity shall be considered impaired and should refer to paragraphs 27 and 28.

16. Reporting entities shall, at initial investment, obtain a clean[3] fund level tax opinion[4] on the validity of the credits and structure of the underlying program and investment fund. Investments not supported by an initial tax opinion shall be nonadmitted. If the program is a permitted syndicated program with a yield guarantee, the opinion must verify that the investment and guarantee have been properly structured under IRS or state tax provisions and the guarantee does not disqualify the reporting entity from obtaining the tax credits.

17. Reporting entities shall annually obtain U.S. GAAP or U.S. tax basis audited financial statements on the investment fund. In the event audited U.S. GAAP or U.S. tax basis financial statements are not obtained or the audit receives an opinion other than unqualified, the asset shall be nonadmitted. If the audited financial statements are in-process but not completed as of the annual statement filing deadline, the reporting entity may admit the investment based on the results of the immediately preceding prior year audited financial statements. A lag in reporting shall be consistent from period to period.

a. Other tax credit investments – If the reporting entity has a tax credit investment which by virtue of its structure cannot be audited, the investment is exempt from the annual audit requirement. One example of this type of investment would be tax credit debt investments[5] which do not involve any amount of equity ownership as a component of the investment. This type of tax credit debt investment is exempt from the annual audit requirement, but the reporting entity is still required to obtain a clean tax opinion, in accordance with paragraph 16, to support admittance at initial investment.

Prospective Utilization Assessment

18. The prospective utilization assessment, as detailed below in paragraphs 19-21, must be performed annually by the reporting entity if any of the following circumstances exist in either the current or prior reporting period:

a. Reporting entity records a valuation allowance against a deferred tax asset (DTA) balance.

b. Reporting entity becomes aware of other facts and circumstances which indicate that it will, more likely than not, be unable to substantially utilize the unallocated tax credits. Such instances include, but are not limited to:

i. If the reporting entity holds an investment which allocates state premium tax credits and intends to decrease premium volume in that state, it may affect whether or not the unallocated tax credits in that state can be utilized.

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[3] While not quantified or defined in either the Internal Revenue Code or state regulations, common industry standards consider a "should" opinion to be the minimum degree of confidence associated with a clean tax opinion. For the purposes of this statement, a "should" opinion must represent a probability of success no less 70%. Any tax credit investment which receives a tax opinion with a degree of confidence less than "should" is to be nonadmitted.

[4] A fund level tax opinion for the purposes of this statement is defined as a full IRS Circular 230 tax opinion which covers from the fund level through to the underlying assets generating the tax credit benefits. The fund level is defined as the entity, or level, at which the investor comes directly into the investment without any intermediaries.

[5] Common examples of tax credit debt investments are Tax Credit Strips derived from tax credit bonds, Qualified Tax Credit Bonds, and Build America Tax Credit Bonds. Tax opinions received on these tax credit investments are also referred to as "bond counsels." Tax Credit Strips derived from tax equity investments would not qualify for the paragraph 17.a. carve out as the source of the stripped tax credits is auditable.

ii. If the reporting entity holds an investment allocating state income tax credits and records a valuation allowance in its U.S. GAAP financial statements against state DTA balances, including the same state as the tax credit investment, it cannot ignore the circumstances that led to the valuation allowance, even though statutory accounting does not permit state DTAs.

19. Prospective Utilization Assessment – If any of the circumstances detailed in paragraph 18 exist, the reporting entity is required to assess the future utilization of the investment's unallocated tax credits against estimated tax liabilities and determine the extent to which it will be able to utilize the investment's unallocated tax credits over the life of the tax credits. If assessment projections identify that the investment's unallocated tax credits will exceed what can be utilized under IRS or state tax provisions, the reporting entity shall nonadmit investments as necessary so that investments in scope of this statement (in aggregate) are only admitted to the extent tax credits are expected to be utilized within current, carryback, and carryforward periods. In making this assessment, the reporting entity is not permitted to assume increased operations (e.g., expanded product sales) beyond those allowed under prudent and feasible tax-planning strategies to conclude that additional federal or state tax liability will exist that would allow additional utilization of tax credits. A reporting entity may subsequently admit a previously nonadmitted tax credit investment, based on subsequent assessments in which the reporting entity determines that they will be able to utilize the unallocated tax credits.

20. Additional Admittance to Prospective Utilization Assessment – If the tax credit investment allocates tax credits with the following features, the reporting entity may perform a secondary assessment to determine if additional amounts of the tax credit investment nonadmitted under paragraph 19 can be admitted:

a. Tax credit investments which allocate tax credits which are certificated or transferable in accordance with permitted IRS or state tax provisions shall admit up to the lesser of the proportional amortized cost or fair value of the unallocated tax credits.

b. Tax credit investments which allocate tax credits eligible for direct payment shall admit up to the lesser of the proportional amortized cost or the estimated proceeds from unallocated tax credits.

21. For tax credit investments which have an amortization timeframe greater than the tax credit allocation timeframe (as demonstrated in Exhibit A), the reporting entity would still, if required, perform the prospective utilization assessment but on the reporting entity's ability to utilize the remaining stream of anticipated tax benefits.

Future Contributions and Additional Tax Credits

22. Many tax credit investments require future contributions by the investor, that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. A liability shall be recognized for delayed contributions which result in additional tax credits that are unconditional and legally binding, and a liability shall also be recognized for contributions which result in additional tax credits that are contingent upon a future event when that contingent event becomes probable pursuant to the loss contingency guidance in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*. Liabilities or loss contingencies recognized for future contributions which result in additional tax credits shall be reported as 'Payable for Securities' until remitted or until the obligation is otherwise eliminated.

23. If a commitment to provide future contributions is not required to be recognized pursuant to paragraph 22, the commitment shall be disclosed in the notes to the financial statements with other commitments.

24. Additional contributions that do not result in additional tax credits for the reporting entity investor shall be immediately expensed as a component of net investment income.

25. If additional contributions result in additional tax credits for the reporting entity, the proportional amortization method for the tax credit investment shall be adjusted, on a prospective basis, to reflect the increased cost with the revised expected tax credits and other tax benefits.

26. In the event a reporting entity obtains additional tax credits without the reporting entity making additional contributions, the reporting entity shall not adjust the book/adjusted carrying value of the tax credit investment. (The proportional amortization method shall not be adjusted to reflect the expected additional tax credits.) Rather, the tax credit shall be recognized when allocated pursuant to paragraph 14.

Impairment of Tax Credit Investments

27. Reporting entities with investments in tax credit programs shall complete and document an impairment analysis at each reporting period. For this analysis, the reporting entity shall compare the current book/adjusted carrying value to the fair value of the investment. (If fair value is not determinable, an entity can compare book/adjusted carrying value to the present value of future tax credits and other tax benefits discounted at a risk-free rate of return.) If book/adjusted carrying value is higher, the difference between book/adjusted carrying value and fair value shall be recognized as an other-than-temporary impairment [(INT 06-07)] to the tax credit investment. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value.

28. An other-than-temporary impairment shall also be considered to have occurred if a previously allocated tax credit has been recaptured or if it is probable that future tax credits will not be allocated as expected. If a project no longer qualifies for tax credits, the entire investment, less any residual established at initial recognition, shall be written off as other-than-temporarily impaired. If the reporting entity experiences a tax credit recapture, the reporting entity shall assess whether future tax credits and other benefits will qualify for use by the reporting entity. If future credits will not be generated or will be subject to future recapture, then the reporting entity shall write-off the investment as other-than-temporarily impaired so that the resulting investment value only reflects expected qualifying tax credits and other benefits expected to be allocated. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries or revision to tax credit expectations.

29. Certain tax credit programs allocate variable amounts of tax credits (for example, clean energy production tax credit programs) which will result in regular differences between actual allocated tax credits and estimated tax credit allocations as calculated upon acquisition of the investment. Variable tax credits allocated in excess of estimates should be accounted for in accordance with paragraph 26. If the allocated variable tax credits are less than estimates by more than 10% or consistently allocate less than the estimated amounts over multiple allocation periods, then the reporting entity must either recognize an other-than-temporary impairment or specifically address within its impairment analysis the reason why consistently diminished tax credit returns do not represent an impairment event. Note that if the company determines it is probable that the total amount of anticipated variable tax credits will not be received, it would still be considered an other-than-temporary impairment in accordance with paragraph 28.

Disclosures

30. A reporting entity shall disclose information that enables users of its financial statements to understand the following information about its investments in projects that generate tax credits and other tax benefits from tax programs captured in scope of this statement:

a. The nature of its investments in projects that generate tax credits and other tax benefits.

b. The effect of the recognition and measurement of its investments in projects that generate tax credits and other tax benefits and the related tax credits on its financial position and results of operations.

31. To meet the objective of paragraph 30, a reporting entity shall disclose the following information about its investments in projects that generate tax credits and other tax benefits from a tax credit program in scope of this statement:

a. The amount of tax credits and other tax benefits recognized during the reporting period(s).

b. The balance of the investments recognized in the statement of financial position for the reporting period(s) presented.

c. The amount of investment amortization and non-income tax related activity recognized as a component of net investment income, and other returns allocated that were recognized outside of income tax expense.

d. An aggregate schedule of tax credits expected to be generated each year for the subsequent five years and thereafter, disaggregated by transferable/certificated and non-transferable.

e. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of contributions that are contingent commitments related to tax credit investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.

32. The following disclosures shall be included if applicable to tax credit investments:

a. If the underlying project is currently subject to any regulatory reviews and the status of such review. (Example: Investigations by the housing authority.)

b. Significant modifications or events that resulted in a change in the nature of the investment or a change in the relationship with the underlying project for investments in scope.

33. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:

a. A description of the impaired assets and the facts and circumstances leading to the impairment; and

b. The amount of the impairment and how fair value was determined.

34. The following disclosures pertain only to those tax credits allocated from tax credit investments and are unused as of the reporting period(s). For purposes of this disclosure, total unused tax credits represent the entire amount of tax credits available:

c. Carrying value of tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related tax liabilities by jurisdiction and in total.

d. Total unused tax credits by jurisdiction, disaggregated by transferable/certificated and non-transferable.

e. Method of estimating utilization of remaining tax credits or other projected recovery of the current carrying value.

f. Impairment amount recognized in the reporting period(s), if any.

g. Identify tax credits by transferable/certificated and non-transferable classifications and identify the admitted and nonadmitted portions of each classification.

35. Refer to the Preamble for further discussion regarding disclosure requirements.

Relevant Literature

36. This statement adopts with modification *Accounting Standards Update (ASU) 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. The ASU is modified for the following statutory concepts:

a. This statement is applicable to all federal and state tax credit programs earned through any tax credit investment structure that meets the requirements in paragraph 2. Under the ASU, use of the proportional amortization method is an election and only pertains to income tax equity investment structures in which the reporting entity does not exercise significant influence. With this statement, the U.S. GAAP election to use the proportional amortization method is rejected and use of proportional amortization for investments within the scope of this statement is required. The guidance is expanded for state premium tax credits.

b. Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be allocated by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements. Under the ASU, a practical expedient is allowed for the calculation of proportional amortization but has been rejected with this statement.

c. Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.

d. Tax benefits allocated, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.

e. Reporting entities shall follow the guidance in paragraphs 22 and 23 regarding the recognition of contingent commitments from SSAP No. 5R to equity contributions. .

f. This statement has specific impairment and nonadmittance requirements.

g. For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).

h. Disclosures should be followed as indicated in the disclosures section in this statement.

i. The examples detailed in Exhibit A were modified to better illustrate the statutory accounting method for tax credit investments.

Effective Date and Transition

37. This statement is effective for reporting periods beginning on or after January 1, 2006. Early adoption is permitted. 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 guidance previously in paragraph 3 of this statement superseded paragraph 1 of SSAP No. 48. In 2011, this guidance was moved to SSAP No. 48~~—*Joint Ventures, Partnerships and Limited Liability Companies*~~ and deleted from this statement. The original guidance included in this standard is retained for historical purposes in Issue Paper No. 125. The guidance from ASU 2014-01 is effective for reporting periods beginning on or after January 1, 2015, with early adoption permitted.

38. In March 2024, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective January 1, 2025, expanded the scope of SSAP No. 93R to include all federal and state tax credit investment structures and provide new guidance on the accounting, recognition, and reporting of tax credit investment structures. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credit investment structures to reflect the guidance in the conceptual revisions. Additionally, all tax credit investment structures which fall within the scope of this statement not currently reported on Schedule BA are to be transferred to Schedule BA as of the effective date.

Glossary

39. The following definitions are provided for the purposes of this statement.

a. Unallocated tax credits – The portion of tax credits expected to be earned and allocated to the reporting entity through the tax credit investment structure.

b. Transferable/Certificated – The tax credits are certified for sale (certificated tax credits) or saleable through the execution of a state or federal transfer form (transferable tax credits).

~~i.~~c. More Likely Than Not – Refers to a likelihood of more than 50%.

REFERENCES

Relevant Issue Papers

- *Issue Paper No. 125—Accounting for Low-Income Housing Tax Credit Property Investments*
- *Issue Paper No. XX—New Market Tax Credit Project*

EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD

Example 1: Qualifying Tax Credit Investment Structure

On January 1, 20X1, ABC Insurance Company purchases a 5% equity stake in a tax credit investment structure for $100,000. The allocated tax credits are transferable, and ABC anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a $100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership finances the project cost of $4,000,000 with 50% equity and 50% debt.
5. The annual tax credit allocation (equal to 4% of the project's original cost) will be received for a period of 10 years.
6. The investor's tax rate is 40%.
7. For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.
8. The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the $100,000 investment.
9. It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.
10. The investor expects that the estimated residual value of the investment will be zero.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

(1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).

(2) Initial investment of $100,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of $120,000).

(3) Annual 4% tax credit on $200,000 tax basis of the underlying assets.

(4) Depreciation (on $200,000 tax basis of the underlying assets) using the straight-line method over 27.5 years up to the amount of the initial investment of $100,000.

(5) Column (4) x 40% tax rate.

(6) Column (3) + Column (5).

Initial Year

	Debit	Credit
Tax credit investment	100,000	
Cash		100,000
To record the purchase of tax credit investment		

Years 1-10

	Debit	Credit
Amortization expense	9,091	
Tax credit investment		9,091
Federal tax credits	8,000	
Income tax expense		8,000

		Debit	Credit
	To record annual receipt of allocated tax credits and proportional amortization of investment.		
	Income taxes payable	8,000	
	Federal tax credits		8,000
	To record annual utilization of allocated tax credits.		
Year 11-13			
	Amortization expense	2,424	
	Tax credit investment		2,424
	To record annual proportional amortization of tax credit investment.		
Year 14			
	Amortization expense	1,818	
	Tax credit investment		1,818
	To record annual proportional amortization of tax credit investment.		

Example 2: Qualifying Tax Credit Investment Structure with Non-Income Tax Related Benefits

On January 1, 20X1, T&A Insurance Company purchased a 5% equity stake in a tax credit investment structure for $100,000. The allocated tax credits are non-transferable, and T&A anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.

2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).

3. The investor made a $100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.

4. The partnership will receive production tax credits based on the energy the project produces. The credits will be allocated over a four-year period.

5. The tax equity investor will receive cash proceeds based on 2% of the project's cash generated during the life of the investment.

6. The investor's tax rate is 40%.

7. All requirements are met to retain allocable income tax credits such that there will be no recapture of income tax credits.

8. All of the conditions are met to require use of the proportional amortization method.

9. After 10 years, the tax equity investor has a right to require that the project sponsor purchase the tax equity investor's equity interest for a nominal amount. It is assumed that the Put option will be exercised and has a contractually agreed upon residual value of $1,000.

10. In Years 1-3 the investor is able to utilize all allocated tax credits in the same period they were received. In Year 4, the investor is only able to utilize half of that year's allocated tax credit and defers the remainder for utilization in Year 5.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)	Non-Tax Related Cash Returns (7)
	100,000						
1	79,605	20,395	20,000	8,300	3,320	23,320	58
2	59,210	20,395	20,000	8,300	3,320	23,320	58
3	38,815	20,395	20,000	8,300	3,320	23,320	58
4	18,420	20,395	20,000	8,300	3,320	23,320	58
5	15,516	2,904		8,300	3,320	3,320	58
6	12,612	2,904		8,300	3,320	3,320	58
7	9,708	2,904		8,300	3,320	3,320	58
8	6,804	2,904		8,300	3,320	3,320	58
9	3,900	2,904		8,300	3,320	3,320	58
10	1,000	2,900		8,300	3,320	3,320	58
							580
Total	1,000	99,000	80,000	83,000	33,200	113,200	

(1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).

(2) Initial investment, less residual value of $1,000, of $99,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of $113,200).

(3) These tax credits have been generated through the production of electricity, which generates production tax credits. The tax equity investor is not receiving renewable energy credits or carbon offsets.

(4) Depreciation /other tax losses passed on to the investor.

(5) Column (4) x 40% tax rate.

(6) Column (3) + Column (5).

(7) Non-income-tax-related benefits recognized in current-period pre-tax earnings when allocated. This represents the cash proceeds allocated by the tax equity investor based on the cash generated from the project

Initial Year		
Tax credit investment	100,000	
Cash		100,000
To record the purchase of tax credit investment		

Years 1-3		
Amortization expense	20,395	
Tax credit investment		20,395
Federal tax credits	20,000	
Income tax expense		20,000

	Debit	Credit
Cash	58	
Investment Income		58

To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.

