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# NAIC Bulletin

**Highlights of the National Association of Insurance Commissioners meeting**

## Fall 2022 update

**In this issue:**



The National Association of Insurance Commissioners (NAIC) recently held its 2022 Fall National Meeting in a hybrid format from Tampa, Florida. Our publication highlights key issues that NAIC groups have addressed since the 2022 Summer National Meeting. We hope you find it informative, and we welcome your comments. Please contact your local EY professional for more information.

### What you need to know

- The Statutory Accounting Principles (E) Working Group adopted an interpretation to address how the corporate alternative minimum tax provisions of the Inflation Reduction Act would be considered by an insurance reporting entity for 2022 year-end reporting purposes.
- The VM-22 (A) Subgroup of the Life Actuarial (A) Task Force exposed a revised draft of the principle-based reserving framework for non-variable annuity products and indicated that its effective date might be delayed until 1 January 2025.
- The Life Actuarial (A) Task Force adopted an actuarial guideline to clarify how the requirements of NAIC model laws and regulations apply to index-linked variable annuity products.
- The NAIC elected its 2023 executive officers: Chlora Lindley-Myers (Missouri) as president, Andrew N. Mais (Connecticut) as president-elect, Jon Godfread (North Dakota) as vice president, and Scott White (Virginia) as secretary-treasurer.

## Statutory accounting and risk-based capital developments

This section summarizes the actions taken by various NAIC groups affecting statutory accounting, annual statement reporting and risk-based capital (RBC) requirements since the 2022 Summer National Meeting.

### Statutory Accounting Principles (E) Working Group

Appendix A in this publication summarizes the actions taken by the Statutory Accounting Principles (E) Working Group (SAPWG) to revise the statutory accounting and reporting guidance in the *Accounting Practices and Procedures Manual* (*AP&P Manual*) since the 2022 Summer National Meeting. It also includes the effective dates for adopted items and the deadlines for comments on exposed items.

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### *Statutory accounting principles*

SAPWG adopted revisions to SSAP No. 19, *Furniture, Fixtures, Equipment and Leasehold Improvements*, and SSAP No. 73, *Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities*, to clarify that the amortization of leasehold improvements will immediately end when a lease is terminated and require that any remaining, unamortized leasehold improvement balance be immediately expensed (Ref #2021-25). The revisions address scenarios where the lease terminates naturally or when the lessee purchases a property it was leasing, with a limited exception provided in SSAP No. 73 that would allow leasehold improvements necessary for the functionality of specific health care delivery assets to be excluded in some cases from the purchase price (i.e., cost) of the real estate property.

SAPWG adopted revisions to SSAP No. 86, *Derivatives*, to incorporate key aspects of the US GAAP guidance for portfolio and partial-term hedges from Accounting Standards Update (ASU) 2022-01, *Derivatives and Hedging (Topic 815): Fair Value Hedging — Portfolio Layer Method*, and ASU 2017-12, *Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities*, applicable to fair value hedges of recognized assets (Ref #2022-09). The revisions establish the criteria for these types of derivative instruments to qualify for hedge accounting treatment as a fair value hedge of a recognized asset or a closed block of financial assets (not liabilities), along with specific hedge assessment guidance addressing the portfolio layer method and guidance for reporting the basis adjustment when a portfolio layer method interest rate hedging relationship is discontinued (or partially discontinued) in a voluntary de-designation or in anticipation of a breach. The revised guidance is effective on 1 January 2023, with early adoption permitted for 2022 year-end reporting purposes.

SAPWG adopted revisions to SSAP No. 25, *Affiliates and Other Related Parties*, and SSAP No. 97, *Investments in Subsidiary, Controlled and Affiliated Entities*, to exempt foreign open-end investment funds governed and authorized in accordance with regulations established by the applicable foreign jurisdiction from the look-through provisions included in SSAP No. 25 (Ref #2022-13). The revisions apply to foreign open-end investment funds in which ownership percentage is not deemed to represent control unless the reporting entity has control with the power to direct the underlying company.

SAPWG re-exposed revisions to SSAP No. 5R, *Liabilities, Contingencies and Impairments of Assets*, and a related draft issue paper to incorporate updates from Financial Accounting Standards Board (FASB) Concepts Statement No. 8, *Conceptual Framework for Financial Reporting*, into the statutory accounting framework (Ref #2022-01). The proposed revisions would update the definition of a liability as a present obligation of an entity to transfer an economic benefit and incorporate clarifying language that the updated definition is applicable unless another authoritative statement provides more topic-specific contradictory guidance.

SAPWG exposed a discussion document with NAIC staff questions on potential statutory accounting concepts for tax equity investments (Ref #2022-14). The feedback received will result in either the development of a new or revised SSAP to expand the statutory accounting guidance in SSAP No. 93, *Low-Income Housing Tax Credit Property Investments*, to capture all tax equity investments that qualify under specified criteria and provide general federal business tax credits or state premium tax credits.

SSAP No. 94R, *Transferrable and Non-Transferrable State Tax Credits*, will also be reviewed to determine whether the guidance addresses items that should be captured in its scope and admittance provisions.

SAPWG exposed a request for feedback from industry stakeholders on the existing guidance for the Interest Maintenance Reserve (IMR) specific to the disallowance of negative IMR (i.e., the amount of unamortized interest-related losses realized from the sale of investments is greater than the amount of unamortized interest-related gains), along with potential guardrails and details on unique considerations that would support the admittance of a negative IMR asset (Ref #2022-19). SAPWG also directed the NAIC staff to coordinate a joint regulator discussion with the Life Actuarial (A) Task Force (LATF) on this topic and to develop a memorandum addressing negative IMR considerations for use by state insurance regulators.