	Debit	Credit
Income taxes payable	20,000	
Federal tax credits		20,000

To record annual utilization of allocated tax credits.

Year 4

	Debit	Credit
Amortization expense	20,395	
Tax credit investment		20,395
Federal tax credits	20,000	
Income tax expense		20,000
Cash	58	
Investment Income		58

To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.

	Debit	Credit
Income taxes payable	10,000	
Federal tax credits		10,000
Income tax expense	10,000	
Deferred tax expense		10,000

To record the portion of allocated tax credits utilized in the current year and defer the remainder. (Federal tax credit account should be mapped to the DTA reporting line as any balance remaining at year-end would be a DTA)

Year 5

	Debit	Credit
Amortization expense	2,904	
Tax credit investment		2,904
Cash	58	
Investment Income		58

To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.

	Debit	Credit
Income taxes payable	10,000	
Federal tax credits		10,000
Deferred tax expense	10,000	
Income tax expense		10,000

To record utilization of deferred tax credit.

Years 6-9

	Debit	Credit
Amortization expense	2,904	
Tax credit investment		2,904
Cash	58	
Investment Income		58

To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.

Year 10

Amortization expense	2,900	
Tax credit investment		2,900
Cash	58	
Investment Income		58

To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.

Cash	1,000	
Tax credit investment		1,000

To record sale of interest in tax credit investment at stated residual value.

EXHIBIT A – LOW-INCOME HOUSING TAX CREDIT PROPERTY INVESTMENTS

A Limited Partnership Investment in an Affordable Housing Project Accounted for Using the Amortized Cost Method (modified to include tax benefits and record amortization as a component of net investment income):

This exhibit is based on ASU 2014-01, paragraph 323-740-55-7 of the Accounting Standards Codification. The amount and timing of amortization in the proportional amortization method is consistent with the statutory modifications; therefore, the table incorporated in this exhibit is based on the proportional amortization table. The statutory income statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.

Terms:
Date of Investment: January 1, 20X1
Purchase Price of Investment: $100,000

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.

2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).

3. The investor made a $100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.

4. The partnership finances the project cost of $4,000,000 with 50% equity and 50% debt.

5. The annual tax credit allocation (equal to 4% of the project's original cost) will be received for a period of 10 years.

6. The investor's tax rate is 40%.

7. For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.

8. The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the $100,000 investment.

9. It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.

10. The investor expects that the estimated residual value of the investment will be zero.

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

(1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).

(2) Initial investment of $100,000 x (total tax benefits received during the year in Column (6)/total anticipated tax benefits over the life of the investment of $120,000).

(3) A 4% tax credit on $200,000 tax basis of the underlying assets.

(4) Depreciation (on $200,000 tax basis of the underlying assets) using the straight-line method over 27.5 years up to the amount of the initial investment of $100,000.

(5) Column (4) x 40% tax rate.

(6) Column (3) + Column (5).

EXHIBIT B – TRACKED REVISIONS TO SSAP NO. 94R

Statements of Statutory Accounting Principles No. 94 – Revised

~~Transferable and Non-Transferable State~~ State and Federal Tax Credits

STATUS

Type of Issue	Common Area
Issued	June 12, 2006; Substantively revised December 7, 2011; Conceptually revised March 16, 2024.
Effective Date	December 31, 2006; Substantive revisions detailed in Issue Paper No. 145 effective December 31, 2011; Conceptual revisions detailed in Issue Paper No. XXX effective January 1, 2025.
Affects	No other pronouncements
Affected by	No other pronouncements
Interpreted by	No other pronouncements
Relevant Appendix A Guidance	None

STATUS ERROR! BOOKMARK NOT DEFINED.
SCOPE OF STATEMENT ERROR! BOOKMARK NOT DEFINED.
SUMMARY CONCLUSION ERROR! BOOKMARK NOT DEFINED.
Accounting 50
Admittance 52
Impairment Error! Bookmark not defined.
Disclosures Error! Bookmark not defined.
Effective Date and Transition Error! Bookmark not defined.
REFERENCES ERROR! BOOKMARK NOT DEFINED.
Relevant Issue Papers Error! Bookmark not defined.
EXHIBIT A – ACCOUNTING FOR TRANSFERABLE TAX CREDITS ERROR! BOOKMARK NOT DEFINED.
EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE TAX CREDITS ERROR! BOOKMARK NOT DEFINED.
~~STATUS 1~~
~~SCOPE OF STATEMENT 1~~
~~SUMMARY CONCLUSION 2~~
~~Transferable State Tax Credits 2~~
~~Non-Transferable State Tax Credits 2~~
~~Acquisition 3~~
~~Balance Sheet Treatment 3~~
~~Income Statement Treatment 3~~
~~Impairment 3~~
~~Disclosures 3~~
~~Effective Date and Transition 4~~
~~REFERENCES 4~~

Relevant Issue Papers 4

EXHIBIT A – ACCOUNTING FOR TRANSFERABLE STATE TAX CREDITS 5

EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE STATE TAX CREDITS 6

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for state and federal tax credits that are purchased[fn] by the reporting entity. Tax credits allocated from investments NOT within the scope of *SSAP 93R—Investments in Tax Credit Structures* should refer to this statement for tax credit accounting guidance. Tax credits which have been awarded[fn] to the reporting entity are not within the scope of this statement and should refer to *SSAP No. 101—Income Taxes*.transferable and non-transferable state tax credits that are consistent with the Statutory Accounting Principles Statement of Concepts and Statutory Hierarchy (Statement of Concepts).

2. Tax credits allocated from, and investments in, tax credit structures, as discussed in SSAP No. 93R which involve investments in projects or programs that generate general business federal tax credits or state tax creditsInvestments in Low-Income Housing Tax Credits as discussed in *SSAP No. 93—Low-Income Housing Tax Credit Property Investments*, which involve an investment by a reporting entity in a limited liability company or similar entity that earns tax credits as a consequence of its operating activities involving low-income housing developments and passes those tax credits to its investors, are not within the scope of this statement.

3. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors (insurance companies), in order to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the insurance companyinvestors is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the insurance companyinvestors will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the insurance companyinvestors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

SUMMARY CONCLUSION

4. Both state and federal governments have enacted laws that create programs by which tax credits are granted to entities under certain specified conditions. The terms of these tax credits vary based on the issuing jurisdiction and from program to program.The criteria in paragraphs 5 and 6 are for transferable state tax credits (i.e., credits which may be sold or assigned). The criteria in paragraphs 7 and 8 are for non-transferable state tax credits (i.e., those which cannot be sold or assigned to other parties).

5. For the purposes of this statement, "tax credits" must be issued by either a federal or state governmental entity and must be refundable[fn] or can be applied against income tax or premium tax in accordance with permitted IRS or state tax provisions. Tax credits which may be sold or otherwise transferred to another entity are referred to as "transferable tax credits" whereas all other tax credits are referred to as "non-transferable."

~~**4. Transferable State Tax Credits**~~

~~5. Some states have enacted laws that create programs by which transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). The terms of these state tax credits vary from state to state and, within a state, from program to program. However, many of these transferable state tax credit programs share the following four characteristics:~~

~~6. The tax credit is nonrefundable;~~

~~7. The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise resell or transfer the credit;~~

~~8. The transferable state tax credit will expire if not used by a predetermined date; and~~

~~9. The transferable state tax credit can be applied against either state income tax or state premium tax.~~

6. ~~For purposes of this statement, such programs will be referred to as "transferable state tax credits." The criteria in paragraphs 5.b., 5.c. and 5.d. must be present in order for the transferable state tax credit to receive the accounting treatment described in this statement.~~ When a reporting entity purchases a transferable or certificated ~~state~~ tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e. limited partnership). Direct payment elections are non-revocable and supersede the transferability of tax credits, as such, once the election has been made the tax credit would be considered a non-transferable tax credit.

Accounting

7. All tax credits within the scope of the statement must be recognized in the period they are allocated to or purchased by the reporting entity for tax purposes and must be recorded at face value upon receipt. Tax credits acquired at a premium or discount to their face value must record the gain/loss as follows:

   a. Tax credits acquired at a discount must defer the gain as a miscellaneous liability upon receipt of the tax credit.

   b. Tax credits acquired at a premium must realize the loss within the income statement upon receipt of the tax credit.

8. Deferred ~~G~~gains on ~~transferable and non-transferable state~~ tax credits are deferred until the value of the ~~state~~ tax credits utilized exceeds the initial acquisition cost of the ~~state~~ tax credits, or until the ~~state~~ tax credits are sold to other entities or the direct payment election is utilized and the payment(s) ~~received is greater than the book value~~exceed the initial acquisition cost.

9. Tax credits shall be recognized in the period that they are purchased or allocated to the reporting entity for tax purposes:

Drafting Note: The proposed revisions in agenda item 2024-18 would revise paragraphs 9.a. through 10 and, if adopted, would also be effective 1/1/2025.

   a. Federal tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to federal taxes in accordance with SSAP No. 101~~– *Income Taxes*~~. Federal tax credits that cannot be utilized in the year allocated or

purchased and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.

b. State tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested-assets (not to be reported net).

10. Use of carried forward tax credits in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.Non-Transferable State Tax Credits

11. If the original or subsequent holder of the transferable tax credit is not able to transfer the tax credit, then the admissibility criteria in paragraph 8 for non-transferable tax credits apply. These non-transferable state tax credits share the following characteristics:

12. The tax credit is nonrefundable;

13. The successive holder of a state tax credit must redeem the credit by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry-over, carry-back, obtain a refund, sell or assign the credit;

14. The non-transferable state tax credit will expire if not used by the predetermined date; and

15. The non-transferable state tax credit can be applied against either state income tax or state premium tax.

16. The criteria in paragraphs 7.b., 7.c. and 7.d. must be present in order for the non-transferable state tax credit to receive the accounting treatment described in this statement.

17. Transferable and non-transferable state tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in SSAP No. 4—Assets and Nonadmitted Assets and are admissible assets to the extent that they comply with the requirements of this statement. If the criteria in paragraphs 6 or 8 are not met, the tax credits are nonadmitted.

18. Acquisition

19. Transferable and non-transferable state tax credits are recorded at cost at the date of acquisition.

20. Balance Sheet Treatment

21. Transferable and non-transferable state tax credits expected to be realized are initially recorded at cost.

22. Transferable and non-transferable state tax credits shall be established gross of any related state tax liabilities and reported in the category of other-than-invested assets (not reported net).

23. As transferable and non-transferable state tax credits are redeemed, the carrying value of the tax credits is reduced dollar for dollar by the amount of state tax credits applied toward the reporting entity's applicable state tax liability.

24. Income Statement Treatment

25. Gains on transferable and non-transferable state tax credits are deferred until the value of the state tax credits utilized exceeds the cost of the state tax credits or until the state tax credits are sold to other entities and the payment received is greater than the book value.

26.10. Losses on transferable and non-transferable state tax credits are recognized when known.

11. Gains and losses on transferable and non-transferable state tax credits are reflected in other income when realized.

12. A tax credit asset is considered purchased or allocated once the tax credit is received and available for use. If the reporting entity determines a commitment to purchase tax credits has met the definition of a liability, then the asset would be reported in other-than-invested assets as tax credits receivable.

Admittance

13. Transferable and non-transferable tTax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.

Impairment

27.14. An impairment shall be considered to have occurred if it is probable that the reporting entity will be unable to recover the book/carrying amount value of the transferable or non-transferable state tax credits. State tTax credits should be evaluated for impairment at each reporting date.

28.15. When there is a decline in the realizability of a transferable or non-transferable state tax credit owned by the reporting entity that is other--than--temporary(INT 06-07), the asset shall be written down to the expected realizable amount and the amount of the write down shall be accounted for as a realized loss. The expected realizable value is the new cost basis.

29.16. The new cost basis shall not be changed for subsequent recoveries in realizability.

Disclosures

30.17. The following disclosures shall be made in the financial statements. For purposes of this disclosure, total unused transferable and non-transferable state tax credits represent the entire transferable and non-transferable state amount of tax credits available:

a. Carrying value of transferable and non-transferable state tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related state tax liabilities by state jurisdiction and in total.,

b. Total unused transferable and non-transferable state tax credits by statejurisdiction, disaggregated by transferable/certificated and non-transferable.;

c. Method of estimating utilization of remaining transferable and non-transferable state tax credits or other projected recovery of the current carrying value.

d. Impairment amount recognized in the reporting period, if any.

e. Identify state tax credits by transferable/certificated and non-transferable classifications, and identify the admitted and Nnonadmitted portions of each classification.

18. Any commitment or contingent commitment to purchase tax credits shall be disclosed.

Effective Date and Transition

19. This statement is effective for reporting periods ending on or after December 31, 2006. Early adoption is permitted. 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*. Substantive revisions to 1) revising the title; 2) incorporating the criteria for non-transferable state tax credits as described in paragraphs 7 and 8; 3) adding a disclosure; and 4) updating terminology throughout the document as appropriate, are effective for reporting periods ending on or after December 31, 2011.

20. In March 2024, new SAP concept revisions, as detailed in Issue Paper No. XXX, were adopted. These revisions, effective January 1, 2025, with early adoption permitted, expanded the scope of SSAP No. 94R to include all purchased, and certain allocated, state and federal income or premium tax credits and provide new guidance on the accounting, recognition, and reporting for state and federal tax credits within the scope of this statement. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credits within the scope of this statement to reflect the guidance in the conceptual revisions. For unutilized tax credits which were carried forward from prior to the effective date:

a. Federal tax credits in other-than-invested assets are to be transferred and reported as a DTA in accordance with SSAP No. 101.

b. Tax credits previously recorded at acquisition cost should be adjusted to reflect the face value of the acquired tax credits with the corresponding loss immediately recognized or the gain deferred.

REFERENCES

Relevant Issue Papers

- *Issue Paper No. 126—Accounting for Transferable State Tax Credits*
- *Issue Paper No. 145—Accounting for Transferable and Non-Transferable State Tax Credits*
- *Issue Paper No. XXX—New Market Tax Credit Project*

EXHIBIT A – ACCOUNTING FOR TRANSFERABLE ~~STATE~~ TAX CREDITS

On 1/1/X1 SAM Insurance Company purchased transferable state tax credits for a cost of $100,000. The transferable state tax credits are redeemable for $160,000 and expire at the end of 12/31/X4. SAM initially expects to utilize the tax credits before expiration in their state of domicile in the amount of $40,000 per year. In year X4, SAM sells the remaining $30,000 in transferable state tax credits for $20,000.

Date	Account	Debit	Credit
1/1/x1	Transferable state tax credits	160,000	
	Deferred gains on acquired tax credits		60,000
	Cash		100,000
	To record the purchase of the tax credits		
6/30/x1	Premium tax expense	40,000	
	Premium taxes payable to domiciliary state		40,000
	To record premium tax expense and accrue the liability in Year 1.		
10/1/x1	Premium tax payable	40,000	
	Transferable state tax credits		40,000
	To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.		
6/30/x2	Premium tax expense	60,000	
	Premium taxes payable to domiciliary state		60,000
	To record premium tax expense and accrue the liability in Year 2.		
9/30/x2	Premium tax payable	60,000	
	Transferable state tax credits		60,000
	To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.		
6/30/x3	Premium tax expense	30,000	
	Premium taxes payable to domiciliary state		30,000
	To record premium tax expense and accrue the liability in Year 3.		
9/30/x3	Premium tax payable	30,000	
	Transferable state tax credits		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		30,000
	To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.		
6/30/x4	Cash	20,000	
	Other income	10,000	
	Transferable state tax credits		30,000
	Deferred gains on acquired tax credits	30,000	
	Other income		30,000
	To record the sale of the remaining tax credits.		
~~1/1/x1~~	~~Transferable state tax credits~~	~~100,000~~	
	~~Cash~~		~~100,000~~
	~~*To record the purchase of the tax credits*~~		

Date	Account	Debit	Credit
~~6/30/x1~~	~~Premium tax expense~~	~~40,000~~	
	~~Premium taxes payable to domiciliary state~~		~~40,000~~
	~~*To record premium tax expense and accrue the liability in Year 1.*~~		
~~10/1/x1~~	~~Premium tax payable~~	~~40,000~~	
	~~Transferable state tax credits~~		~~40,000~~
	~~*To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.*~~		
~~6/30/x2~~	~~Premium tax expense~~	~~60,000~~	
	~~Premium taxes payable to domiciliary state~~		~~60,000~~
	~~*To record premium tax expense and accrue the liability in Year 2.*~~		
~~9/30/x2~~	~~Premium tax payable~~	~~60,000~~	
	~~Transferable state tax credits~~		~~60,000~~
	~~*To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.*~~		
~~6/30/x3~~	~~Premium tax expense~~	~~30,000~~	
	~~Premium taxes payable to domiciliary state~~		~~30,000~~
	~~*To record premium tax expense and accrue the liability in Year 3.*~~		
~~9/30/x3~~	~~Premium tax payable~~	~~30,000~~	
	~~Other income~~		~~30,000~~
	~~*To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.*~~		
~~6/30/x4~~	~~Cash~~	~~20,000~~	
	~~Other income~~		~~20,000~~
	~~*To record the sale of the remaining tax credits.*~~		

EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE ~~STATE~~ TAX CREDITS

On 7/1/X1 LJW Insurance Company purchased non-transferable ~~state~~ federal tax credits for a cost of $100,000. The ~~state~~ federal tax credits are redeemable for $110,000~~, are not transferable~~ and expire on, April 15, 20x2. LJW expects to utilize the tax credits before expiration in their state of domicile in the amount of $110,000. Tax credits are utilized pro-rata, approximately $36,666 every quarter, from acquisition date to expiration date. The illustration below assumes that LJW Insurance Company's quarterly income tax liability equals the amount of credits that were purchased.

Date	Account	Debit	Credit
7/1/x1	Federal tax credits	110,000	
	Deferred gains on acquired tax credits		10,000
	Cash		100,000
	To record the purchase of the tax credits		
9/30/x1	Income tax expense	36,666	
	Income taxes payable		36,666
	To record quarterly income tax liability.		
10/1/x1	Income taxes payable	36,666	
	Federal tax credits		36,666
	To record the use of tax credits in the quarter.		
12/31/x1	Income tax expense	36,666	
	Income taxes payable		36,666
	To record quarterly income tax liability.		
1/1/x2	Income taxes payable	36,666	
	Federal tax credits		36,666
	To record the use of tax credits in the quarter.		
3/31/x2	Income tax expense	36,668	
	Income taxes payable		36,668
	To record quarterly income tax liability.		
4/1/x2	Income taxes payable	36,668	
	Deferred gains on acquired tax credits	10,000	
	Other Income		10,000
	Federal tax credits		36,668
	To record the use of tax credits in the quarter.		
~~7/1/x1~~	~~State tax credits~~	~~100,000~~	
	~~Cash~~		~~100,000~~
	~~*To record the purchase of the tax credits*~~		
~~9/30/x1~~	~~Premium tax expense~~	~~200,000~~	
	~~Premium taxes payable to domiciliary state~~		~~200,000~~
	~~*To record premium tax expense and accrue the liability.*~~		
~~3/15/x2~~	~~Premium tax payable~~	~~110,000~~	
	~~Other Income~~		~~10,000~~
	~~State tax credits~~		~~100,000~~

~~*To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. (The additional $90,000 of premium taxes payable would still be due.)*~~

EXHIBIT C – CONSISTENCY REVISIONS TO SSAP NO. 34 AND SSAP NO. 48

Revisions to ***SSAP No. 34—Investment Income Due and Accrued***

SCOPE OF STATEMENT

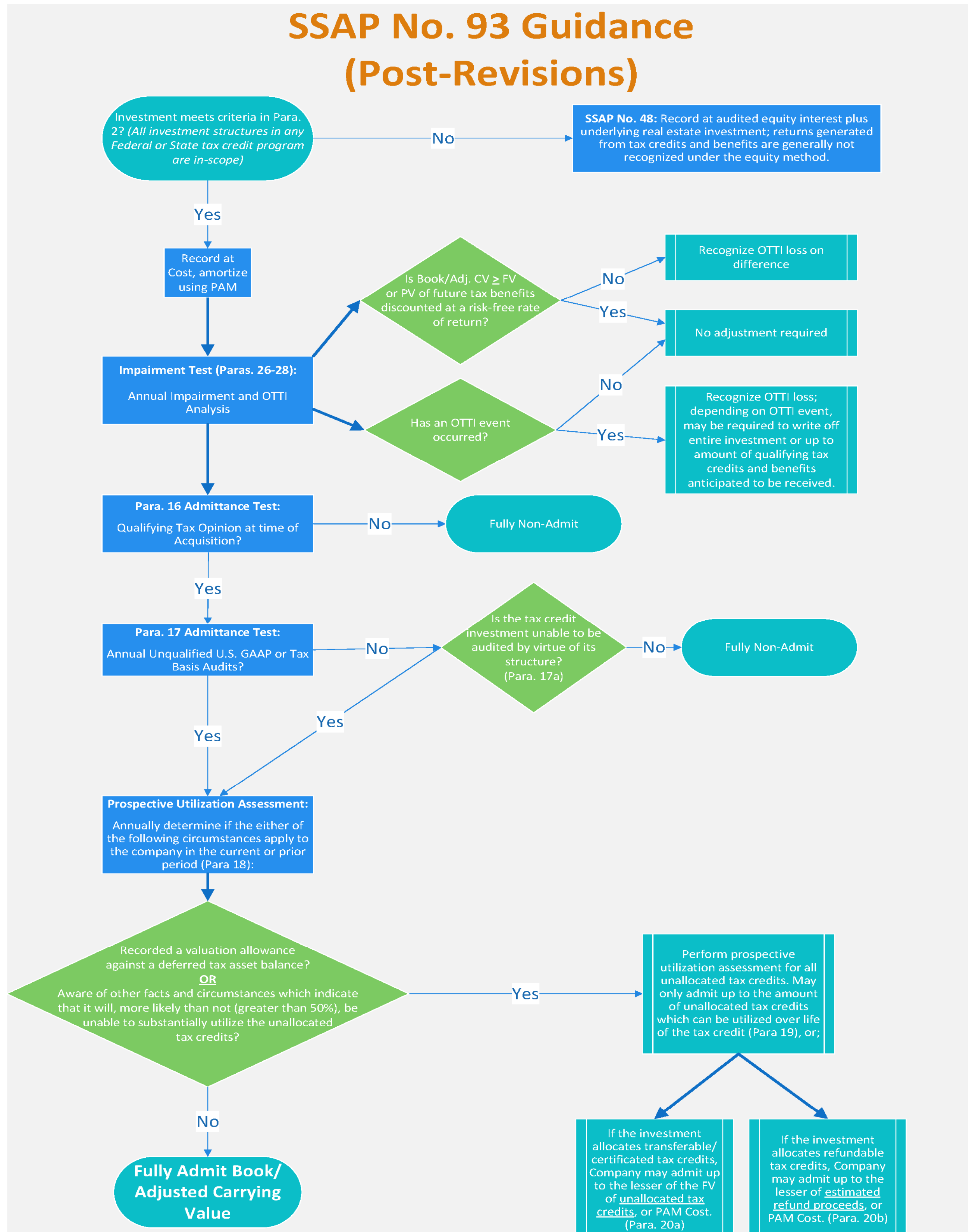
1. This statement establishes statutory accounting principles for investment income due and accrued. This statement does not address the accounting for tax credits allocated or purchased, which are discussed in *SSAP No. 93R—Investments in Tax Credit Structures* and *SSAP No. 94R—State and Federal Tax Credits*.

Revisions to ***SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies***

SCOPE OF STATEMENT

2. This statement establishes statutory accounting principles for investments in any joint ventures, partnerships, and limited liability companies, including investments in certified capital companies (CAPCO) per *INT 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)*, whether or not it is considered to be controlled by or affiliated with the reporting entity. Single real estate property investments that are wholly-owned by an LLC that is directly and wholly-owned by the reporting entity, and that meet the criteria established in *SSAP No. 40R—Real Estate Investments*, are excluded from this statement. This statement does not address the accounting for investments in joint ventures, partnerships, and ~~and~~ limited liability companies that invest in tax credit programs ~~that~~ and are in the scope of~~hold an equity interest in either a tax syndication structure or tax equity fund invest in Low-Income Housing Tax Credit Properties as discussed in~~ *SSAP No. 93R—~~Low-Income Housing Tax Credit Property Investments~~Investments in Tax Credit Structures*.

EXHIBIT D – FLOWCHART OF ORDER OF OPERATIONS FOR REVISED SSAP NO. 93



Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: *Clarification of Accounting Guidance for Recognition of Tax Credits*

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:
On March 16, 2024, the Statutory Accounting Principles (E) Working Group adopted, as final, agenda item 2022-14 which exposed revisions to *SSAP No. 34—Investment Income Due and Accrued*, *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, *SSAP No. 93—Low Income Housing Tax Credit Property Investments*, and *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits* to expand and amend statutory guidance to include all tax credit investments regardless of structure and type of state or federal tax credit program, and all state and federal purchased tax credits.

After adoption of agenda item 2022-14, NAIC staff received questions from public accounting firms on the accounting guidance and example journal entries provided in the new guidance. It was noted that the SSAP No. 94R accounting guidance appeared inconsistent with the journal entry examples and the guidance in SSAP No. 93R for recognizing allocated tax credits was confusing when compared to the journal entry examples. Both interested parties and NAIC staff agreed that the journal entries reflect the proper accounting for both the recognition and utilization of tax credits, as such revisions have been drafted to revise the accounting guidance to match the journal entry examples more accurately.

It was also noted that a sentence in SSAP No. 48 was accidentally not updated as part of the New Market Tax Credit project. Updates to this sentence are proposed below.

Existing Authoritative Literature:
SSAP No. 93—Low Income Housing Tax Credit Property Investments (Superseded 1/1/2025)
SSAP No. 94R—Transferable and Non-Transferable State Tax Credits (Superseded 1/1/2025)

SSAP No. 93R—Investments in Tax Credit Structures (Effective 1/1/2025)
SSAP No. 94R—State and Federal Tax Credits (Effective 1/1/2025)

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):
None

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): None

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *SSAP No. 93R—Investments in Tax Credit Structures, SSAP No. 94R—State and Federal Tax Credit*, and *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*, to be effective as of January 1, 2025.

Staff Review Completed by: William Oden – June 2024

Drafting Note: The SSAP guidance shown below includes the revisions adopted in agenda item 2022-14, which are effective 1/1/2025.

Proposed Revisions to SSAP No. 93R:

14. Tax credits and other tax benefits, not to include amortization of the investment, shall be reflected as follows:

a. Tax credits shall be recognized in the period that they are allocated to the reporting entity for tax purposes:

i. ~~Federal tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101—Income Taxes*. Federal tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.~~If utilized in the same year allocated, federal tax credits shall be recognized and reported as a reduction to federal income tax liabilities and federal income tax expense. If the allocated tax credits are not utilized in the year allocated, they shall be reported as a deferred tax asset (DTA) and change in DTA in accordance with *SSAP No. 101—Income Taxes*.

ii. ~~State tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested assets (not to be reported net).~~If utilized in the same year allocated, state tax credits shall be recognized and reported as a reduction to the related state tax liability and state premium tax or state income tax, whichever is applicable. If the allocated tax credits are not utilized in the year allocated, they shall be reported gross of the related state tax liability in the category of other-than-invested assets (not to be reported net).

iii. ~~Use~~ Utilization of tax credits in settlement of tax liabilities ~~carried forward in a future period~~ shall be reflected ~~as an offset to~~net of the corresponding income or premium tax liability in the ~~tax~~ reporting ~~year~~ period in which the tax credit is utilized.

iv. Tax credits allocated from tax credit investments, as defined within this SSAP, and held by reporting entities meet the definition of assets as specified in SSAP No. 4 and are admitted assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.

b. Federal tax benefits other than tax credits (e.g., tax benefits from investment depreciation) shall be recognized in the year allocated pursuant to SSAP No. 101. When utilized, the federal tax benefits are recognized as a component of income tax expense.

c. State tax benefits other than tax credits shall be recognized in the year allocated gross of any related state tax liabilities pursuant to SSAP No. 101. When utilized, the state tax benefits are recognized as a component of taxes, licenses, and fees.

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Proposed Revisions to SSAP No. 94R:

9. Tax credits shall be recognized in the period that they are purchased or allocated to the reporting entity for tax purposes:

a. ~~Federal tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to federal taxes in accordance with *SSAP No. 101—Income Taxes*.~~ Federal tax credits ~~that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall~~are to be recognized and reported as a deferred tax asset (DTA) in accordance with *SSAP No. 101—Income Taxes*~~SSAP No. 101~~.

b. ~~State tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized.~~ State tax credits ~~that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall~~ are to be recognized reported gross of any related state tax liabilities ~~and reported~~ in the category of other-than-invested-assets (not to be reported net).

10. ~~Use~~ Utilization of ~~carried forward~~ tax credits in settlement tax liabilities ~~in a future period~~ shall be reflected ~~as an offset to~~ net of the corresponding income or premium tax liability in the ~~tax~~ reporting ~~year~~ period in which the tax credit is utilized.

Proposed Revisions to SSAP No. 48:

1. This statement establishes statutory accounting principles for investments in any joint ventures, partnerships, and limited liability companies, including investments in certified capital companies (CAPCO) per *INT 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)*, whether or not it is considered to be controlled by or affiliated with the reporting entity. Single real estate property investments that are wholly-owned by an LLC that is directly and wholly-owned by the reporting entity, and that meet the criteria established in *SSAP No. 40R—Real Estate Investments*, are excluded from this statement. This statement does not address the accounting for investments in joint ventures, partnerships, and limited liability companies that invest in tax credit programs and are in the scope of *SSAP No. 93R—Investments in Tax Credit Structures*. However, investments in joint ventures, partnerships, and limited liability companies which allocate tax credits but ~~certain state Low-Income Housing Tax Credit Property Investments that~~ do not fall within the scope of SSAP No. 93R are covered by the requirements of this statement.

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Statutory Issue Paper No. xxx

Current Expected Credit Losses (CECL)

STATUS
Exposure Draft – August 13, 2024

Historical Record of GAAP Impairment Guidance – Pre-CECL

Type of Issue:
Common Area

SUMMARY OF ISSUE

1. The purpose of this issue paper is to document for the historical record the Generally Accepted Accounting Principles impairment guidance which existed prior to the implementation of *Accounting Standards Update (ASU) 2016-13, Financial Instruments—Credit Losses* (CECL).

DISCUSSION

2. In January 2024, the Statutory Accounting Principles (E) Working Group rejected CECL for statutory accounting purposes and directed NAIC staff to prepare an issue paper documenting pre-CECL impairment guidance. Since many SSAPs adopted pre-CECL impairment guidance, the Working Group wanted to ensure that any guidance which was superseded by CECL was readily available for future use.

Actions of the Statutory Accounting Principles (E) Working Group

3. On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed this agenda item to reject ASU 2016-13, *ASU 2018-19, Codification Improvements to Topic 326, Financial Instruments—Credit Losses, ASU 2019-04, Codification Improvements to Topics 326, 815, 825, ASU 2019-10 Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842), ASU 2019-11 Codification Improvements to Topic 326, Financial Instruments—Credit Losses*, and *ASU 2020-03 Codification Improvements to Financial Instruments*, within *INT 06-07: Definition of Phrase "Other Than Temporary"* and fifteen applicable SSAPs. The Working Group also moved agenda item 2016-20, which was started to address CECL, to the disposed listing. The Working Group directed NAIC staff to research how best to maintain pre-CECL U.S. Generally Accepted Accounting Principles (GAAP) impairment guidance for posterity.

4. On December 11, 2023, the Working Group chair approved an accelerated comment deadline that was requested by industry after the December 1, 2023 meeting. As a result, the comment deadline for the Fall National Meeting exposure of agenda item 2023-24 was shortened from February 4, 2024 to December 29, 2023, to allow the Working Group the ability to formally reject CECL and other related ASUs in January 2024.

5. On January 10, 2024, the Working Group adopted, as final, the exposed revisions, to INT 06-07 and SSAP Nos. 2R, 5R, 22R, 26R, 32R, 34, 37, 39, 41R, 61R, 62R, 86, 103R, and 105R to reject ASUs 2016-13, 2018-19, 2019-04, 2019-10, 2019-11, and 2020-03 as not applicable to statutory accounting. The Working Group also reiterated its direction to NAIC staff to research and prepare a document to maintain pre-CECL GAAP impairment guidance for posterity. Note that portions of the Codification which were effected by CECL and were industry specific were not deemed necessary for historical record as these industry specific codifications are not appliable for statutory accounting. Additionally, only those portions of the codifications which were amended by CECL were retained.

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6. Staff accumulated the historical GAAP impairment guidance for all Accounting Standard Codifications (ASCs) which are applicable to GAAP. As the Working Group's directive was to accumulate impairment guidance, only the subsequent measurement sections (Section 35) which were within the scope of CECL were pulled and maintained within this document. As a reminder, ASC codifications consist of a three-digit Topic, a two-digit Subtopic, a two-digit Section, and a two or three-digit Paragraph. For brevity, only the Topic and Subtopic numbers which were retained for this project are shown in the list below.