SAPWG exposed revisions to SSAP No. 26R, *Bonds*, and SSAP No. 43R, *Loan-Backed and Structured Securities*, to incorporate the current version of the principles-based bond definition for use in determining whether an investment (i.e., security) qualifies for reporting as a long-term bond on Schedule D, Part 1 into statutory accounting guidance (Ref #2019-21). The exposure also includes proposed revisions to SSAP No. 2R, *Cash, Cash Equivalents, Drafts, and Short-Term Investments*, to exclude asset-backed securities from being reported as a cash equivalent or short-term investment, and proposed revisions to SSAP No. 21R, *Other Admitted Assets*, to detail the accounting and reporting guidance for debt securities that do not qualify as bonds. An updated issue paper detailing past discussions and concepts in developing the principles-based bond definition was also exposed.

SAPWG also exposed a reporting changes document identifying all areas that may need to be revised to address the more granular reporting that will be required upon adoption of the revised guidance. The exposure details revisions to improve the transparency and granularity of investments reported on Schedule D, Part 1, including a proposal for a new schedule to separately capture information specific to issuer credit obligations (i.e., bonds) and asset-backed securities with revised reporting lines and instructions for investment classification. The exposure also suggests revisions to other annual statement blank schedules and instructions that reference bond reporting. The revised guidance and related reporting requirements are expected to be effective on 1 January 2025.

SAPWG directed the NAIC staff to provide the exposed reporting changes document to the Blanks (E) Working Group (BWG) to allow sufficient time to review the proposed changes in the development of the corresponding blanks proposal.

### *Interpretations of statutory accounting principles*

SAPWG adopted INT 22-02: *Third Quarter 2022 Reporting of the Inflation Reduction Act — Corporate Alternative Minimum Tax* (INT 22-02) to provide an interpretation of statutory accounting guidance for third quarter 2022 reporting purposes. In this statutory interpretation, a consensus was reached that a reasonable estimate for the tax calculations affected by the corporate alternative minimum tax (CAMT) was not determinable for reporting in the third quarter 2022 statutory-basis financial statements. Because reasonable estimates were not determinable, reporting entities did not record the effect of the CAMT in their quarterly statement blank, but they were required to make certain disclosures regarding the CAMT and the Inflation Reduction Act (Act).

SAPWG subsequently adopted revisions to INT 22-02 to extend its applicability to year-end 2022 and first quarter 2023 statutory-basis financial statements, with an additional disclosure requirement related to a reporting entity's status as an applicable corporation. The revised statutory interpretation also provides an exception such that updated estimates or tax calculations affected by the Act determined after the filing date of the relevant financial statements (i.e., annual or quarterly statement blank) would not be recognized as Type I subsequent events. This exception is intended to prevent a reporting entity from having to amend its audited statutory-basis financial statements for material Type I subsequent events resulting from updated information received after the filing date of the 2022 annual statement blank related to the accounting for the enactment of the Act.

INT 22-02 will be automatically nullified on 15 June 2023.

### *Other matters*

SAPWG exposed an issue paper documenting the extent of the revisions to the statutory accounting guidance for derivatives that were adopted with the review of the US GAAP hedging guidance in ASU 2017-12 and ASU 2022-01 (Ref #2017-33).

SAPWG submitted a blanks proposal (Ref #2022-17BWG) to incorporate a new disclosure paragraph in Note 8 of the annual statement with an illustration for the new disclosure, along with new electronic-only columns for Schedule DB to address derivatives with excluded components as detailed in the adopted revisions to SSAP No. 86, effective for 2023 year-end reporting purposes (Ref #2021-20). Reporting entities that early adopt the revised guidance in their assessment of effective hedge relationships would be required to provide these disclosures in a narrative format for 2022 year-end reporting purposes and report the adoption as a change in accounting principle.

## Blanks (E) Working Group

Appendix B summarizes the actions taken by BWG since the 2022 Summer National Meeting.

## Capital Adequacy (E) Task Force

The Capital Adequacy (E) Task Force (CATF) forwarded the exposed revisions to the calculation of the RBC requirement for affiliated investments that were developed by the Life RBC (E) Working Group, Health RBC (E) Working Group, and Property and Casualty (P&C) RBC (E) Working Group for use in the respective RBC formulas to BWG and SAPWG (Ref #2022-09-CA). The proposed revisions are intended to improve the calculation and provide consistency in the treatment of affiliate investments across insurance sectors. Comments are due by 28 January 2023.

Appendix C summarizes the developments affecting RBC requirements for each of the insurance sectors based on actions taken by CATF and the various NAIC groups that report to it since the 2022 Summer National Meeting.

### Life RBC (E) Working Group

The Life RBC (E) Working Group adopted the instruction supplement prepared by the American Academy of Actuaries (Academy) addressing implementation questions for applying the revised mortality factors used in the calculation of the insurance risk (i.e., C2) component of the Life RBC formula that were adopted for 2022 year-end reporting.

### Health RBC (E) Working Group

The Health RBC (E) Working Group exposed a response to the request from CATF for input regarding runoff insurance companies. The Working Group indicated that it agrees with the P&C (E) RBC Working Group's recommendations to monitor these companies through the state analysis and exam team functions. The Working Group determined that the underwriting risk (i.e., H2) component of the Health RBC formula sufficiently addresses runoff insurance companies when the RBC charge of a runoff company is reduced as premiums are reduced. However, as premiums are reduced, the authorized control level RBC requirement would also be reduced. The Working Group also developed a recommendation to identify characteristics of a runoff health insurance company, which include:

- No renewing of policies for at least 12 months
- No plans or intentions to write new direct or new assumed business
- No additional runoff blocks of business
- Separate reporting of reserves for the remaining runoff business

The Working Group heard a presentation from the Academy on its work to analyze and review the underwriting risk (i.e., H2) component and managed care credit calculation in the Health RBC formula. The Academy's project plan has been designed to address a targeted set of recommendations for improving the underwriting risk factors, which include:

- Refresh the factors based on updated insurer data
- Develop factors at a more granular product level
- Develop factors specific to more relevant block sizes and consider an indexing factor for cut points to change over time
- Model risk factors over an NAIC-defined prospective time horizon with a defined safety level that can be refreshed regularly
- Refresh the managed care credit formula and factors to be more relevant and representative of common contracting approaches and other risk factors associated with these contracting approaches
- Analyze long-term care (LTC) insurance underwriting performance to create a more nuanced set of risk factors that consider pricing changes over time

This project will be split into two phases to review both core (i.e., phase one) and noncore (i.e., phase two) health lines of business included on pages XR013 and XR015–XR017 of the Health RBC formula, respectively. Historical data from the Analysis of Operations by Lines of Business pages and Health Insurance (State Page) of the Health annual statement blank will be used to support three work tracks (e.g., redesign pages XR013/XR014 for experience fluctuation risk, develop tiered RBC factors, redesign pages XR018/XR019 for managed care credit) underlying the first five recommendations.