Effective Date

7. The rejection of CECL and its related ASUs for statutory accounting is effective December 31, 2023.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

- *SSAP No. 2R—Cash, Cash Equivalents, Drafts and Short-Term Investments*
- *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*
- *SSAP No. 22R—Leases*
- *SSAP No. 26R—Bonds*
- *SSAP No. 32R—Preferred Stock*
- *SSAP No. 34—Investment Income Due and Accrued*
- *SSAP No. 37—Mortgage Loans*
- *SSAP No. 39—Reverse Mortgages*
- *SSAP No. 41R—Surplus Notes*
- *SSAP No. 43R—Loan and Asset Backed Securities*
- *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance*
- *SSAP No. 62R—Property and Casualty Reinsurance*
- *SSAP No. 86—Derivatives*
- *SSAP No. 103R—Transfer/Service of Financial Assets*
- *SSAP No. 105R—Working Capital Finance Investments*
- *INT 06-07: Definition of the Phrase "Other Than Temporary*

Generally Accepted Accounting Principles

- ASC 310, Receivables
  - 10 Overall
  - 20 Nonrefundable Fees and Other Costs
  - 30 Loans and Debt Securities Acquired with Deteriorated Credit Quality
  - 40 Troubled Debt Restructurings by Creditors
- ASC 320, Investments–Debt Securities
  - 10 Overall
- ASC 323, Investments–Equity Method and Joint Ventures
  - 10 Overall
- ASC 325, Investments–Other
  - 40 Beneficial Interests in Securitized Financial Assets
- ASC 805, Business Combinations
  - 20 Identifiable Assets and Liabilities, and Any Noncontrolling Interest
- ASC 815, Derivatives and Hedging
  - 10 Overall
  - 25 Fair Value Hedges
  - 30 Cash Flow Hedges

- ASC 825, Financial Instruments
  - 10 Overall
- ASC 830, Foreign Currency Matters
  - 20 Foreign Currency Transactions
- ASC 860, Transfers and Servicing
  - 20 Sales of Financial Assets
- **CECL changes not applicable to this Issue Paper:**
  - 220-10 Comprehensive Income
  - 230-10 Statement of Cash Flows
  - 270-10 Interim Reporting
  - 321-10 Investments—Equity Securities
  - 460-10 Guarantees
  - 470-60 Debt —Troubled Debt Restructurings by Debtors
  - 606-10 Revenue from Contracts with Customers
  - 810-10 Consolidation
  - 815-20 Embedded Derivatives
  - 815-20 Hedging—General
  - 820-10 Fair Value Measurement
  - 835-10 Interest
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  - 842-50 Leases
  - 855-10 Subsequent Events
  - 942 Financial Services—Depository and Lending
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  - 978 Real Estate

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Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Asset Liability Management Derivatives

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☐	☐	☐
New Issue or SSAP	☒	☒	☒
Interpretation	☐	☐	☐

Description of Issue: This agenda item has been developed to consider new statutory accounting guidance that prescribes guidance for interest-rate hedging derivatives that do not qualify as effective hedges under *SSAP No. 86—Derivatives*, but that are used for asset-liability management (ALM). Specifically, industry has proposed two assessment metrics for macro-hedges, the "ALM Risk Reduction Approach," which is a hedging approach to reduce mismatches between identified assets and liabilities and the "ALM Target Management Approach," which is a hedging approach to keep an asset portfolio aligned with a liability target. These programs do not qualify for effective hedge treatment under SSAP No. 86 (or any accounting regime) as they reflect macro-hedges.

This agenda item originated from discussions at the IMR Ad Hoc Group, noting that full Working Group discussion is needed on this topic. Industry has communicated that these hedging derivatives, although not accounting effective under SSAP No. 86, are economically effective (meaning effective in achieving the hedge intent). With this industry assessment, and their interpretation of the Annual Statement Instructions, the fair value fluctuations reported as unrealized gains and losses while the derivative is open have been allocated by some life entities to the interest maintenance reserve (IMR) upon derivative termination. This approach essentially reverses the surplus impact from the unrealized position and defers the realized impact from these derivative structures through the IMR formula with subsequent amortization into income over time.

INT 23-01: Net Negative (Disallowed) IMR, allows losses for interest-rate hedging derivatives that do not qualify for "hedge accounting" under SSAP No. 86 to continue to be allocated to IMR (and admitted if IMR is net negative) if the company has historically followed the same process for interest-rate hedging derivatives that were terminated in a gain position. The guidance does not permit entities to allocate current derivative losses to IMR without evidence illustrating the historical treatment for gains. This INT was established to provide limited-time exception guidance while IMR is further discussed and is effective through Dec. 31, 2025, with automatic nullification on Jan. 1, 2026. The treatment of the gains and losses from these non-accounting effective hedges is a key element in the long-term guidance for clarifying IMR.

SSAP No. 86 provides guidance on designations that hedge a variety of exposures, with assessments of effectiveness adopted from U.S. GAAP. Derivatives that qualify as "highly effective hedges" are permitted "hedge accounting treatment," which means that the measurement method of the derivative mirrors the measurement method of the hedged item. (This measurement method is different than US GAAP, which requires all derivatives to be at fair value. This different measurement method is necessary under SAP to prevent a measurement mismatch between the hedged item and derivative, which would result in surplus volatility for accounting effective hedges.) Derivatives that do not qualify as "highly effective hedges" under SSAP No. 86 are reported at fair value, which does mirror the measurement method under U.S. GAAP. Pursuant to the IMR Ad Hoc Group discussion, this item is focused on hedges that address interest-rate risk exposure used in macro-hedges, that would not qualify under the effective hedge requirements under SSAP No. 86.

If the Working Group wants to pursue accounting guidance for macro-hedges focused on hedging interest-rate risk that results with different treatment than what is detailed in SSAP No. 86, the guidance is anticipated to detail:

1) The requirements for the interest-rate hedging derivatives, including effectiveness assessments.

2) The accounting for the derivatives and the resulting gains/losses (including amortization if those gains/losses are deferred from immediate recognition), and

3) Disclosure and reporting requirements for the derivatives.

If developing new guidance, it is anticipated that the concepts of *SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees* will be followed to the extent possible, but there would need to be variations based on the specific intent and application of these derivatives. A key item to note is that SSAP No. 108 does not use IMR for the reporting of deferred derivative gains and losses and this approach will also be considered within the new guidance for consistency purposes.

Existing Authoritative Literature:

- ***SSAP No. 86—Derivatives***
SSAP No. 86 provides the broad statutory accounting principles for derivative instruments. The guidance is used to determine whether a derivative qualifies as "effective" and therefore permitted to be accounted for under the "hedge accounting" provisions. (Derivatives that qualify for hedge accounting are reported at the measurement method that mirrors the hedged item. For example, a derivative that qualifies for hedge accounting that is hedging a bond would be reported at amortized cost, to mirror the amortized cost measurement of the bond.) Derivatives that do not qualify for "hedge accounting" are required to be reported at fair value.

  The guidance in SSAP No. 86 is explicit that derivative gains or losses from derivatives that qualify for hedge accounting shall be recognized in a manner consistent with the hedged item. Hence, if the gain/loss on a hedged item was to go to IMR, then the gain/loss on the effective, hedging derivative should also go to IMR. This guidance makes sense, as the derivative gain/loss should predominantly offset the hedged item gain/loss, resulting in a zero (or negligible) impact to IMR.

  SSAP No. 86 requires derivatives which do not qualify as effective to be carried at fair value and changes in fair value are reported in unrealized gains and losses until termination.

- ***SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees***
SSAP No. 108 provides special accounting treatment for limited derivatives hedging variable annuity guarantee benefits subject to fluctuations as a result of interest rate sensitivity. The items in scope of SSAP No. 108 would not qualify for hedge effectiveness under SSAP No. 86. The guidance is specific in that the provisions are only permitted if all of the components of the statement are met and that the guidance shall not be inferred as an acceptable statutory accounting approach for derivative transactions that do not meet the state qualifications or that are not specifically addressed within the guidance.

  The guidance in SSAP No. 108 addresses derivative transactions that reflect a macro-hedge (portfolio of variable annuity contracts) as well as a dynamic hedging approach (rebalancing of derivative instruments). Due to the heightened risk of misrepresentation of successful risk management, specific provisions are detailed to ensure governance of the program as well as to provide sufficient tools for regulators to review.

  Under SSAP No. 108, all derivatives are reported at fair value, and all fair value fluctuations attributed to the hedged risk (unrealized) are compared to the changes in the VM-21 reserve liability. The fair value fluctuations are then 1) recognized to realized gain/loss to offset a current period liability change, 2) recognized as deferred if attributed to the hedged risk but not offsetting a current period liability change or 3) recognized as unrealized if not attributed to the hedged risk. The changes recognized as deferred are amortized over a straight-line method into realized gains/losses via a timeframe that matches the Macaulay duration of the guarantee benefit cash flow, not to exceed 10 years. SSAP No. 108, although specific to interest rate risks, does not take derivative gains or losses to IMR.

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Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):
In 2023, the Working Group adopted *INT 23-01: Net Negative (Disallowed) IMR* as short-term guidance and directed efforts towards a long-term resolution of IMR. The IMR Ad Hoc Group, comprised of accountants and actuaries representing regulators and industry, has met to discuss IMR, including the gains/losses from "economic effective" (ALM) derivatives that some reporting entities have been taking to IMR. With those discussions, and an ACLI presentation on ALM derivatives, regulators from the Ad Hoc Group supported moving discussion of potential statutory accounting guidance to the Working Group.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): N/A

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, classified as a new statutory accounting concept, with exposure of this agenda item to obtain comments from Working Group members, as well as interested regulators and interested parties on the potential to develop statutory guidance for macro-derivative programs that hedge interest rate risk for asset-liability matching purposes. Initially, NAIC staff is requesting feedback on the following key concepts:

1) **Do Working Group members support the development of statutory accounting guidance that would defer derivative gains/losses for structures that hedge interest rate risk with amortization over time into income? (These derivative programs would not qualify as accounting effective under SSAP No. 86 and are not captured within the specific variable annuity guarantee guidance in SSAP No. 108.)**

2) **If further development / consideration of guidance is supported, the following items are noted for discussion:**

    a. **Determination of effectiveness that permits the derivative program to qualify for the special accounting treatment.**

    b. **Discussion of whether net deferred losses (reported as assets) would be admissible, and if so, any admittance limitations.**

    c. **Macro-limits on admittable net deferred losses (reported as assets) and other "soft" assets. (For example, capturing IMR and derivative deferred net losses, and then perhaps considering other soft assets, such as DTAs, EDP equipment and software, goodwill, etc.)**

    d. **Timeframes over which deferred items are amortized into income.**

    e. **Extent of application across the industry. (NAIC staff notes that SSAP No. 108 is only applied by 9 entities, and from a review of the derivative disclosures for INT 23-01, only 14 entities captured derivative gains/losses in the IMR balance.)**

NAIC staff requests direction to work with regulators and industry during the interim to continue discussions and in the consideration of guidance.

Staff Review Completed by: Julie Gann, NAIC Staff—May 2024

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Issue: Repack and Derivative Investments

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☐	☐	☐
New Issue or SSAP	☒	☒	☒
Interpretation	☐	☐	☐

Description of Issue: This agenda item has been developed to address debt security investments with derivative components that do not qualify as structured notes. Although the original focus was on specific "credit repack" investments, the agenda item has been expanded to ensure that all debt security investments with derivative wrappers / components are captured.

As an overview of a special purpose vehicle (SPV) "repacking," the structure consists of an SPV acquiring a debt security and reprofiling the cash flows by entering a derivative transaction with a derivative counterparty (known as "credit repacks"). The redesigned debt instrument (reflecting the combined debt security and derivative) is then sold to an investor. NAIC staff has recently received calls on the classification of repacks under the bond definition, but the discussions of these transactions have identified that additional guidance may be warranted to ensure consistent reporting of these transactions within the statutory financial statements. From the discussions, there are initiatives for these combined investments to become more prevalent with U.S. insurance entities, but investment makers have noted that these investments are already common in other countries.

As a key element, repacking (and potentially other derivative wrapped debt structures) takes two separate items (debt security and derivative) and combines them into one instrument that resembles a debt security. This is done at an SPV, with the SPV issuing a new debt security to the reporting entity. From discussions, there are several variations of the derivative components that can be combined with the debt security. Some of them are very simple (such as a cross-currency swap), but others are complex, altering both the amount and timing of cash flows. The structures can be customized allowing for ongoing innovation, benefiting insurers with the ability of entering derivative transactions to appropriately reduce risk, but creating difficulty in the ability to group repacks structures into limited exception guidance.

For all of these structures, the derivative arrangements could be entered into separately and do not need to be entered into as a combined transaction, however, the noted benefits for entering into a combined structure include:

1) **Derivative Margin / Collateral Requirement:** There is no daily settling of a margin requirement at the derivative counterparty based on fair value changes in the derivative. **This is because the debt security in the structure serves as constant collateral, and any amount owed to the derivative counterparty would be taken first from debt instrument cash flows before payment is made to the investor. (The derivative counterparty is senior in priority.)** The repack structure limits the collateral obligation to the debt security in the structure, so there is no potential for the reporting entity to be obligated for more collateral beyond the linked debt security. This is a benefit of a repack in comparison to normal derivatives that do not have a collateral limit.

    - Although perceived as a benefit from the entity / investment maker as it reduces liquidity risk associated with margin calls, from a statutory accounting perspective, if the transactions were reported separately and the debt investment was pledged as collateral, the debt instrument would be identified as a restricted asset. If the repack is collectively reported as a debt instrument, there would be no identification that the debt instrument is restricted or encumbered as collateral to the derivative counterparty. This is

because the restriction is at the SPV and not the reporting entity. Also, if separately engaging in derivative transactions, the derivative counterparty is known and reported. If a repack is collectively reported as a debt instrument, it is uncertain if the affiliation between the derivative counterparty and reporting entity would be known.

2) **Bond Reporting:** If these structures are accounted for as bonds, **reporting entities would determine measurement method and RBC impact based on the NAIC designation. Ultimately, this structure provides the reporting entity with a derivative arrangement, with no separate reporting or acknowledgement of the derivative instrument within the financial statements.**

   - From a statutory accounting perspective, if reporting is combined in a repack, derivatives would not be captured on Schedule DB and reporting entities would not be required to assess whether the derivative is effective under *SSAP No. 86—Derivatives*. (There is also a question on whether these arrangements would be captured in a reporting entity's derivative use plan filed with the domiciliary state.) Any obligation based on the performance of the derivative would not be reported in the investor's financials.

3) **RBC Impact:** By reporting as a bond investment, the reporting entity would incur a single RBC factor charge based on the NAIC designation on the debt security issued by the SPV.

   - From a statutory perspective, if the investment had been reported separately as a bond and a derivative, there would be RBC impacts for both components. The collateral pledged to the derivative counterparty (bond) would also be coded as a restricted asset. Whether the combined reporting results in a benefit to RBC depends on how the derivative would have been reported separately (at amortized cost or fair value) and whether the derivative is in a loss position. However, if reported separately, these components are captured in the RBC formula to reflect those dynamics.

The following identifies specific elements for discussion:

1) **Sale / Reacquisition:** A "credit repack" can be originated with a reporting entity's currently held debt security. In those situations, the insurer would sell the debt security to an SPV, that security would be combined with a derivative at the SPV, and the SPV would sell the restructured combined instrument back to the insurer.

   From the discussions held, inconsistent interpretations may exist on whether the initial debt security should be reflected as disposed, with the reporting entity acquiring a new investment for the "repack." The discussions have referred to "substantially similar" U.S. GAAP guidance and have noted that the base investment (original debt security) has not changed, therefore the action did not warrant disposal / new acquisition reporting. If this interpretation was applied, the original debt security would still be shown on the financial statements, but with the repack the issuer, yield and NAIC designation have been impacted. If it is concluded that the revised instrument is substantially similar to what was originally held and did not require a disposal / reacquisition, it is likely that there would be no indication in the financial statements that the entity has entered into a new arrangement that combines a debt security and derivative instrument. NAIC staff does not agree with interpretations that the repack is substantially similar based on existing guidance in SSAP No. 103, paragraph 52, but this has been noted as part of the discussions. Under SSAP No. 103, to be considered substantially the same, an investment needs to have the same primary obligor, identical contractual interest rates and identical form and type to provide the same risks and rights. Under a repack, the issuer, yield and designation are impacted as follows, disallowing consideration that the instrument is substantially the same:

   - The revised issuer is the SPV and the new instrument is a combined instrument of the debt instrument and the derivative.

   - The fees for engaging in this instrument are built into the investment yield, resulting in a lower yield than what would have been received if the original debt instrument was still held.

- The NAIC designation (CRP rating) could also be impacted, as the revised instrument reflects the credit quality of both the original issuer and the derivative counterparty. From discussions, this is often a 1-level decrease in rating.

Not all repacks involve a previously held debt instrument. An entity may acquire a repack directly from the SPV rather than sell a currently owned debt security to the SPV. From the discussions, if this was to occur, it is believed that entities would report the acquired investment as a bond (under existing SSAP guidance), unless the structure is considered to be a structured note under paragraph 5.g. of *SSAP No. 86—Derivatives:*

> 5.g. "Structured Notes" in scope of this statement are instruments defined in *SSAP No. 26R—Bonds* (often in the form of debt instruments), in which the amount of principal repayment or return of original investment is contingent on an underlying variable/interest[1]. Structured notes that are "mortgage-referenced securities" are captured in *SSAP No. 43R—Loan-Backed and Structured Securities.*

There is also a question on whether all repacks should be considered structured notes. In a repack structure, if the debt security is liquidated early and there is an amount owed from the derivative performance, the SPV must first satisfy that amount to the derivative counterparty. This could result in a payment less than the principal amount being remitted to the insurer holder. Although the repack designs differ based on the derivative instrument and intent, in some situations this is only driven by the early liquidation of the structure and not a component that comes into play if the structure is held to maturity. In those structures, the design would not be considered a structured note. However, in other designs, the repack may reflect a structured note regardless, and the structured note guidance should be followed.

2) **Derivative Obligation**: A credit repack investment ultimately could allow an insurer to enter into derivative arrangements that are not separately reported or assessed within the scope of SSAP No. 86, which is currently explicit that embedded derivatives shall not be separated from the host contract. If the derivative was to be separately reported, it would only qualify for amortized cost treatment if determined to be highly effective pursuant to SSAP No. 86, otherwise it would be reported at fair value.