The Working Group also discussed reevaluating the stop-loss factors that were adopted in 2017 and the aggregation of stop-loss data collected. The Working Group indicated that it would work with the Academy to determine a reasonable timeline for the reevaluation. Data supporting this project will be collected as part of the RBC filing process and afforded confidential treatment.

### Property and Casualty RBC (E) Working Group

The P&C RBC (E) Working Group heard an update from the Academy on its project to recalibrate portions of the reserve and premium risk in the R4 and R5 components of the P&C RBC formula. The Academy's work includes the development of updated risk factors, investment income adjustments and line of business diversification credits. The Academy also plans to introduce a new methodology that will adjust losses based on interest rates in effect at the time of loss and is pursuing an enhancement to align the time horizon for the investment income adjustment with the risk horizon used in the project. The Academy expects to provide the Working Group with a report by early 2023.

### Catastrophe Risk (E) Subgroup

The Catastrophe Risk (E) Subgroup continued its discussion of the inclusion of a convective storm peril in the Rcat component of the P&C RBC formula for informational purposes only. An ad hoc group has been formed to perform an in-depth technical study and an impact analysis of the assumptions and limitations of different vendor models addressing severe convective storms, and to develop a risk charge recommendation for the Subgroup's consideration. The Subgroup anticipates that this peril will not be included in the P&C RBC formula until 2024 year-end reporting.

### RBC Investment Risk and Evaluation (E) Working Group

The RBC Investment Risk and Evaluation (E) Working Group exposed a referral from the Valuation of Securities (E) Task Force (VOSTF) to consider the development of new RBC factors to eliminate potential arbitrage opportunities through collateralized loan obligation (CLO) investment structures. The referral includes a recommendation to add new NAIC designation categories (e.g., 6.A, 6.B and 6.C) with factors of 30%, 75% and 100%, respectively, that would apply to the residual tranches of CLO investments.

The Working Group heard a presentation from the Academy on CLO investment structures. The Academy's report addressed the risk that CLO investments pose to the statutory capital and surplus of life insurance companies with considerations for establishing regulatory capital requirements for the different tranches of CLO investments. Portions of the report were provided as commentary on the approach proposed by the NAIC Investment Analysis Office (IAO) to model these investments that has been exposed by VOSTF. The Working Group exposed the Academy's presentation.

Comments on all exposed documents are due by 27 January 2023.

## Requirements for principle-based reserving

The Valuation Analysis (E) Working Group (VAWG) recently completed a review of the reserve supplements and principle-based reserving (PBR) actuarial reports, covering life insurance and variable annuities, that were filed by insurers for calendar year-end 2021. VAWG summarized its findings in its **2021 PBR Review Report** available on the NAIC website to provide general feedback that will assist insurers with future PBR valuations and filings and aid state insurance regulators in their PBR reviews.

LATF continued its work to update the *Valuation Manual* and address issues related to the implementation of the PBR framework for life and annuity products. The actions taken by LATF include revisions to the guidance in VM-20: *Requirements for Principle-Based Reserves for Life Products* and VM-21: *Requirements for Principle-Based Reserves for Variable Annuities*, which are summarized below.

### Life and variable annuity products

#### *Valuation Manual amendments*

LATF adopted an amendment to the 1 January 2023 version of the *Valuation Manual* to add a requirement for insurance companies to disclose information regarding their inflation assumption in PBR actuarial reports.

LATF also adopted the NAIC staff memorandum recommending the use of Secured Overnight Financing Rate (SOFR) swap spreads as a replacement for London Interbank Offered Rate (LIBOR) swap spreads, effective 30 December 2022, so that the prescribed swap spreads as of 31 December 2022 are developed based on the recommended approach. This recommendation is consistent with the actions taken by LATF to identify SOFR as the replacement for LIBOR in VM-20, effective 1 January 2023.

NAIC staff indicated that the previously published swap spreads for the three-month and six-month tenors were the market-observable LIBOR spreads over US treasuries. The swap spreads for the one- to 30-year tenors should have been calculated using the average of LIBOR swap spreads from two third-party sources. However, beginning 31 December 2021, one of the two sources began providing SOFR swap spreads instead of LIBOR swap spreads. Consequently, the swap spreads published for 31 December 2021 and subsequent months have been a 50/50 blend of LIBOR and SOFR for the one to 30-year tenors.

LATF exposed two amendments to the *Valuation Manual*. These amendments will:

- Clarify the intent and calculation of the VM-20 net premium reserve mortality adjustment, specifically when the anticipated mortality exceeds the prescribed mortality table
- Clarify the reporting and governance requirements for groups of contracts using the VM-21 alternative method to require the insurance company to develop a sub-report for the group of contracts that are not subject to a PBR valuation to address the applicable requirements within Section 3 of VM-31: *PBR Actuarial Report Requirements for Business Subject to a Principle-Based Valuation*

### Non-variable annuity products

The VM-22 (A) Subgroup exposed a revised draft of the PBR framework for non-variable annuity products. Several elements of the framework were modified as a result of the feedback received from the first exposure, which include the following:

- A small company exemption was added to allow insurance companies to be exempt from the framework based on a threshold linked to prior year fixed annuity reserves reported in the annual statement but would not apply to products with guaranteed living benefits.
- Provisions were added to specify that products with nonforfeiture limits and a guarantee on the return of principal are included in the scope of the framework and further clarify that index-linked variable annuity (ILVA) products are within the scope of VM-21 requirements.
- The framework was modified to specify that reserves in excess of the cash surrender value should be allocated to all non-variable annuity products, including life contingent payouts, non-life contingent payouts and accumulation annuities. The longevity reinsurance element of the framework was also modified to incorporate expenses in determining a k-factor to set premiums for the reserve calculation and specify that longevity reinsurance would be treated as a separate "Reserving Category" for aggregation purposes.
- A new section called "VM-V" was created to contain the current VM-22 requirements related to the maximum valuation rate for formulaic reserves on payout annuities applicable to payout annuity contracts issued prior to the PBR effective date, approved under the PBR exemption, or that pass the exclusion test.

The Subgroup is targeting a VM-22 field test to begin in the spring of 2023, which will be led jointly by the Academy, the American Council of Life Insurers and the NAIC. This timing may delay the effective date to 1 January 2025, with a three-year transition period for implementation.

The Subgroup also exposed the Academy's proposal regarding payout annuity exclusion testing, which would allow for payout annuities to use valuation requirements in effect prior to PBR without applying for the Annuity PBR Exemption or performing stochastic exclusion testing. The domiciliary state insurance commissioner would be required to approve the application of this exclusion. Comments are due by 2 February 2023.

## Macroprudential activities

Various NAIC groups continued their work on areas of the NAIC's Macroprudential Initiative to improve the ability of state insurance regulators to monitor and respond to financial and economic risks affecting the US insurance industry as a whole and individual insurance reporting entities.

## Liquidity assessment and capital stress testing

The Financial Stability (E) Task Force adopted the 2022 Liquidity Stress Testing (LST) framework and received a report on the results of the year-end data submitted by insurance groups in their 2021 LST. The 2022 LST framework was modified to address several considerations, rather than requirements, for the performance of the 2022 LST. A consideration to include non-insulated separate account amounts as if they were general account amounts was added. A consideration to increase the 2021 values for the 2022 LST and include a severe interest rate spike scenario was also added. Finally, a consideration was added for insurance groups to review the scenarios to determine whether they are worst-case scenarios for their business and products, particularly if no liquidity deficiencies were identified.

## Recovery and resolution

The Financial Condition (E) Committee (E Committee) approved the request from the Receivership and Insolvency (E) Task Force to amend the Property and Casualty Insurance Guaranty Association Model Act (Model #540) for cybersecurity insurance. The amendments will clarify the nature and extent of guaranty fund coverage of cybersecurity insurance and address how cybersecurity insurance coverage will be handled should an insurer writing this business become insolvent. The request is incremental to the previously approved amendment to address continuity of guaranty fund coverage after insurance business transfers and corporate division transactions, with an expectation that both of these revisions to Model #540 be completed within a similar timeframe.

The E Committee also adopted a memorandum of understanding (MoU) developed by the Receivership Law (E) Working Group that can be entered into by receivers and guaranty funds during the process of planning for a liquidation to provide a legal ability to share information in advance of liquidation. The MoU is an optional tool that can be customized to the unique circumstances of a given receivership. It is applicable to P&C liquidations, as the National Organization of Life and Health Guaranty Associations indicated that it already has mechanisms to coordinate the pre-liquidation planning activities for life and health insurer insolvencies.

## Private equity and other matters

The Macroprudential (E) Working Group (MWG) provided an update on the status of each of the 13 items in the *Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers* document, which has been summarized below:

- Regulators may not be obtaining clear pictures of risk due to holding companies structuring contractual agreements in a manner to avoid regulatory disclosures and requirements. Additionally, affiliated or related party agreements impacting the insurer's risks may be structured to avoid disclosure (i.e., not including the insurer as a party to the agreement). A drafting group will be formed by the Group Solvency Issues (E) Working Group to address this issue.
- Control is presumed to exist where ownership is greater than or equal to 10%, but control and conflict of interest considerations may exist with less than 10% ownership. A drafting group will be formed by the Group Solvency Issues (E) Working Group to address this issue.
- Regulators should understand the material terms of investment management agreements and whether they are arm's length or could result in conflicts of interest, including the amount and types of investment management fees paid by the insurer; the termination provisions (i.e., how difficult or costly it would be for the insurer to terminate the agreement); and the degree of discretion or control of the investment manager over investment guidelines, allocation and decisions. The Risk-Focused Surveillance (E) Working Group deferred further work on this issue until its ongoing project to update NAIC handbook guidance related to affiliated service agreements is completed in early 2023.
- Owners of insurers, regardless of type and structure, may be focused on short-term results, which may not align with the long-term nature of liabilities in life products. The Risk-Focused Surveillance (E) Working Group deferred further work on this issue until early 2023. Separately, LATF indicated that regulators review the associated Statements of Actuarial Opinion submitted by insurance companies periodically. The asset adequacy analysis requirements in the NAIC's Standard Valuation Law (Model #820) and VM-30: *Actuarial Opinion and Memorandum Requirements* require appointed actuaries to perform testing to determine whether the reserves held for the insurance company's liabilities are adequate in light of the assets supporting the business, which should be responsive to this issue.