   From discussions of these investment / derivative designs, NAIC staff has the impression that these derivative arrangements would be reported at fair value if held separately from the debt instrument. (Discussions have indicated that they would be separately reported at fair value under U.S. GAAP.) By combining with the debt security, and if permitted to follow bond accounting, reporting entities would utilize an amortized cost measurement for the combined credit repack based on the NAIC designation pursuant to current guidance within SSAP No. 26 / SSAP No. 43.

   Although it has been communicated that the derivative is designed to match the maturity duration of the debt instrument, if the investment was to be liquidated in advance of the maturity date, the obligation with the derivative counterparty must still be satisfied. If the derivative was in a liability position, upon liquidation of the debt instrument, the SPV would collect the proceeds from the debt instrument and first remit any amount owed to the derivative counterparty before providing the remaining balance to the reporting entity. Although it depends on the derivative arrangement, in some designs, the reporting entity could receive less than the stated

[1] The "structured notes" captured within scope of this statement is specific to instruments in which the terms of the agreement make it possible that the reporting entity could lose all or a portion of its original investment amount (for other than failure of the issuer to pay the contractual amounts due). These instruments incorporate both the credit risk of the issuer, as well as the risk of an underlying variable/interest (such as the performance of an equity index or the performance of an unrelated security). Securities that are labeled "principal-protected notes" are captured within scope of this statement if the "principal protection" involves only a portion of the principal and/or if the principal protection requires the reporting entity to meet qualifying conditions in order to be safeguarded from the risk of loss from the underlying linked variable. Securities that may have changing positive interest rates in response to a linked underlying variable or the passage of time, or that have the potential for increased principal repayments in response to a linked variable (such as U.S. Treasury Inflation-Indexed Securities) that do not incorporate risk of original investment/principal loss (outside of default risk) are not captured as structured notes in scope of this statement.

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principal amount of the bond. For these designs, unless the derivative was reported separately (or the repack was reported at fair value), the amount to be received at any point in time for the repack investment may be overstated due to the derivative impact. *(The inverse is also true, whereas if the derivative was in an asset position, the SPV would collect funds from the derivative counterparty and the reporting entity would receive an amount that exceeds the principal amount of the bond.)*

3) **Principles-Based Bond Definition Application**: The discussion with NAIC staff on credit repacks initially occurred due to questions on whether the repack is an issuer credit obligation (ICO) or an asset-backed security (ABS) under the principles-based bond definition. Initially, it was noted that a repack with a derivative that simply converted cash flows (fixed to floating or foreign currency), but which did not impact the timing or extent of cash flows could still potentially reflect an ICO obligation under the single-entity payer provision, assuming that the investment did not reflect a structured note. However, any design that was to alter the timing or amount of cash flows would result in an ABS classification. For example, if the repack altered the timing of cash flows so instead of periodic interest in line with the debt security terms, all interest payments were accumulated at the SPV and provided at maturity, this would require an ABS classification. If classified as an ABS, it was noted that there would be no substantive credit enhancement (as the structure simply passes through cash flows) and the structure would fail to qualify as a bond. However, after further assessment of these structures, NAIC staff recommends explicit guidance for the accounting of these combined debt / derivative structures. From discussions on these investments, a key driver is getting the combined structure classified as a Schedule D investment. From information shared, a vast array of different derivative structures could be combined with the debt security to form a combined item, with many different cashflow desired outcomes.

Ultimately, NAIC staff believes the issue goes further than bond classification as ICO or ABS. As such, this agenda item proposes SSAP guidance / interpretation to address all situations in which a debt security may be wrapped or combined with a derivative structure to ensure consistent and transparent reporting as well as information to the regulators on these investment transactions. NAIC staff believes the potential for these structures originates from the existing SSAP No. 86 guidance that indicates that embedded derivatives shall not be separated from the host contract and accounted for separately as a derivative instrument. NAIC staff notes that this SSAP No. 86 guidance allows these investment structures to be reported in ways that were perhaps not intended when that embedded derivative guidance was originally established.

Existing Authoritative Literature:

- ***SSAP No. 26R—Bonds (Effective Jan. 1, 2025)***

SSAP No. 26R includes the adopted principles-based bond definition and the provisions for detailing an ICO or ABS. Key provisions from this SSAP are provided below. These excerpts focus on the definition of a bond, the creditor relationship review involving pre-determined interest and principal payments, and relevant provisions of the ICO and ABS terms.

Specific Excerpts:

5. A bond shall be defined as any security representing a creditor relationship, whereby there is a fixed schedule for one or more future payments, and which qualifies as either an issuer credit obligation or an asset-backed security as described in this statement.

6. Determining whether a security represents a creditor relationship should consider its substance, rather than solely the legal form of the instrument. The analysis of whether a security represents a creditor relationship should consider all other investments the reporting entity owns in the investee as well as any other contractual arrangements. A security that in substance possesses equity-like characteristics or represents an ownership interest in the issuer does not represent a creditor relationship.

6.d. In order for a debt instrument to represent a creditor relationship in accordance with Paragraph 6, it must have pre-determined principal and interest payments (whether fixed interest

or variable interest) with contractual amounts that do not vary based on the appreciation or depreciation (i.e., performance) of any underlying collateral value or other non-debt variable. For example, an issued security that has varying principal and interest payments based on the appreciation of referenced equity, real estate or other non-debt variable is precluded from bond treatment. This exclusion is not intended to restrict variables that are commonly related to debt instruments such as, but not limited to, plain-vanilla inflation or benchmark interest rate adjustments (such as with U.S. TIPs or SOFR-linked coupons, respectively), scheduled interest rate step-ups, or credit-quality related interest rate adjustments. This exclusion is also not intended to encompass nominal interest rate adjustments[2]. For clarification purposes, all returns from a debt instrument in excess of principal are required to be considered as interest. Therefore, investments with "stated" interest and then "additional returns" to which the holder of the debt instrument is entitled are collectively considered as interest and shall be assessed together in determining whether the investment has variable principal or interest due to underlying referenced non-debt variables. Examples of securities excluded from the bond definition under this guidance:

i. Structured Notes, which are securities that otherwise meet the definition of a bond, but for which the contractual amount of the instrument to be paid at maturity (or the original investment) is at risk for other than the failure of the borrower to pay the principal amount due, are excluded from the bond definition. These investments, although in the form of a debt instrument, incorporate the risk of an underlying variable in the terms of the agreement, and the issuer obligation to return the full principal is contingent on the performance of the underlying variable. These investments are addressed in *SSAP No. 86—Derivatives*. Mortgage-referenced securities issued by a government sponsored enterprise are explicit inclusions in scope of SSAP No. 43. Foreign-denominated bonds subject to variation as a result of foreign currency fluctuations are not structured notes.

ii. Principal-protected securities, as defined in the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* are excluded from the bond definition as they have a performance component whose payments originate from, or are determined by, non-fixed income securities. These investments shall follow the guidance for non-bond securities in *SSAP No. 21—Other Admitted Assets.*

7. An issuer credit obligation is a bond, for which the general creditworthiness of an operating entity or entities through direct or indirect recourse, is the primary source of repayment. Operating entity or entities includes holding companies with operating entity subsidiaries where the holding company has the ability to access the operating subsidiaries' cash flows through its ownership rights. An operating entity may be any sort of business entity, not-for-profit organization, governmental unit, or other provider of goods or services, but not a natural person or "ABS Issuer" (as defined in paragraph 8). Examples of issuer credit obligations include, but are not limited to:

7.g. Investments in the form of securities for which repayment is fully supported by an underlying contractual obligation of a single operating entity (e.g., Credit Tenant Loans (CTLs), Equipment trust certificates (ETCs), other lease backed securities, Funding Agreement Backed Notes (FABNs), etc.). For purposes of applying this principal concept, repayment is fully-supported by the underlying operating entity obligation if it provides cash flows for the repayment of all interest and at least 95% of the principal of the security.

8. An asset-backed security is a bond issued by an entity (an "ABS Issuer") created for the primary

[2] Nominal interest rate adjustments are those that are too small to be taken into consideration when assessing the investment's substance as a bond. Nominal adjustments are not typically influential factors in an investors' evaluation of investment return and are often included to incentivize certain behavior of the issuer. An example would include sustainability-linked bonds where failure to achieve performance metrics could cause interest rate adjustments. In general, interest rate adjustments that adjust the total return from interest by more than 10% (e.g., >0.4% for a 4% yielding bond), would not be considered nominal. Further, any such adjustments that cause an investment to meet the definition of a structured note would not be considered nominal.

purpose of raising debt capital backed by financial assets or cash generating non-financial assets owned by the ABS Issuer, for which the primary source of repayment is derived from the cash flows associated with the underlying defined collateral rather than the cash flows of an operating entity. In most instances, the ABS Issuer is not expected to continue functioning beyond the final maturity of the debt initially raised by the ABS Issuer. Also, many ABS Issuers are in the form of a trust or special purpose vehicle ("SPV"), although the presence or lack of a trust or SPV is not a definitive criterion for determining that a security meets the definition of an asset-backed security. The provisions in paragraphs 9-10 detail the two defining characteristics that must be present for a security to meet the definition of an asset-backed security.

10. The holder of a debt instrument issued by an ABS Issuer is in a different economic position than if the holder owned the ABS Issuer's assets directly. The holder of the debt instrument is in a different economic position if such debt instrument benefits from substantive credit enhancement through guarantees (or other similar forms of recourse), subordination and/or overcollateralization.

10a. *Substantive Credit Enhancement*: The intent of the criteria requiring the holder to be in a different economic position is to distinguish qualifying bonds from instruments with equity-like characteristics or where the substance of the transaction is more closely aligned with that of the underlying collateral. To qualify as an ABS under this standard, there is a requirement that there are substantive credit enhancements within the structure that absorb losses before the debt instrument being evaluated would be expected to absorb losses. This is inherent in the context of an issuer credit obligation in scope of SSAP No. 26R as the owners of the equity in the operating entity are the first to absorb any variability in performance of the operating entity. The same concept applies to asset-backed securities. If substantive credit enhancement did not exist, the substance of the debt instrument being evaluated would be more closely aligned with that of the underlying collateral than that of a bond. Credit enhancement that is merely nominal or lacks economic substance does not put a holder in a different economic position. The substantive credit enhancement

- ***SSAP No. 86—Derivatives***

SSAP No. 86 provides guidance for derivatives. Paragraph 5g addresses structured notes, paragraph 16 addresses variation margin, paragraph 17 addresses embedded derivative investments, with paragraphs 20-21 providing recognition guidance.

5. Derivative instruments include, but are not limited to; options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, structured notes with risk of principal/original investment loss based on the terms of the agreement (in addition to default risk), and any other agreements or instruments substantially similar thereto or any series or combination thereof.

5g. "Structured Notes" in scope of this statement are instruments defined in *SSAP No. 26R—Bonds* (often in the form of debt instruments), in which the amount of principal repayment or return of original investment is contingent on an underlying variable/interest3. Structured notes that are "mortgage-referenced securities" are captured in *SSAP No. 43R—Loan-Backed and Structured Securities.*

[3] The "structured notes" captured within scope of this statement is specific to instruments in which the terms of the agreement make it possible that the reporting entity could lose all or a portion of its original investment amount (for other than failure of the issuer to pay the contractual amounts due). These instruments incorporate both the credit risk of the issuer, as well as the risk of an underlying variable/interest (such as the performance of an equity index or the performance of an unrelated security). Securities that are labeled "principal-protected notes" are captured within scope of this statement if the "principal protection" involves only a portion of the principal and/or if the principal protection requires the reporting entity to meet qualifying conditions in order to be safeguarded from the risk of loss from the underlying linked variable. Securities that may have changing positive interest rates in response to a linked underlying variable or the passage of time, or that have the potential for increased principal repayments in response to a linked variable (such as U.S. Treasury Inflation-Indexed Securities) that do not incorporate risk of original investment/principal loss (outside of default risk) are not captured as structured notes in scope of this statement.

16. “Variation Margin” reflects the daily change in market value of derivative contracts (e.g., daily gain/loss on a derivative contract due to market movements). Amounts received/paid to adjust variation margin on derivative contracts that are both cleared and settled on an exchange shall be recognized as an adjustment to the carrying value of the derivative contract (e.g., futures). Amounts received/paid to adjust variation margin on all other derivative contracts shall be recognized on the balance sheet as an asset or liability separate from the carrying value of the derivative instrument. This treatment shall occur under statutory accounting regardless if the counterparty/exchange considers amounts exchanged for variation margin to be legal settlement or collateral. Changes in variation margin shall not be treated as realized gains or adjustments to the basis of the hedged item until the derivative contract has been sold, matured or expired.

Embedded Derivative Instruments

17. Contracts that do not in their entirety meet the definition of a derivative instrument, such as bonds, insurance policies, and leases, may contain “embedded” derivative instruments—implicit or explicit terms that affect some or all of the cash flows or the value of other exchanges required by the contract in a manner similar to a derivative instrument. The effect of embedding a derivative instrument in another type of contract (“the host contract”) is that some or all of the cash flows or other exchanges that otherwise would be required by the contract, whether unconditional or contingent upon the occurrence of a specified event, will be modified based on one or more underlyings. An embedded derivative instrument shall not be separated from the host contract and accounted for separately as a derivative instrument.

Recognition of Derivatives

20. Derivative instruments represent rights or obligations that meet the definitions of assets (SSAP No. 4—Assets and Nonadmitted Assets) or liabilities (SSAP No. 5R) and shall be reported in financial statements. In addition, derivative instruments also meet the definition of financial instruments as defined in *SSAP No. 27—Off-Balance-Sheet and Credit Risk Disclosures*. Should the cost basis of the derivative instrument be undefined (i.e., no premium is paid), the instrument shall be disclosed in accordance with paragraphs 46-50 of *SSAP No. 100R—Fair Value*. Derivative instruments used in hedging, income generation or replication (synthetic asset) transactions shall be recognized and measured in accordance with the specific provisions within this statement and are admitted assets to the extent they conform to the requirements of this statement.

21. Derivative instruments that are not used in hedging, income generation or replication (synthetic asset) transactions shall be considered “Other” derivatives. These derivatives shall be accounted for at fair value and the changes in fair value shall be recorded as unrealized gains or losses. These derivatives do not qualify as admitted assets.

- ***SSAP No. 103—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities***

SSAP No. 103 provides guidance for the transfers of assets and liabilities, including guidance for when a sale shall be considered to have occurred. Guidance is captured for when securities are sold/reacquired are considered to be substantially the same and how those transactions should be reflected. <u>As detailed in paragraph 52, credit repack notes would not qualify as substantially the same as the credit repack generally has a different issuer, different yield and modified NAIC designation/CRP rating from the original underlying investment.</u>

12. Repurchase agreements, reverse repurchase agreements, repurchase financing, collateral requirements and dollar repurchase agreements are described in paragraphs 102-118. When an asset is sold and the proceeds are reinvested within 30 days in the same or substantially the same security, such transfers shall be considered to be wash sales and shall be accounted for as sales as discussed in paragraphs 96-101 and disclosed as required by paragraph 28[4]. Unless there is a concurrent contract

[4] Paragraph 28.l. also details the items that are excluded from the wash sale disclosure.

to repurchase or redeem the transferred financial assets from the transferee, the transferor does not maintain effective control over the transferred financial assets.

Agreement to Repurchase or Redeem Transferred Financial Assets

51. An agreement that both entitles and obligates the transferor to repurchase or redeem transferred financial assets from the transferee maintains the transferor's effective control over those assets as described in paragraph 8.c.(1) when all of the following conditions are met:

a. The financial assets to be repurchased or redeemed are the same or substantially the same as those transferred (paragraph 52).

b. The agreement is to repurchase or redeem them before maturity, at a fixed or determinable price.

c. The agreement is entered into contemporaneously with, or in contemplation of, the transfer.

52. To be substantially the same, the financial asset that was transferred and the financial asset that is to be repurchased or redeemed need to have all of the following characteristics:

a. The same primary obligor (except for debt guaranteed by a sovereign government, central bank, government-sponsored enterprise or agency thereof, in which case the guarantor and the terms of the guarantee must be the same);

b. Identical form and type so as to provide the same risks and rights;

c. The same maturity (or in the case of mortgage-backed pass-through and pay-through securities similar remaining weighted-average maturities that result in approximately the same market yield);

d. Identical contractual interest rates;

e. Similar assets as collateral; and

f. The same aggregate unpaid principal amount or principal amounts within accepted "good delivery" standards for the type of security involved.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

In 2023, the Working Group adopted the principles-based bond definition, which resulted in key revisions to *SSAP No. 26R—Bonds* and *SSAP No. 43R—Asset-Backed Securities*, and *SSAP No. 21R—Other Admitted Assets* for the review and classification of debt securities pursuant to the bond definition. This guidance is effective Jan. 1, 2025.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): N/A

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing as a new SAP concept and expose proposed edits to *SSAP No. 86—Derivatives*, to establish guidance that requires separate accounting and reporting of derivatives that are captured in debt security structures. This is a change from existing guidance that explicitly precludes the separation of embedded derivatives. In addition to these changes, minor revisions are also proposed to *SSAP No. 26—Bonds* and to the annual statement instructions to clarify application guidance. NAIC staff will also draft an issue paper to document these revisions.

From initial discussions with banks / investment makers, guidance to separate the derivative from the debt security is believed to be preferred over a conclusion that would preclude bond treatment for the combined structure. With the proposal, debt security repack structures will be treated similarly to investments where the bond and derivative are not combined. (Ultimately, there would be no capital benefit or detriment due to the structure.) Additionally, this proposal will allow transparency as to the derivatives being used and ensure compliance with the reporting entity's derivative use plan. (If this proposed guidance is not supported, the combined repack, which represents a debt structure, would need to be assessed under the bond definition. This may require more detailed guidance to assess different types of derivative structures to determine whether the repack should qualify as a bond or as a non-bond debt security.)

NAIC staff has not proposed revisions to SSAP No. 103 as the existing guidance is clear that a sale of a debt security which is subsequently or simultaneously reacquired as a credit repack would not meet the criteria of substantially the same. This is because a credit repack generally has a revised issuer, yield and NAIC designation to reflect the additional derivative risk. As noted, minor revisions have been proposed to the annual statement instructions to clarify that the sale of a security that is reacquired with different terms shall be reported as a sale on Schedule D-Part 4 and a new acquisition on Schedule D-Part 3.

Proposed Revisions to *SSAP No. 86—Derivatives*:

Embedded Derivative Instruments

17. Contracts that do not in their entirety meet the definition of a derivative instrument, such as ~~bonds,~~ insurance policies, and leases, may contain "embedded" derivative instruments—implicit or explicit terms that affect some or all of the cash flows or the value of other exchanges required by the contract in a manner similar to a derivative instrument. The effect of embedding a derivative instrument in another type of contract ("the host contract") is that some or all of the cash flows or other exchanges that otherwise would be required by the contract, whether unconditional or contingent upon the occurrence of a specified event, will be modified based on one or more underlyings. For these contracts, excluding debt securities with derivative components/wrappers pursuant to paragraph 18, ~~A~~an embedded derivative instrument shall not be separated from the host contract and accounted for separately as a derivative instrument.

18. Debt securities that have derivative components or wrappers shall initially be assessed to determine if they are a structured note pursuant to paragraph 5g. Structured notes shall not be bifurcated and shall be collectively reported as a derivative investment and shall be measured and reported pursuant to the guidance within this statement. Debt securities that are not structured notes, but have been combined with a derivative instrument[FN1] shall be bifurcated with separate reporting as a debt security and a derivative instrument. Once the investment is bifurcated, the debt security shall be reviewed in accordance with the bond definition within *SSAP No. 26—Bonds* and captured as an issuer credit obligation, asset-backed security, or non-bond debt security, based on the characteristics of the debt security[FN2]. If the debt security serves as collateral to the derivative counterparty, the reported debt security shall be coded as a restricted asset under *SSAP No. 1—Accounting Policies, Risks & Uncertainties and Other Disclosures*. The derivative shall be captured in scope of this statement, measured and classified pursuant to the guidance within and reported on Schedule DB.

New Footnote 1: This guidance applies to all debt securities with derivative components or wrappers but was incorporated in response to credit repack notes. With a credit repack, a debt security is combined with a derivative instrument at an SPV, with the reporting entity acquiring a new debt security ("repack") from the SPV reflecting the combined components. This structure can be viewed as advantageous over the separate acquisition of a derivative instrument as the debt security held in the structure serves as the sole source of collateral to the derivative counterparty, reducing potential liquidity concerns based on future market fluctuations. However, if this repack structure was collectively reported as a debt security, information on the use of derivatives would not be identifiable within the statutory financial statements. A repack note often has a reduced interest yield from the stated yield of

the underlying debt security held in the structure to cover the fees of issuing the repack, as well as a revised NAIC designation/CRP rating that reflects the added risk of the SPV and derivative counterparty.

New Footnote 2: Assessment under the bond definition shall be based on the characteristics of the underlying debt security, but the issuer, investment yield, NAIC designation/CRP rating, as well as any other reported investment components, shall reflect the terms of the held (combined) investment and not the terms of the underlying security.

Proposed Revisions to SSAP No. 26—Bonds

4. This statement excludes:

e. Replication (synthetic asset) transactions and debt security structures that have been combined with derivative components or wrappers addressed in *SSAP No. 86—Derivatives*. The admissibility, classification and measurement of a replication (synthetic asset) transactions are not preemptively determined by the principles-based bond definition and should be evaluated in accordance with the guidance on replication (synthetic asset) transactions within SSAP No. 86. Debt security structures combined with a derivative, such as a credit repack note that does not reflect a structured note, shall follow the guidance in SSAP No. 86 for bifurcation. After bifurcation, the underlying debt security is subject to the guidance in this statement in determining whether it qualifies for bond reporting.

Proposed Revisions to Annual Statement Instructions:

Schedule D – Part 4: Long Term Bonds and Stocks Sold, Redeemed or Otherwise Disposed Of During Current Year

This schedule should include a detailed listing of all securities that were sold/disposed of during the current reporting year that were owned as of the beginning of the current reporting year (amounts purchased and sold during the current reporting year are reported in detail on Schedule D, Part 5 and only in subtotal in Schedule D, Part 4). This should include all transactions that adjust the cost basis of the securities (except other-than-temporary impairments that are not part of a disposal transaction). ~~Thus, it~~This schedule should not be used for allocations of TBAs to specific pools subsequent to initial recording in Schedule D, Part 3 or ~~other~~ situations ~~such as~~that only involve CUSIP number changes. The following list of items provides examples (not all inclusive) of the items that should be included:

Pay downs of securities still owned (including CMO prepayments);

Subsequent partial sales of investment issues still owned;

Sales of securities to an SPV or other entity for which a new instrument is reacquired from the SPV/entity reflecting a combined instrument containing the original security and derivative instruments or other components (such as a credit repack note). The sale shall be captured on this schedule (or Schedule D, Part 5 if the debt security was acquired in the current year), and the new security shall be reported on Schedule D, Part 3.

Reallocation of the cost basis of an already owned stock to the cost basis of a new stock received as a dividend (e.g., spin off); and

Any decreases in the investments in SCA companies that adjust the cost basis, not including other-than-temporary impairments alone (e.g., subsequent return of capital from investments in SCA companies valued using the equity method).

Schedule D – Part 5: Long-Term Bonds and Stocks Acquired During the Year and Fully Disposed Of During Current Year

As with Schedule D, Parts 3 and 4, this schedule should ~~not~~ be used for ~~a~~ transactions ~~unless it~~that affect~~s~~ the cost basis of the securities. ~~Thus, it~~This schedule should not be used for allocations of TBAs to specific pools subsequent to initial recording in Schedule D, Part 3 or ~~other~~ situations ~~such as~~ that only involve CUSIP number changes. Refer to the examples on Schedule D, Part 4 of transactions that should be captured.

Existing Guidance in SSAP No. 103, paragraph 52 – No Revisions Proposed:

With this existing guidance, debt securities sold and reacquired as a credit repack should not be considered to be substantially the same. This is because the credit repack is acquired from a new issuer, with a revised yield and with revised risks and rights (including revised NAIC designation/CRP rating) to reflect the derivative components / counterparty. Comments are requested on different interpretations and if edits are needed to ensure proper application of this guidance.

52. To be substantially the same, the financial asset that was transferred and the financial asset that is to be repurchased or redeemed need to have all of the following characteristics:

    a. The same primary obligor (except for debt guaranteed by a sovereign government, central bank, government-sponsored enterprise or agency thereof, in which case the guarantor and the terms of the guarantee must be the same);

    b. Identical form and type so as to provide the same risks and rights;

    c. The same maturity (or in the case of mortgage-backed pass-through and pay-through securities similar remaining weighted-average maturities that result in approximately the same market yield);

    d. Identical contractual interest rates;

    e. Similar assets as collateral; and

    f. The same aggregate unpaid principal amount or principal amounts within accepted “good delivery" standards for the type of security involved.

Staff Review Completed by: Julie Gann, NAIC Staff—June 2024

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/E - 24-16 - Repacks and Derivative Wrapper Investments.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Clearly Defined Hedging Strategy

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue: This agenda item has been prepared to update the guidance in *SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees* for a clearly defined hedging strategy (CDHS) to mirror guidance adopted by the Life Actuarial (A) Task Force in 2022, and in effect starting with the 2023 version of the Valuation Manual. The guidance previously included in SSAP No. 108 referred to the CDHS defined in VM-21, and the actuarial guidance has been modified to ensure consistent definitions of a CDHS in both VM-20 and VM-21 and is now captured within VM-01.

The proposed revisions are limited to the definition of a CDHS in paragraph 7 of SSAP No. 108 as well as references in SSAP No. 108 that refer to VM-21 as the location of the definition of a CDHS.

Existing Authoritative Literature:

- ***SSAP No. 108—Derivatives Hedging Variable Annuity Guarantees***

7. As identified in paragraph 2, eligibility for the special accounting provision within this standard is strictly limited to variable annuity contracts and other contracts involving certain guaranteed benefits similar to those offered with variable annuities that are reserved for in accordance with VM-21. This special accounting provision requires the reporting entity to engage in highly effective fair value hedges that follow a Clearly Defined Hedging Strategy, as defined in VM-21, meeting all required provisions of VM-21 allowing the reporting entity to reduce the amount of the Conditional Tail Expectation (CTE) Amount. In order to qualify as a Clearly Defined Hedging Strategy (which may be dynamic, static, or a combination thereof), the strategy must meet the principles outlined in VM-21, be in place (implemented) for at least three months[1], and shall at a minimum, identify:

    a. Specific risks being hedged[2],

    b. Hedge objectives,

    c. Risks not being hedged,

    d. Financial instruments that will be used to hedge the risks,

    e. Hedge trading rules, including permitted tolerances from hedging objectives,

[1] As detailed in VM-21, before a new or revised hedging strategy can be used to reduce the amount of the Conditional Tail Expectation (CTE) otherwise calculated, the hedging strategy should be in place (effectively implemented) for at least three months. As detailed in VM-21, the reporting entity may meet the time requirement by having evaluated the effective implementation of the hedging strategy for at least three months without actually having executed the trades indicated by the hedging strategy (e.g., mock testing or by having effectively implemented the strategy with similar annuity products for at least three months.)

[2] The specific risk being hedged shall include a measure of the hedge coverage (e.g., percentage of interest rate sensitivity being hedged).

f. Metric(s) used for measuring hedging effectiveness,

g. Criteria that will be used to measure effectiveness,

h. Frequency of measuring hedging effectiveness,

i. Conditions under which hedging will not take place, and

j. The individuals responsible for implementing the hedging strategy.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups): None.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): N/A

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing and expose revisions to SSAP No. 108 to update the definition of a clearly defined hedging strategy (CDHS) to reflect the revised guidance pursuant to VM-01. (Only references to the CDHS are being revised to VM-01. Other references to VM-21 are product specific to variable annuity contracts and shall be retained in SSAP No. 108.)

Proposed revisions to SSAP No. 108:

6.b.ii Certification by a financial officer of the company (CFO, treasurer, CIO, or designated person with authority over the actual trading of assets and derivatives) that the hedging strategy meets the definition of a Clearly Defined Hedging Strategy within ~~VM-21~~VM-01 and that the Clearly Defined Hedging Strategy is the hedging strategy being used by the company in its actual day-to-day risk mitigation efforts. This provision does not require reporting entities to use a hedging strategy in determining VM-21 reserves, nor does it require entities to use the special accounting provision within this standard. However, it does require reporting entities that use the special accounting provisions within this standard to certify that the hedging strategy within scope of this standard is a Clearly Defined Hedging Strategy and is reflected in the establishment of VM-21 reserves.

7. As identified in paragraph 2, eligibility for the special accounting provision within this standard is strictly limited to variable annuity contracts and other contracts involving certain guaranteed benefits similar to those offered with variable annuities that are reserved for in accordance with VM-21. This special accounting provision requires the reporting entity to engage in highly effective fair value hedges that follow a Clearly Defined Hedging Strategy, as defined in ~~VM-21~~VM-01, meeting all required provisions of VM-21 allowing the reporting entity to reduce the amount of the Conditional Tail Expectation (CTE) Amount. In order to qualify as a Clearly Defined Hedging Strategy (which may be dynamic, static, or a combination thereof), the strategy must meet the principles outlined in VM-21, be in place (implemented) for at least three months[3], and shall at a minimum, identify:

[3] As detailed in VM-21, before a new or revised hedging strategy can be used to reduce the amount of the Conditional Tail Expectation (CTE) otherwise calculated, the hedging strategy should be in place (effectively implemented) for at least three months. As detailed in VM-21, the reporting entity may meet the time requirement by having evaluated the effective implementation of the hedging strategy for at least three months without actually having executed the trades indicated by the hedging strategy (e.g., mock testing or by having effectively implemented the strategy with similar annuity products for at least three months.)

a. The ~~S~~specific risks being hedged[4],

b. The hedging~~Hedge~~ objectives,

c. The materials ~~R~~risks that are not ~~being~~ hedged,

d. The f~~F~~inancial instruments ~~that will be~~ used to hedge the risks,

e. The hedging strategy's ~~Hedge~~ trading rules, including permitted tolerances from hedging objectives,

f. The metrics, criteria and frequency for measuring effectiveness, ~~Metric(s) used for measuring hedging effectiveness,~~

~~g. Criteria that will be used to measure effectiveness,~~

~~h. Frequency of measuring hedging effectiveness,~~

~~i.~~g. The ~~C~~conditions under which hedging will not take place, and for how long the lack of hedging can persist,

h. The group or area, including whether internal or external, ~~The individuals~~ responsible for implementing the hedging strategy,~~.~~

i. Areas where basis, gap or assumption risk related to the hedging strategy have been identified, and

j. The circumstances under which hedging strategy will not be effective in hedging the risks.

23.a. Discussion of hedged item, including information on the guarantees sensitive to interest rate risk, along with information on the designated hedging instruments being used to hedge the risk. Discussion of the hedging instruments shall identify whether a hedging instrument is a single instrument or portfolio, as well as information on the hedging strategy (including whether there have been changes in strategy from the prior reporting period, along with detailed information on the changes), and assessment of hedging effectiveness and compliance with the "Clearly Defined Hedging Strategy" of ~~VM-21~~VM-01. Identification shall occur on whether the hedged item is intended to be fully hedged under the hedging strategy, or if the strategy is only focused on a portion of the liability characteristics or a portion of the interest rate sensitivity. Hedging strategies shall be identified as highly effective or not highly effective. If the strategy for a particular hedging relationship excludes a specific component of the gain or loss, or related cash flows, from the assessment of hedge effectiveness, details on the excluded components shall be disclosed.

Staff Review Completed by: Julie Gann, NAIC Staff—May 2024

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/F - 24-17 - SSAP No. 108 - VM-01.docx

[4] The specific risk being hedged shall include a measure of the hedge coverage (e.g., percentage of interest rate sensitivity being hedged).

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: *ASU 2024-02—Codification Improvements—Amendments to Remove References to the Concepts Statements*

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue:
FASB issued *ASU 2024-02, Codification Improvements—Amendments to Remove References to the Concepts Statements*, which removes references to FASB Concept Statements from the Codification. The main rationale for this amendment is to simplify the Codification by removing Concepts Statements in the guidance and draw a clear distinction between authoritative and nonauthoritative literature. The Board was concerned that references to Concept Statements would result in users incorrectly inferring that the referenced Concept Statements were authoritative.

The FASB Concept Statements are referenced in the *Accounting Policies and Procedures Manual* within the Statutory Hierarchy which notes that FASB Concept Statements as either Level 4 or 5. However, the revisions in ASU 2024-02 are not relevant to this and other references to FASB Concept Statements in the AP&P Manual.

Existing Authoritative Literature:
None

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):
None

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:
None

Convergence with International Financial Reporting Standards (IFRS): None

Staff Recommendation:
NAIC staff recommends that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose revisions to *Appendix D—Nonapplicable GAAP Pronouncements* to reject *ASU 2024-02, Codification Improvements—Amendments to Remove References to the Concepts Statements* as not applicable to statutory accounting. This guidance is not considered relevant to the existing statutory accounting references to FASB Concept statements.

Staff Review Completed by: William Oden – May 2024

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/G - 24-19 - ASU 2024-02, Codification Improvements.docx

Statutory Accounting Principles (E) Working Group
Maintenance Agenda Submission Form
Form A

Issue: Collateral Loan Reporting

Check (applicable entity):

	P/C	Life	Health
Modification of Existing SSAP	☒	☒	☒
New Issue or SSAP	☐	☐	☐
Interpretation	☐	☐	☐

Description of Issue: This agenda item has been developed to propose an expansion of reporting for collateral loans on Schedule BA to enable regulators the ability to quickly identify the type of collateral in support of admittance of collateral loans in scope of *SSAP No. 21R—Other Admitted Assets*. This agenda item has been drafted in response to comments that the current reporting detail on Schedule BA does not provide sufficient clarity on the type of collateral used in support of admittance of collateral loans. Furthermore, with the adoption of agenda item 2022-11, the statutory accounting guidance has been clarified that the collateral must reflect a qualifying investment, meaning that it would qualify for admittance if held directly by the insurer. This amendment further clarified that collateral that represents an investment in scope of *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* or *SSAP No. 97—Investments in Subsidiary, Controlled or Affiliated Entities* is required to be audited consistent with the admittance requirements of those SSAPs.

As detailed within, this agenda item proposes new disclosure requirements in SSAP No. 21R for collateral loans. The new disclosure requirement is proposed to be satisfied by an expansion of the reporting on Schedule BA, so that the collateral loans are separated by the type of collateral investment that secures the loan. Additionally, a new aggregated data-captured note is proposed to identify the admitted and nonadmitted collateral loans by the type of collateral that secures the loan.