- Operational, governance and market conduct practices may be impacted by the different priorities and level of insurance experience possessed by entrants into the insurance market without prior insurance experience, including, but not limited to, PE owners. MWG has deferred further work on this issue at this time.
- No uniform or widely accepted definition of PE exists, and there are challenges in maintaining a complete list of insurers' material relationships with PE firms. Regulators continue to believe that a PE definition is not necessary, as the considerations are activity-based and apply beyond PE owners.
- The lack of identification of investments (including structured securities) originated by related parties may create potential conflicts of interest and excessive and/or hidden fees in the portfolio structure, as assets created and managed by affiliates may include fees at different levels of the value chain. The actions taken by SAPWG to address the related party reporting for investments in SAPWG #2021-21 and Ref #2021-22BWG MOD should be responsive to this issue.
- Though the blanks include affiliated investment disclosures, it is not easy to identify underlying affiliated investments and/or collateral within structured security investments. Additionally, transactions may be excluded from affiliated reporting due to nuanced technicalities. Regulatory disclosures may be required to identify underlying related party investments and/or collateral within structured security investments. The actions taken by SAPWG to address the related party reporting for investments in SAPWG #2021-21 and Ref #2021-22BWG MOD, along with the adoption of revised guidance to clarify the identification of related parties and affiliates in SAPWG #2019-34, should be responsive to this issue. Separately, the Examination Oversight (E) Task Force delegated the work on this issue to the Financial Analysis Solvency Tools (E) Working Group and the Financial Examiners Handbook (E) Technical Group. Both NAIC groups developed guidance for inclusion in the 2023 NAIC handbooks related to the new related party investment disclosures developed by SAPWG and the standards developed by LATF in *Actuarial Guideline LIII — Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves* (AG 53) that will be effective for 2022 year-end reporting purposes. These NAIC groups may develop additional guidance, as well as supporting reports and regulatory tools, as the work on this issue progresses.
- Broader considerations exist around asset manager affiliates (not just PE owners) and disclaimers of affiliation avoiding current affiliate investment disclosures. The adoption of revised guidance to clarify the identification of related parties and affiliates in SAPWG #2019-34 should partially address this issue. Additionally, the ongoing work detailed in SAPWG #2022-15, SAPWG #2022-17 and SAPWG #2019-21 should further address this issue, once adopted.
- The material increases in privately structured securities (both by affiliated and nonaffiliated asset managers) introduce other sources of risk or increase traditional credit risk, such as complexity risk and illiquidity risk, and involve a lack of transparency. LATF indicated that AG 53, which is effective for 2022 year-end reporting purposes, and the subsequent reviews performed by the Valuation Analysis (E) Working Group should address this issue. SAPWG indicated that the ongoing work detailed in SAPWG #2019-21 should address this issue, once adopted. VOSTF indicated that it plans to send referrals to other NAIC groups to request feedback on a replacement proposal that will require the NAIC to produce analytical risk metrics for bond investments. Separately, while not specifically addressing privately structured securities, the work of the RBC Investment Risk and Evaluation (E) Working Group on CLOs may contribute to addressing this issue.
- The level of reliance on rating agency ratings and their appropriateness for regulatory purposes (e.g., accuracy, consistency, comparability, applicability, interchangeability, transparency). No action has been taken by VOSTF on this issue.
- The trend of life insurers in pension risk transfer (PRT) business and supporting such business with complex investments. Considerations have also been raised regarding the RBC treatment of PRT business. LATF indicated that the PRT drafting group of the VM-22 (A) Subgroup is considering the development of PRT and longevity risk mortality factors. LATF also indicated that the Longevity Risk (E/A) Subgroup will resume meeting once the currently exposed VM-22 PBR methodology is finalized and adopted to develop and recommend longevity risk factors for the products that were excluded from the application of the current longevity risk factors. Separately, SAPWG indicated

that the actions taken in SAPWG #2020-37 and Ref #2021-03 BWG to modify the reporting of PRT transactions in the annual statement blank should address this issue; however, review of the 2021 disclosures indicated that most reporting entities are still broadly grouping PRT activity for reporting purposes.

- Insurers' use of offshore reinsurers, including captives, and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk and introduce complexities into the group structure. MWG held confidential discussions with industry participants and other jurisdictions regarding the use of offshore reinsurers and complex affiliated reinsurance vehicles. MWG will continue these discussions to identify the best mechanism for regulators to identify the true economic impacts of the reinsurance transaction. Further work and potential referrals will be considered once these discussions are concluded.

The work to be performed by the NAIC groups referred to in the above items includes in-process projects and other actions that have yet to be determined.

## Innovation, Cybersecurity, and Technology

The Innovation, Cybersecurity, and Technology (H) Committee (H Committee) continued its work to bring together different NAIC groups with initiatives related to artificial intelligence (AI) decision-making and provide education for state insurance commissioners and staff through its Collaboration Forum. The H Committee determined the next step to achieve its objective is for the NAIC to develop and adopt a regulatory framework around the use of AI by the insurance industry, which will be articulated in an interpretive bulletin. This bulletin will be principles-based and include high-level standards to be applied to the general use of AI to support decision-making, with a focus on governance requirements and the establishment of protocols for the use of AI.

The H Committee and the Collaboration Forum will draft the interpretive bulletin with an expectation for its content to include background and legislative authority of the issue, definitions of vocabulary and regulatory expectations for the use of AI by the insurance industry, and regulatory oversight and examination standards. The H Committee intends to expose sections of the interpretive bulletin at the 2023 Spring National Meeting.

The actions taken by various NAIC groups that report to the H Committee since the 2022 Summer National Meeting are summarized below.

### Big Data and Artificial Intelligence (H) Working Group

The Big Data and AI (H) Working Group exposed a document containing various questions related to the models used by insurance companies. Regulators can pose these questions to insurance companies as they relate to the use of models, the related data inputs into such models, and whether the model or data was developed internally or obtained from external sources. Comments are due by 13 February 2023.

### Cybersecurity (H) Working Group

The Cybersecurity (H) Working Group adopted an NAIC staff memorandum that is a reference document summarizing cybersecurity-related tools available to state insurance regulators. The memorandum identifies three key NAIC resources that relate to cybersecurity: the Insurance Data Security Model Law (Model #668), the *Financial Condition Examiners Handbook* and the *Market Regulation Handbook*. It also covers how each tool addresses the topic of cybersecurity and the interrelationship between each tool.

### Privacy Protections (H) Working Group

The Privacy Protections (H) Working Group formed a drafting group to develop a new NAIC model addressing data privacy protections for insurance consumers. The new model would enhance consumer protections and the corresponding obligations of entities licensed by state insurance departments. It was deemed necessary when considering the extensive innovations that have been made in communications and technology since the Insurance Information and Privacy Protection Model Act (Model #670) and Privacy of Consumer Financial and Health Information Regulation (Model #672) were adopted by the NAIC several decades ago. Once adopted, this new model would supersede these existing NAIC models. The Working Group expects to expose a draft of the new model in January 2023.

The Working Group is also developing a reference document to address the rationale for the new model and background for its development. This reference document will be made available for review in connection with the exposure of the new model.

## Executive Committee

The NAIC Plenary adopted:

- Revisions to the Guidelines for Uniform Licensing Applications, which were developed by the Producer Licensing (D) Task Force
- Revisions to the *ORSA Guidance Manual* that incorporate elements of the International Association of Insurance Supervisors (IAIS) Common Framework for the Supervision of Internationally Active Insurance Groups (i.e., ComFrame) deemed appropriate for the US system of state-based insurance regulation, which were developed by the Group Solvency Issues (E) Working Group

The Executive (EX) Committee (EX Committee) also received an update on model law development efforts for revisions to the following NAIC model acts:

- The Accident and Sickness Insurance Minimum Standards (B) Subgroup continued its work on revisions to the first seven sections of the Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (Model #171), focusing on Section 7 of Model #171 related to indemnity products and disability income protection products. The revisions contain various provisions for the regulation of supplementary and short-term health insurance plans, including limited-scope dental and vision plans.
- The Receivership Law (E) Working Group solicited feedback on its proposed amendments to Model #540. The amendments address possible technical gaps within certain definitions that may exist in states that have adopted Model #540 to determine whether there is continuity of guaranty fund coverage after insurance business transfers and corporate division transactions. The Working Group formed a drafting group to consider the feedback received and suggest revisions to the proposed amendments.
- The Mortgage Guaranty Insurance (E) Working Group solicited feedback on its proposed amendments to the Mortgage Guaranty Insurance Model Act (Model #630) and is continuing its work to address the feedback received. The E Committee provided an extension for the Working Group to complete its work by the 2023 Spring National Meeting.
- The Surplus Lines (C) Task Force discussed the feedback received by its appointed drafting group on proposed amendments to the Nonadmitted Insurance Model Act (Model #870). The drafting group will continue its work to revise Model #870 at future meetings.

The actions taken by various NAIC groups that report to the EX Committee since the 2022 Summer National Meeting are summarized below.

### Climate and Resiliency (EX) Task Force

The Climate and Resiliency (EX) Task Force (CRTF) heard an update on the work being performed by its various workstreams to identify and address climate-related risk and resiliency issues affecting the insurance sector, which include the following topics:

- The Solvency workstream referred a proposal to the E Committee for the inclusion of modeled losses for perils other than hurricanes and earthquakes in the P&C RBC framework.
- The Technology workstream requested the Catastrophe Insurance (C) Working Group to update the *Catastrophe Computer Modeling Handbook*. A drafting group consisting of regulators and industry stakeholders has been formed for this purpose.
- The Innovation workstream developed a repository of information for use by the climate risk and resilience resource center regarding parametric insurance. The Property and Casualty Insurance (C) Committee (C Committee) will consider the development of a white paper related to parametric insurance for regulatory guidance in 2023.

CRTF also established a Catastrophe Modeling Center of Excellence (COE) that will provide various resources and technical support services to state insurance regulators to address the use of commercial catastrophe models by insurance companies in rate-making processes, solvency functions and other insurance business decisions.

### Special (EX) Committee on Race and Insurance

The Special (EX) Committee on Race and Insurance (SCRI) heard an update on the work being performed by its various workstreams to identify issues related to race, diversity and inclusion in the insurance sector, as well as access to insurance products and practices in the insurance sector that potentially disadvantage people of color and historically underrepresented groups.

SCRI's Workstream One completed its work and delivered a set of proposed recommendations on action steps that regulators and industry representatives can take to improve the level of diversity and inclusion in the insurance industry. Because the workstream has fulfilled its charge, it will be eliminated in 2023. SCRI adopted the recommended action steps and will perform the ongoing reporting and monitoring activities to support their implementation.

SCRI's Workstream Two established a Member Diversity Leadership Forum to facilitate discussion of diversity and inclusion within the NAIC and state insurance regulator community. This workstream will also be eliminated in 2023, with representatives from the forum providing updates to SCRI at future meetings.

SCRI's Workstream Three has engaged with the Collaboration Forum of the H Committee to understand how bias within digital decisional systems and complex predictive models driven by AI and machine learning can result in unfair discrimination. The workstream plans to leverage the foundational education related to algorithmic bias in its consideration of regulatory approaches to address unfair discrimination in the P&C insurance market, beginning with potential bias in the marketing of insurance products.

### Long-Term Care Insurance (EX) Task Force

The LTC Insurance (EX) Task Force exposed revisions to the *Checklist for Premium Increase Communications* document, which was developed to establish a consistent approach to drafting and reviewing policyholder communications related to LTC insurance reduced benefit options. Individual state regulators can modify the checklist to address issues that are relevant to their jurisdiction, as it represents guidance and does not carry the weight of law or impose any legal liability. Comments are due by 3 February 2023.

The Task Force received a report on LTC insurance financial solvency and industry trends. The Task Force will continue to monitor the effect of cost-of-care inflation and other factors on reserve valuations performed in accordance with *Actuarial Guideline LI — The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51).

## Life Insurance and Annuities

The NAIC Plenary adopted the 2023 Generally Recognized Expense Tables recommended by the Society of Actuaries for use in individual life insurance sales illustrations. The resulting factors are based on an objective study of expense and expense-related information reported by life insurance companies in their 2020 and 2021 annual statements.

The actions taken by various NAIC groups that report to the Life Insurance and Annuities (A) Committee (A Committee) since the 2022 Summer National Meeting are summarized below.

### Life Actuarial (A) Task Force

LATF adopted an actuarial guideline for ILVA products (i.e., AG 54), which was developed by the ILVA (A) Subgroup to clarify how the Standard Nonforfeiture Law for Individual Deferred Annuities (Model #805) and the Variable Annuity Model Regulation (Model #250) apply to ILVAs. The fact that ILVA accounts are not unitized means they do not have values determined directly by market prices of the underlying assets. The actuarial guideline sets forth principles and requirements for determining values, including death benefit, withdrawal amount, annuitization amount or surrender values, such that an ILVA is considered a variable annuity and thereby exempt from Model #805. An ILVA that does not comply with these principles and requirements would not be considered a variable annuity and would be subject to Model #805. The actuarial guideline is effective for all ILVA contracts issued on or after 1 July 2024.