Existing Authoritative Literature:

- **SSAP No. 21R—Other Admitted Assets - (Tracking shows the edits adopted on Oct. 23, 2023.)**

4. Collateral loans are unconditional obligations[1] for the payment of money secured by the pledge of a qualifying investment[2] and meet the definition of assets as defined in SSAP No. 4 and are admitted assets to the extent they conform to the requirements of this statement. The outstanding principal balance on the loan and any related accrued interest shall be recorded as an admitted asset subject to the following limitations:

   a. Loan Impairment—Determination as to the impairment of a collateral loan shall be based on current information and events. When it is considered probable that any portion of amounts due under the contractual terms of the loan will not be collected the loan is considered impaired. The impairment shall be measured based on the fair value of the collateral less estimated costs to obtain and sell the collateral. The difference between the net value of the collateral and the recorded asset shall be written off in accordance with *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*;

   b. Nonadmitted Asset—In accordance with *SSAP No. 20—Nonadmitted Assets*, collateral loans secured by assets that do not qualify as investments which would otherwise be admitted shall be nonadmitted. Further, any amount of the loan outstanding which is in excess of the permitted relationship of fair value of the pledged investment to the collateral loan shall be treated as a nonadmitted asset. To support the admissibility of collateral loans, reporting entities shall maintain documentation sufficient to support the reasonableness of the fair value measurement of the underlying collateral, which shall be

made available to the applicable domiciliary regulator and independent audit firm upon request.

Footnote 1: For purposes of determining a collateral loan in scope of this statement, a collateral loan does not include investments captured in scope of other statements. For example, *SSAP No. 26R—Bonds* includes securities (as defined in that statement) representing a creditor relationship whereby there is a fixed schedule for one or more future payments. Investments captured in SSAP No. 26R that are also secured with collateral shall continue to be captured within scope of SSAP No. 26R.

Footnote 2: A qualifying Iinvestment defined as those assets listed in Section 3 of *Appendix A-001—Investments of Reporting Entities* which would, if held by the insurer, qualify for admittance. For example, if the collateral would not qualify for admittance under SSAP No. 4 due to encumbrances or other third-party interests, then it does not meet the definition of "qualifying" and the collateral loan, or any portion thereof which is not adequately collateralized, is not permitted to be admitted. In the cases where the collateral is an equity/unit investment in a joint venture, partnership, limited liability company, and or SCA is pledged as collateral in a collateral loan, audited financial statements on a consistent annual basis are always required in accordance with SSAP No. 48 and/or SSAP No. 97.

Effective Date and Transition

22. 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 guidance for structured settlements when the reporting entity acquires the legal right to receive payments is effective December 31, 2018. The clarification regarding audits of qualifying collateral pledged for collateral loans in the footnote 2 to paragraph 4, requires applicable audits to be obtained for the 2023 reporting period in the subsequent year. In periods after year-end 2023, the audits of equity collateral pledged for collateral loans are required to be obtained for the reporting year in which it was pledged and annually thereafter. The annual audit lag shall be consistent from period to period.

- **A/S Blank and Instructions** *(This reflects what is proposed to be adopted in 2023-12BWG.)*

Collateral Loans
Unaffiliated...3199999
Affiliated..3299999

Collateral Loans

Include: Refer to SSAP No. 21R—Other Admitted Assets for a definition of collateral loans. Loans that are backed by any form of collateral, regardless of if the collateral is sufficient to fully cover the loan, shall be captured in this category. Guidance in SSAP No. 21R shall be followed to determine nonadmittance.

In the description column, the name of the actual borrower and state if the borrower is a parent, subsidiary, affiliate, officer or director. Also include the type of collateral held.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

- Agenda Item 2022-11: Collateral for Loans clarified guidance on the criteria for collateral in order for a collateral loan to qualify as an admitted asset.

- Blanks Agenda Item 2023-12BWG incorporates revisions as part of the bond project to capture debt securities that do not qualify as bonds on Schedule BA. The revisions within this blanks item incorporate minor revisions to the instructions for collateral loans.

Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group: None

Convergence with International Financial Reporting Standards (IFRS): N/A

Recommendation:

NAIC staff recommend that the Working Group move this item to the active listing, categorized as a SAP clarification, and expose this agenda item with proposed revisions to incorporate a new disclosure to SSAP No. 21R, for initial reporting as of year-end 2024, and to sponsor a blanks proposal for a new data-captured disclosure and to expand the reporting lines on Schedule BA to separate collateral loans by the type of collateral that secures the loan. NAIC staff recommends that the Working Group direct a corresponding blanks proposal to allow for concurrent exposure.

Proposed Revisions to SSAP No. 21R: *(Only new edits are tracked. Prior adopted revisions are shown clean.)*

4. Collateral loans are unconditional obligations[1] for the payment of money secured by the pledge of a qualifying investment[2] and meet the definition of assets as defined in SSAP No. 4 and are admitted assets to the extent they conform to the requirements of this statement. The outstanding principal balance on the loan and any related accrued interest shall be recorded as an admitted asset subject to the following limitations:

a. Loan Impairment—Determination as to the impairment of a collateral loan shall be based on current information and events. When it is considered probable that any portion of amounts due under the contractual terms of the loan will not be collected the loan is considered impaired. The impairment shall be measured based on the fair value of the collateral less estimated costs to obtain and sell the collateral. The difference between the net value of the collateral and the recorded asset shall be written off in accordance with *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*;

b. Nonadmitted Asset—In accordance with *SSAP No. 20—Nonadmitted Assets*, collateral loans secured by assets that do not qualify as investments which would otherwise be admitted shall be nonadmitted. Further, any amount of the loan outstanding which is in excess of the permitted relationship of fair value of the pledged investment to the collateral loan shall be treated as a nonadmitted asset. To support the admissibility of collateral loans, reporting entities shall maintain documentation sufficient to support the reasonableness of the fair value measurement of the underlying collateral, which shall be made available to the applicable domiciliary regulator and independent audit firm upon request.

5. Collateral loans shall be reported based on the type of qualifying investment that secures the loan. An aggregate note disclosure shall identify the total amount of collateral loans and the collateral loans admitted and nonadmitted by qualifying investment type.

Footnote 1: For purposes of determining a collateral loan in scope of this statement, a collateral loan does not include investments captured in scope of other statements. For example, *SSAP No. 26R—Bonds* includes securities (as defined in that statement) representing a creditor relationship whereby there is a fixed schedule for one or more future payments. Investments captured in SSAP No. 26R that are also secured with collateral shall continue to be captured within scope of SSAP No. 26R.

Footnote 2: A qualifying investment defined as those assets listed in Section 3 of *Appendix A-001—Investments of Reporting Entities* which would, if held by the insurer, qualify for admittance. For example, if the collateral would not qualify for admittance under SSAP No. 4 due to encumbrances or other third-party interests, then it does not meet the definition of "qualifying" and the collateral loan, or any portion thereof which is not adequately collateralized, is not permitted to be admitted. In the cases where the collateral is an equity/unit investment in a joint venture, partnership, limited liability company, and or SCA is

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pledged as collateral in a collateral loan, audited financial statements on a consistent annual basis are always required in accordance with SSAP No. 48 and or SSAP No. 97.

Proposed Schedule BA Reporting Changes:

Collateral Loans – Reported by Qualifying Investment Collateral that Secures the Loan

Cash, Cash Equivalent & Short-Term Investments (SSAP No. 2R)
- Unaffiliated..
- Affiliated...

Bonds (SSAP No. 26R)
- Unaffiliated..
- Affiliated...

Asset-Backed Securities (SSAP No. 43R)
- Unaffiliated..
- Affiliated...

Preferred Stocks (SSAP No. 32R)
- Unaffiliated..
- Affiliated...

Common Stocks (SSAP No. 30R)
- Unaffiliated..
- Affiliated...

Mortgage Loans (SSAP No. 37R)
- Unaffiliated..
- Affiliated...

Real Estate (SSAP No. 40R)
- Unaffiliated..
- Affiliated...

Joint Venture, Partnerships or Limited Liability Companies (SSAP No. 48R)
- Unaffiliated..
- Affiliated...

Subsidiary, Controlled or Affiliated Investment (SSAP No. 97)
- Unaffiliated..
- Affiliated...

Other Qualifying Investment Category
- Unaffiliated..
- Affiliated...

Collateral Does Not Qualify as an Investment
Unaffiliated...
Affiliated...

Collateral Loans

Include: Refer to SSAP No. 21R—Other Admitted Assets for a definition of collateral loans. Loans that are backed by any form of collateral, regardless of if the collateral is sufficient to fully cover the loan, shall be captured in this category. Guidance in SSAP No. 21R shall be followed to determine nonadmittance.

In the description column, the name of the actual borrower and state if the borrower is a parent, subsidiary, affiliate, officer or director. Also include the type of collateral held.

Classify the collateral loan in accordance with the type of collateral held, such that if the loan was to default and the collateral was to be claimed by the reporting entity, where it would be captured (investment type by SSAP) as a directly-held investment. If more than one form of collateral secures the loan, classification should occur based on the primary collateral source. The other qualifying investment category shall only be used to capture collateral loans secured by collateral in the form of contract loans, derivatives, other invested assets not separately reported, receivables for securities, securities lending and any investments that would qualify as a write-in for invested assets.

Proposed Data-Captured Disclosure*:*

Aggregate Collateral Loans by Qualifying Investment Collateral:

Collateral Type	**Aggregate Collateral Loan**	**Admitted**	**Nonadmitted**
Cash, Cash Equivalents & ST Investments			
Bonds			
Asset-Backed Securities			
Preferred Stocks			
Common Stocks			
Real Estate			
Mortgage Loans			
Joint Ventures, Partnerships, LLC			
Subsidiary, Affiliated and Controlled Entities			
Other Qualifying Investments			
Collateral Does not Qualify as an Investment			
Total			

Pursuant to SSAP No. 21R, nonadmittance of a collateral loan is required when the fair value of the collateral is not sufficient to cover the collateral loan or if the collateral securing the loan is not a qualifying investment. This includes situations in which collateral in form of joint ventures, partnerships, LLCs or SCAs is not supported by an audit as required by SSAP No. 48 or SSAP No. 97.

The other qualifying investment category shall only be used to capture collateral loans secured by collateral in the form of contract loans, derivatives, other invested assets not separately reported, receivables for securities, securities

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lending and any investments that would qualify as a write-in for invested assets. All collateral loans secured by collateral that does not qualify as an investment areis required to be nonadmitted under SSAP No. 21R.

Staff Review Completed by: Julie Gann - NAIC Staff, September 2023

Status:
On December 1, 2023, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as a SAP clarification and exposed revisions to incorporate a new disclosure to SSAP No. 21R for initial reporting as of year-end 2024, and to sponsor a blanks proposal for a new data-captured disclosure and to expand the reporting lines on Schedule BA to separate collateral loans by the type of collateral that secures the loan. Comments are requested on whether any of the proposed reporting lines should be combined.

On February 20, 2023, the Statutory Accounting Principles (E) Working Group took the following two actions:

1) The Working Group **adopted** the exposed revisions to SSAP No. 21R incorporating a collateral loan disclosure for year-end 2024. With this adoption, the Working Group sponsored a blanks proposal to data-capture the disclosure. Adopted revisions to SSAP No. 21R are shown below:

    5. Collateral loans shall be reported based on the type of qualifying investment that secures the loan. An aggregate note disclosure shall identify the total amount of collateral loans, and the collateral loans admitted and nonadmitted by qualifying investment type.

2) The Working Group exposed proposed reporting lines to Schedule BA for collateral loans with a comment deadline of April 19, 2024. Although the exposure does not contain AVR reporting revisions, the Working Group is specifically requesting feedback from regulators and industry on whether collateral loans backed by certain types of collateral should flow through AVR for RBC impact. Additionally, the Working Group directed a referral to the Life Risk-Based Capital (E) Working Group on the proposed reporting lines and the AVR mapping/RBC impact for collateral loans.

February 20, 2024, Exposed Schedule BA Reporting Changes*:*
(Tracking shows changes from the prior exposure.)

Collateral Loans – Reported by Qualifying Investment Collateral that Secures the Loan

~~Cash, Cash Equivalent & Short-Term Investments (SSAP No. 2R)~~
~~Unaffiliated..~~
~~Affiliated..~~

Bonds and Asset-Backed Securities (SSAP No. 26R & SSAP No. 43R)
Unaffiliated..
Affiliated..

~~Asset-Backed Securities (SSAP No. 43R)~~
~~Unaffiliated..~~
~~Affiliated..~~

Preferred Stocks (SSAP No. 32R)
Unaffiliated..
Affiliated..

Common Stocks (SSAP No. 30R)
Unaffiliated..

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Affiliated..

Mortgage Loans (SSAP No. 37R)
Unaffiliated...
Affiliated..

Real Estate (SSAP No. 40R)
Unaffiliated...
Affiliated..

Joint Venture, Partnerships or Limited Liability Companies (SSAP No. 48)
Fixed Income Investments (Unaffiliated) ....
Fixed Income Investments (Affiliated) ....

Common Stocks (Unaffiliated) ....
Common Stocks (Affiliated) ....

Real Estate (Unaffiliated) ....
Real Estate (Affiliated) ....

Mortgage Loans (Unaffiliated) ....
Mortgage Loans (Affiliated) ....

Other (Unaffiliated) ....
Other (Affiliated) ....
~~Unaffiliated...~~
~~Affiliated..~~

~~Subsidiary, Controlled or Affiliated Investment (SSAP No. 97)~~
~~Unaffiliated...~~
~~Affiliated..~~

Other ~~Qualifying~~ Investment Category
Cash, Cash Equivalent and Short-Term Investments (Unaffiliated) ....
Cash, Cash Equivalent and Short-Term Investments (Affiliated) ....

Other Long-Term Invested Assets (Unaffiliated) ....
Other Long-Term Invested Assets (Affiliated) ....
~~Unaffiliated...~~
~~Affiliated..~~

~~Collateral Does Not Qualify as an Investment~~
~~Unaffiliated...~~
~~Affiliated..~~

Non-Collateral Loans

Related Party/Affiliated Loans
All Other Non-Collateral Loans
~~Unaffiliated...~~
~~Affiliated..~~

On May 15, 2024, the Statutory Accounting Principles (E) Working Group took the following two actions:

1) Directed NAIC staff to prepare a memo to the Blanks (E) Working Group to incorporate an instructional change to the AVR instructions that allows collateral loans backed by mortgages to flow through AVR as an "Other Invested Asset with Underlying Characteristics of Mortgage Loans" as an interim step while further consideration occurs on the reporting of collateral loans and how collateral loans should flow through AVR. The Working Group noted that this memo to blanks is contingent on the adoption of the exposed editorial change by the Life Risk-Based Capital (E) Working Group. This Life RBC editorial change adjusts the amount reported as collateral loans to be in "in part" so that the reduction for what is backed by mortgage loans could be removed from the collateral loan total, as they would be captured in a different category. If this Life RBC change does not get adopted, while the blanks memo moves forward, then collateral loans backed by mortgage loans would get captured in two places in the RBC formula.

2) Directed NAIC staff to proceed with sponsoring a blanks proposal for the reporting of collateral loans, using the reporting lines shown in the agenda item modified to reflect a majority of the interested parties' comments. NAIC staff notes that specific comments were not received on whether certain collateral loans should flow through AVR, so NAIC staff will be working in the interim with regulators and RBC staff to develop a proposal for initial consideration. (With this direction, this agenda item was not re-exposed. The agenda item will likely be exposed when the proposed blanks changes are drafted.)

2024 Summer National Meeting Updated Recommendation:

As detail of all collateral types will be collected in the data-captured disclosure, NAIC staff proposes only limited reporting lines on Schedule BA reporting lines focusing on categories for which look-through to underlying collateral for AVR and RBC purposes is warranted. The proposed categories shown below reflect where separate reporting and AVR/RBC consideration has been suggested. With the receipt of the 2024 data-captured disclosure, an assessment will occur to determine whether additional Schedule BA reporting lines should be considered based on the extent certain types of investments are backed by collateral loans. **NAIC staff recommend exposure of this agenda item with a request for comments on the following potential Schedule BA collateral loan reporting lines. With exposure, NAIC staff recommends sponsoring a blanks proposal to begin detailing the revisions to Schedule BA and AVR that would occur with these changes. As the resulting AVR and RBC factors would be contingent on the actions of the Capital Adequacy (E) Task Force (and its RBC Working Groups), NAIC staff recommend Working Group direction to notify those groups of this action.**

(Although the effective date of revisions is always contingent on the direction of the Working Group, it is currently anticipated that a Jan. 1, 2026, effective date would be considered. This would allow the revisions to begin at the start of a statutory filing year. Revisions would need to be adopted by August 2025 to meet that timeframe.)

Proposed Schedule BA Revisions:
(The existing collateral loan line will be deleted.)

Collateral Loans – Reported by Collateral that Secures the Loan

Backed by Mortgage Loans
Unaffiliated..
Affiliated...

(Collateral loans backed by mortgage loans that would be in scope of SSAP No. 37 if held directly.)

Backed by Investments in Joint Ventures, Partnerships or Limited Liability Companies
Unaffiliated..
Affiliated...

(Collateral loans backed by an investment that would be in scope of SSAP No. 48 if held directly.)