LATF adopted the Historical Mortality Improvement (HMI) and Future Mortality Improvement (FMI) recommendations and the HMI and FMI scale factors that were developed by the Academy and the Society of Actuaries for use in 2022 reserve valuations. The HMI recommendation is based on data from 2010–20 but sets 2020 mortality equal to the 2019 level to remove the impact of COVID-19 from the factors. The FMI recommendation considers mortality deterioration in the initial years of the scale to account for the impact of COVID-19 on mortality and grades to long-term mortality improvement level at projection year 10.

LATF also adopted the templates that were developed to provide insurance companies with a standardized format for the submittal of sensitivity testing, attribution and disclosure requests to support their asset adequacy analysis, consistent with the requirements of Section 6 of AG 53. These templates are required to be submitted by 1 April of the year following the reserve valuation date (i.e., 1 April 2023 for the asset adequacy analysis performed for 2022 year-end reporting purposes).

LATF adopted an NAIC staff memorandum to clarify the treatment of a negative IMR asset in various PBR calculations performed in accordance with VM-20, VM-21, VM-30 and asset adequacy testing. LATF indicated that a negative IMR asset would not be considered in these calculations, as surplus has already been reduced by the amount of the nonadmitted asset. If this amount was considered in the performance of asset adequacy testing (i.e., by reducing the starting asset balance), a further reduction of surplus could result if the testing resulted in the recognition of an additional reserve. However, if an insurance company was granted a permitted practice to admit the negative IMR asset, surplus would not have been reduced, and the amount would be considered in the performance of asset adequacy testing.

LATF revised *Actuarial Guideline XLIX-A — The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold on or After December 14, 2020* (AG 49-A). The adopted revisions are considered to be a quick fix to revise AG 49-A to address the current regulatory concern that some insurance companies are illustrating uncapped volatility-controlled policies better than capped S&P 500 policies. The proposed effective date of 25 March 2023 is pending adoption by the EX Committee at the 2023 Spring National Meeting. The Indexed Universal Life (IUL) Illustration (A) Subgroup will continue to address limits on the benchmark index component of the IUL illustrations and work with the A Committee to understand broader concerns with the illustration guidance and address those accordingly.

LATF also discussed the potential submittal of a request to the A Committee for limited, targeted revisions to the Life Insurance Illustrations Model Regulation (Model #582) that would address the need for LATF to continue to revise the guidance in AG 49-A to address product features causing aggressive illustrations. After consideration of the work to be performed by the IUL Illustration (A) Subgroup on these issues, LATF decided not to submit a request for revisions to Model #582 at this time.

LATF continued its work on the development of economic scenario generator (ESG) baseline scenarios prescribed for use in modeling equity securities, treasuries and corporate bonds for statutory reserve and regulatory capital valuations. A second field test of the ESG models will be performed in 2023. As a result, implementation of the ESG models is expected no earlier than 2025.

### Annuity Suitability (A) Working Group

The Annuity Suitability (A) Working Group continued its work to develop frequently asked questions (FAQs) on the safe harbor and comparable standards provision in the Suitability in Annuity Transactions Model Regulation (Model #275), which was revised in 2020 to add a best interest standard of conduct for insurers and producers. States that have adopted the revisions to Model #275 are gathering information related to the enforcement of the safe harbor provision, which will be considered by the Working Group for incorporation in the FAQ guidance document.

## Health Insurance and Managed Care

The NAIC Plenary adopted revisions to *Actuarial Guideline XLIV — Group Term Life Waiver of Premium Disabled Life Reserves* (AG 44) and the accompanying 2022 Group Term Life Waiver Mortality and Recovery Tables (2022 Tables). Health Insurance Reserves Model Regulation (Model #10) and VM-25: *Health Insurance Reserves Minimum Reserve Requirements* contain requirements for the calculation of waiver of premium due to disability reserves on group life insurance policies. The 2022 Tables replace the 2005 Group Term Life Waiver Mortality and Recovery Tables previously prescribed for use in VM-25.

The actions taken by various NAIC groups that report to the Health Insurance and Managed Care (B) Committee since the 2022 Summer National Meeting are summarized below.

### Regulatory Framework (B) Task Force

The Regulatory Framework (B) Task Force discussed the work of its ad hoc group to study how the regulatory requirements for prescription drug substitutions for certain biosimilar drugs are interpreted. After consideration of the results of this study, the Task Force decided not to consider revisions to the Health Carrier Prescription Drug Benefit Management Model Act (Model #22) at this time.

### Accident and Sickness Insurance Minimum Standards (B) Subgroup

The Accident and Sickness Insurance Minimum Standards (B) Subgroup continued its work on revisions to Model #171. The Subgroup completed its review of Section 8 of Model #171 related to supplementary and short-term health minimum standards for benefits and will incorporate feedback received from industry stakeholders. Specifically, the Subgroup will clarify what constitutes a short-term, limited-duration (STLD) product and include recission and cancellation requirements for STLD coverage, whereby the carrier can only rescind the coverage if the insured fails to disclose a pre-existing condition or has existing STLD coverage provided by another carrier. The Subgroup will also add a cancellation or rescission notice provision, whereby the carrier must notify the insured within a specified number of days before the coverage ends. The number of days will be at the discretion of each state regulator to determine what is appropriate for their jurisdiction. The Subgroup will continue to work with NAIC staff to develop a revised draft of Section 8 of Model #171 for discussion at future meetings.

### Pharmacy Benefit Manager Regulatory Issues (B) Subgroup

The Pharmacy Benefit Manager (PBM) Regulatory Issues (B) Subgroup discussed an initial draft of the PBM white paper that will cover key items, including the drug pricing ecosystem; enforcement and federal preemption of state laws regulating PBMs and related issues; functional issues in areas such as formulary design, pricing and network adequacy; and state laws applicable to the supply chain. The Subgroup solicitated feedback from industry stakeholders and intends to incorporate the feedback received and expose an official draft of the PBM white paper in January 2023.