Backed by Residual Interests
Unaffiliated..
Affiliated...

(Collateral loans backed by an investment that would be in SSAP No. 21 as a residual if held directly.)

Backed by Debt Securities
Unaffiliated..
Affiliated...

(Collateral loans backed by an investment that would be assessed under SSAP No. 26 for bond reporting. This classification does not require confirmation that the debt security would qualify as a bond.)

Backed by Real Estate
Unaffiliated..
Affiliated...

(Collateral loans backed by an investment that would be captured in scope of SSAP No. 40 if held directly.)

Collateral Loans – All Other
Unaffiliated..
Affiliated...

(Collateral loans not captured in the specific reporting lines.)

With the inclusion of these new reporting lines, this recommendation also supports the inclusion of the following Schedule BA electronic-only columns for all collateral loan investments:

- Fair Value of Collateral Backing the Collateral Loan
- Percentage of Collateral to the Collateral Loan

Proposed AVR Revisions:
This exposure suggests a new category within the AVR Reporting Schedule to capture collateral loans. This is currently proposed to be a new category inserted after "residuals" (AVR lines 81-93) and before "All Other Investments" (AVR lines 94-99). The following illustrates the simple proposed addition to the schedule.

The following elements are requested for feedback during the exposure:

1) Should collateral loans backed by mortgage loans be included in the new collateral loan category, or should those continue to flow through the "Investments with the Underlying Characteristics of Mortgage Loans" permitted during the interim as the long-term resolution? If captured in the new collateral loan AVR category, to what extent should the underlying characteristic lines detailing quality / past due / foreclosure status (AVR lines 38-64) be duplicated?

2) What additional reporting lines (breakouts) of the proposed AVR categories are necessary to ensure appropriate look-through for RBC assessment purposes?

RESIDUAL TRANCHES OR INTERESTS

81	Fixed Income Instruments – Unaffiliated.....
82	Fixed Income Instruments – Affiliated ....
83	Common Stock – Unaffiliated.....................
84	Common Stock – Affiliated ....
85	Preferred Stock – Unaffiliated.....................
86	Preferred Stock – Affiliated ....
87	Real Estate – Unaffiliated ....
88	Real Estate – Affiliated ....
89	Mortgage Loans – Unaffiliated ....
90	Mortgage Loans – Affiliated ....
91	Other – Unaffiliated ....
92	Other – Affiliated ....
93	Total Residual Tranches or Interests (Sum of Lines 81 through 92)

COLLATERAL LOANS
Backed by Mortgage Loans – Unaffiliated
Backed by Mortgage Loans - Affiliated
Backed by SSAP No. 48 Investments – Unaffiliated
Backed by SSAP No. 48 Investments - Affiliated
Backed by Residuals – Unaffiliated
Backed by Residuals – Affiliated
Backed by Debt Securities – Unaffiliated
Backed by Debt Securities – Affiliated
Backed by Real Estate – Unaffiliated
Backed by Real Estate - Affiliated
All Other – Unaffiliated
All Other – Affiliated

(Renumbering will Occur Based on the Resulting Lines)

ALL OTHER INVESTMENTS

94	NAIC 1 Working Capital Finance Investments
95	NAIC 2 Working Capital Finance Investments
96	Other Invested Assets - Schedule BA ....
97	Other Short-Term Invested Assets - Schedule DA
98	Total All Other (Sum of Lines 94, 95, 96 and 97)
99	Total Other Invested Assets - Schedules BA & DA (Sum of Lines 29, 37, 64, 70, 74, 80, 93 and 98)

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/H - 23-28 - Collateral Loan Reporting.docx

Summer National Meeting - Review of GAAP Exposures for Statutory Accounting:

Pursuant to a 2014 direction from the SAPWG chair, there is a desire for the Statutory Accounting Principles (E) Working Group to be more proactive in considering FASB exposures that may be significant to statutory accounting and reporting. Historically, the SAPWG has commented on limited, key FASB exposures – mostly pertaining to insurance contracts and financial instruments. To ensure consideration of all FASB exposures, staff prepared this memorandum to highlight the current exposures, comment deadlines, and to provide a high-level summary of the exposed item's potential impact to statutory accounting. It is anticipated that this information would assist the Working Group in determining whether a comment letter should be submitted to the FASB on the issues. Regardless of the Working Group's election to submit comments to the FASB on proposed accounting standards, under the NAIC Policy Statement on Statutory Accounting Principles Maintenance Agenda Process, issued US GAAP guidance noted in the hierarchy within Section V of the Preamble to the *Accounting Practices and Procedures Manual* must be considered by the Statutory Accounting Principles (E) Working Group.

FASB Exposures: Exposure Documents and Public Comment Documents (fasb.org)

Exposed FASB Guidance	Comment Deadline & Initial Staff Comments
Proposed Accounting Standards Update—*Derivatives and Hedging (Topic 815) and Revenue from Contracts with Customers (Topic 606): Derivatives Scope Refinements and Scope Clarification for a Share-Based Payment from a Customer in a Revenue Contract*	October 21, 2024

Proposed Accounting Standards Update, Derivatives and Hedging (Topic 815) and Revenue from Contracts with Customers (Topic 606)—Derivatives Scope Refinements and Scope Clarification for a Share-Based Payment from a Customer in a Revenue Contract

Topic 815, Derivatives and Hedging, establishes accounting requirements for contracts that meet the characteristics-based definition of a derivative and are not otherwise excluded from the Topic's scope. Because of the broad interpretation of the definition of a derivative, many types of contracts are being evaluated and potentially accounted for as derivatives.

In response to the 2021 Invitation to Comment, Agenda Consultation, stakeholders indicated that practice questions have emerged about the application of the definition of a derivative (and the related scope exceptions) to (1) certain emerging transactions, such as bonds in which interest payments may vary based on environmental, social, and governance (ESG)-linked metrics, and (2) certain longstanding transactions, such as research and development funding arrangements and litigation funding arrangements.

A frequently cited challenge was the broad and evolving interpretation of the derivative definition and the complexity of applying scope exceptions to certain contracts with variables (referred to as "underlyings") based on operations or activities specific to one of the parties to the contract. Some respondents noted that because those contracts relate to the performance of a party to the contract, accounting for those contracts as derivatives measured at fair value does not provide decision-useful information. Those respondents indicated that other guidance in generally accepted accounting principles (GAAP) exists to account for those contracts. Furthermore, respondents noted that because of the cost and complexity of applying the derivative guidance, some entities may structure those transactions to avoid accounting for them as derivatives. The amendments in this proposed Update address the issues raised by stakeholders by expanding the scope of an existing exception in Topic 815.

The amendments in this proposed Update would apply to all entities that enter into certain contracts with underlyings based on operations or activities specific to one of the parties to the contract.

The amendments in this proposed Update would exclude derivative accounting contracts with underlyings that are based on operations or activities specific to one of the parties to the contract. The scope exception would include variables based on financial statement metrics of one of the parties to the contract (for example, earnings before interest, taxes, depreciation, and amortization; net income; expenses; or total equity), as well as the occurrence or nonoccurrence of an event related to the operations or activities specific to one of the parties to the contract. However, contracts with a single underlying based on either (1) a market rate, market price, or market index or (2) the price or performance of a financial asset or financial liability of one of the parties to the contract would not qualify for the proposed scope exception.

Contracts with multiple underlyings for which some are excluded from derivative accounting, and some are not would be evaluated on the basis of the predominant characteristics of the contract to determine whether the entire contract (or embedded feature) is subject to the requirements of Topic 815.

The amendments in this proposed Update would change the predominant characteristics assessment to require that an entity assess which underlying is expected to have the largest expected effect on changes in the fair value of the contract (or embedded feature).

Issue 2: Scope Clarification for a Share-Based Payment from a Customer in a Revenue Contract

The Board received feedback from some stakeholders that there is a lack of clarity about which guidance an entity should apply to recognize share-based payments, such as warrants or shares, received from a customer that are consideration for the transfer of goods or services. For example, if an entity receives share-based payments from a customer and those share-based payments are contingent on the satisfaction of performance obligations, some stakeholders recently indicated that it is unclear to them whether those share-based payments (1) should be recognized at contract inception as a derivative asset under Topic 815 or an equity security under Topic 321, Investments— Equity Securities, or (2) should not be recognized until the entity satisfies its performance obligations under Topic 606, Revenue from Contracts with Customers. In response to this feedback, the Board decided to clarify the accounting by an entity that receives a share-based payment from a customer that is consideration for the transfer of goods or services.

The amendments in this proposed Update would apply to all entities that receive a share-based payment from a customer that is consideration for the transfer of goods or services.

The amendments in this proposed Update would clarify that an entity should apply the guidance in Topic 606, including the guidance on noncash consideration in paragraphs 606-10-32-21 through 32-24, to a contract with a share-based payment (for example, shares, share options, or other equity instruments) from a customer that is consideration for the transfer of goods or services. Accordingly, under Topic 606, the share-based payment should be recognized as an asset measured at the estimated fair value at contract inception under Topic 606 when the entity's right to receive or retain the share-based payment from a customer is no longer contingent on the satisfaction of a performance obligation. In addition, the amendments in this proposed Update would clarify that the guidance in Topic 815 and Topic 321 should not be applied unless and until the share-based payment from a customer that is consideration for the transfer of goods or services is recognized as an asset under Topic 606.

The amendments in this proposed Update would reduce diversity in the accounting for share-based payments from a customer that are consideration for the transfer of goods or services by clarifying that entities should apply the guidance in Topic 606. The proposed amendments would provide investors with more comparable information and would reduce accounting complexity and related reporting costs for preparers and auditors.

Staff Review and Commentary:

Comment deadline is October 21, 2024

NAIC staff recommend that ASU be reviewed under the SAP Maintenance Process as detailed in *Appendix F—Policy Statements*.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/I - Review of GAAP Exposures.docx

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Attachment J

NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

August 13, 2024

To: Dale Bruggeman (MO), Chair, Statutory Accounting Principles (E) Working Group
Kevin Clark, (IA), Vice Chair, Statutory Accounting Principles (E) Working Group

From: Rachel Hemphill (TX), Chair, Life Actuarial (A) Task Force,
Craig Chupp (VA), Vice Chair, Life Actuarial (A) Task Force

RE: Life Actuarial (A) Task Force Coordination with the Statutory Accounting Principles (E) Working Group 2024

The Statutory Accounting Principles (E) Working Group charges requires the Working Group to coordinate with the Life Actuarial (A) Task Force on changes to the AP&P Manual related to the *Valuation Manual* (VM)-A, Requirements, and VM-C, Actuarial Guidelines, as well as other VM requirements. This process will include the receipt of periodic reports on changes to the VM on items that require coordination. To facilitate the coordination, the Task Force will provide to the Working Group a memorandum of VM amendments, actuarial guidelines and valuation related NAIC model revisions. This memorandum provides the Working Group updates to the publications since the 2023 NAIC Fall Meeting.

Valuation Manual – Attachment A to this memo includes a detailed listing of the amendments made to the VM since the 2023 NAIC Summer Meeting. The amendments, with the exception of APF 2024-10, were adopted by the Life Insurance and Annuities (A) Committee on July 15, 2024. APF 2024-10 amends a health insurance section of the VM and was adopted by the Health Insurance and Managed Care (B) Committee on June 13, 2024. All of the amendments will be considered by the Executive (EX) Committee and Plenary at the 2024 NAIC Summer Meeting.

Actuarial Guidelines – Since the 2023 NAIC Fall Meeting the Task Force has not created or revised any actuarial guidelines.

NAIC Models – The Task Force has not created or revised any models since the 2023 NAIC Fall Meeting

LATF VM Amendment	Valuation Manual Reference	Valuation Manual Amendment Proposal Descriptions	LATF Adoption Date
2023-08	VM- 20 Section 7.D.7, VM-30 Section 3.B.5	Clarifies the allocation of negative interest maintenance reserves (IMR) for VM-20 and VM-30 and that non-admitted IMR is excluded from the allocation.	8/31/2023
2023-09	VM-20 Section 9.C.2.h	This amendment requires companies to apply historical mortality improvement rates, which may be negative.	10/5/2023
2023-11	VM-20 Section 8.C.17 and VM-21 Section 1.C.3	This amendment proposes removal of references to risk-based capital (RBC) in VM-20 and VM-21 that are inconsistent with the purpose, scope, and intended use of RBC to be consistent with improvements made in related sections of the VM-22 draft.	1/25/2024
2023-12	VM-01 and VM-30 Section 3.B	This amendment clarifies expectations on the reflection of equity return volatility in VM-30 cash-flow testing.	2/29/2024
2024-01	VM-01 "Qualified Actuary"	Model 820 specifically calls out a qualified actuary as a person "who meets the requirements specified in the valuation manual." This amendment adds the requirement that "A qualified actuary must meet the specific qualification standard for providing a NAIC Annual Statement Opinion".	4/25/2024
2024-02	VM-G Governance in PBR Actuarial Report, VM-31 Section 3.C.7 and Sections 3.C.8 - 3.C.11, VM-31 Section 3.B.6	This amendment clarifies that documentation on VM-G applies to all products subject to principle-based reserves (PBR). Currently VM-G documentation is only required in the Life PBR Actuarial Report.	2/29/2024
2024-04	VM-20 Section 9.D.5	This amendment updates the industry lapse experience table used for minimally funded universal life with secondary guarantee (ULSG) policies to the term-to-100 lapse experience table published by the Canadian Institute of Actuaries in December 2021.	4/25/2024
2024-06	VM-22 Section 3.C.3	This amendment permits companies to elect to consistently determine statutory maximum valuation interest rates for non-jumbo contracts as if they were jumbo contracts, with prior approval of the domiciliary commissioner.	6/6/2024
2024-05	Valuation Manual II, Subsection 3: Deposit-Type Contracts	This amendment allows companies to consistently determine statutory maximum valuation interest rates monthly rather than annually for certain simple deposit-type contracts with prior approval of the domiciliary commissioner.	6/6/2024
2024-09	VM-21 Section 3.A and VM-21 Section 4.B.1	This amendment corrects the order of operations for the pre-tax IMR application in VM-21.	6/6/2024
2023-13	VM-M Sections 1 and 2, VM-31 Section 3.D.3, VM-20 Sections 3.C.1.h, 9.C.3.b and 9.C.3.g	This amendment requires the use of non-U.S. mortality tables for blocks of business issued in foreign countries covering insureds who are not residents of the U.S. These tables must be approved by LATF before being used for reserve purposes. This amendment also adds several annuity tables to VM-M.	6/13/2024
2024-07	VM-21 Section 6.C.2, VM-21 Section 6.C.6, VM-21 Section 6.C.9, VM-21 Section 11.B.3	This amendment makes updates to VM-21 standard projection amount maintenance expense, full surrender, and mortality assumptions.	6/13/2024
2024-08	VM-21 Section 4.B.3	This amendment clarifies the calculation of the Net Asset Earned Rate (NAER) on additional assets, providing additional detail on how the initial additional asset portfolio is constructed and how it is reinvested.	6/13/2024
2024-10	VM-26, Section 3.B	Updates the margins for credit disability insurance reserves based on the Society of Actuaries' "2023 Credit Disability Study Report"	5/23/24

NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

TO: Statutory Accounting Principles (E) Working Group

FROM: NAIC Staff

DATE: July 29, 2024

RE: IMR Ad Hoc Group – Discussion Update

The intent of this memorandum is to provide an update on the discussions that have occurred at the IMR Ad Hoc Group. This group is discussing the interest maintenance reserve (IMR) to establish a framework on the long-term project to review and determine appropriate treatment on IMR under the statutory accounting framework, including consideration of net negative (disallowed) IMR. Participants of the group include regulators representing SAPWG, Life Actuarial (A) Task Force and the Life Risk-Based Capital Working Group, along with industry representing both accounting and actuarial interests.

An initial update was provided during the 2024 Spring National Meeting where it was noted that the IMR Ad Hoc Group conducted their first meeting on Oct. 2, 2023, and has met regularly, approximately every other week. Since the last update, the discussions have focused on 1) IMR from "economic effective" (non-accounting effective) derivatives, 2) Separate account transfers for cash between the general account and a book-value separate account, and 3) IMR from reinsurance transactions. As a result of the ad hoc group discussions, agenda items for derivatives and separate accounts have been presented to the full Statutory Accounting Principles (E) Working Group. The following discussion topics are still anticipated in the ad hoc group: 1) IMR from reinsurance transactions, 2) IMR allocation from *SSAP No. 26—Bond* (issuer credit obligation) investments (e.g., bifurcation and/or reassessment of IMR determination from designation change), 3) reinvestment requirements, 4) guidance on excess withdrawals, and 5) admittance of net negative IMR.

In the interim, in addition to compiling information on the 2023 reported IMR in the statutory financial statements, NAIC staff also reviewed the narrative disclosures, and presented aggregated information to the IMR Ad Hoc Group. From the review, 173 insurers admitted net negative IMR pursuant to the INT, but 57 (33%) of those insurers did not include any aspect of the required disclosures. For the 116 companies that included disclosures, not all the companies included the full disclosures, including the attestation. NAIC staff notes that the disclosure review was manual, and the disclosure will be data-captured for 2024 and easier to assess. If desired, NAIC staff can provide company-specific detail to regulators.

NAIC staff has summary details for all IMR Ad Hoc calls and can provide additional information as requested.

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