## Property and Casualty Insurance

The C Committee adopted revisions to the International Insurers Department Plan of Operation, which addresses the application process and the core requirements and guidelines that must be met by non-US insurers and Lloyd's syndicates, such as the minimum level of required equity and the establishment of a US trust fund, to write insurance in the US market.

The actions taken by various NAIC groups that report to the C Committee since the 2022 Summer National Meeting are summarized below.

### Casualty Actuarial and Statistical (C) Task Force

The Casualty Actuarial and Statistical (C) Task Force (CASTF) adopted the NAIC Loss Cost Multiplier (LCM) form and instructions for all lines of P&C insurance. LCM filings provide regulators with information about loss costs (i.e., expected claim costs per exposure unit, exclusive of expenses and profits) for use in determining the final rates that will be charged for the underlying exposure.

CASTF also exposed a proposal to eliminate the NAIC Expense Constant Supplement forms for workers' compensation and other than workers' compensation lines of business. Feedback has been requested on the current uses of these forms that should be considered when deciding whether to eliminate the forms or to retain and update the forms.

CASTF adopted the *Regulatory Guidance on Property and Casualty Statutory Statements of Actuarial Opinion, Actuarial Opinion Summaries, and Actuarial Reports for the Year 2022* (2022 Regulatory Guidance) developed by the Actuarial Opinion (C) Working Group. The 2022 Regulatory Guidance is intended to clarify regulatory expectations regarding the preparation and submittal of the actuarial opinion, actuarial opinion summary and actuarial report.

### Catastrophe Insurance (C) Working Group

The Catastrophe Insurance (C) Working Group received a status report on its project to update the *Catastrophe Modeling Primer* that addresses the basics of catastrophe modeling. The primer document is intended to provide state departments of insurance with a resource to inform new and non-expert staff about the basics of catastrophe modeling and be a bridge to the training being developed by the NAIC's Catastrophe Modeling COE. The drafting group will continue its work to develop updates to the primer document.

### Cannabis Insurance (C) Working Group

The Cannabis Insurance (C) Working Group received a status report on the development of the *Understanding the Market for Cannabis Insurance 2.0* white paper. The drafting group has focused on leveraging information gained during panel discussions to update the legislative content of the white paper for recent activities. Emerging issues will be addressed though an appendix, which will allow the white paper to be published without its content becoming outdated. The goal of the drafting group is to present the Working Group with a draft white paper by early 2023, with adoption to occur by the 2023 Summer National Meeting.

## Market Regulation and Consumer Affairs

The Market Regulation and Consumer Affairs (D) Committee approved the request from the Antifraud (D) Task Force and the Improper Marketing of Health Insurance (D) Working Group to amend the Unfair Trade Practices Act (Model #880). The amendments will define a health insurance lead generator, identify the marketing-related activities of health insurance lead generators that are unfair trade practices and provide state insurance regulators with the authority to regulate those activities in the health insurance marketplace.

## Financial Condition

The E Committee adopted the recommendation of the Mutual Recognition of Jurisdictions (E) Working Group for Bermuda, France, Germany, Ireland, Japan, Switzerland and the United Kingdom to retain their status on the *NAIC List of Qualified Jurisdictions* and for Bermuda, Japan and Switzerland to retain their status on the *NAIC List of Reciprocal Jurisdictions* for 2023. An annual due diligence review of these reciprocal jurisdictions is required because they are not subject to an in-force covered agreement with the US.

The actions taken by various NAIC groups that report to the E Committee since the 2022 Summer National Meeting are summarized below.

### Restructuring Mechanisms (E) Subgroup

The Restructuring Mechanisms (E) Subgroup received feedback on its previously exposed foundational principles and best practices addressing insurance business transfers and corporate division laws for restructuring insurance companies. Due to the volume of feedback received, the comments were categorized into the following topics to facilitate discussion: general, independent expert, no worse off, guaranty associations, due process, analysis/approval, and run-off. The Subgroup held initial discussions on comments related to the first four topics and will continue its discussion of the feedback received at future meetings.

### Reinsurance (E) Task Force

The Reinsurance (E) Task Force received an update on the 2022 Federal Preemption Report that was released by the Federal Insurance Office (FIO) on 30 September 2022. NAIC staff indicated that there was no action regarding the preemption of any inconsistent state insurance measures with respect to reinsurance collateral requirements. The FIO will continue to monitor the status of the states' implementation of the 2019 revisions to the *Credit for Reinsurance Model Law* (Model #785) and the *Credit for Reinsurance Model Regulation* (Model #786) for consistency with the covered agreements, with a comprehensive update expected to be published in 2023. The FIO contacted a small number of states with recommendations for minor revisions to their adopted credit for reinsurance law and regulation and requested that any state contacted provide this information to NAIC staff.

## Risk Retention Group (E) Task Force

The Risk Retention Group (E) Task Force adopted a recommendation to the Financial Regulation Standards and Accreditation (F) Committee (F Committee) regarding the application of the group capital calculation to risk retention groups (RRGs). The recommendation supports requiring the filing of the group capital calculation for RRGs as long as the allowance for an exemption without first requiring an initial filing remains part of the accreditation standards.

The Task Force also adopted a recommendation to the Financial Analysis Solvency Tools (E) Working Group to include guidance specific to RRGs in the *Financial Analysis Handbook* when considering the applicability of the group capital calculation. The suggested guidance would address the application of the group capital calculation to various RRG structures.

## Valuation of Securities (E) Task Force

VOSTF continued its work to amend the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (*P&P Manual*) to clarify the instructions, modify various administrative procedures and improve the compilation function of the NAIC Securities Valuation Office (SVO).

VOSTF adopted an amendment to the P&P Manual to update the instructions for related party and subsidiary, controlled and affiliated (SCA) investments. The amendment will:

- Rename the "SCA Debt or Preferred Stock Investments" section of the P&P Manual to "SCA and Related Party Bond or Preferred Stock Investments" to clarify that its content also addresses non-control relationships.
- Modify the SCA investment, SCA bond and SCA preferred stock definitions to include related parties.
- Expand the definition of SCA and related party debt to include structures in which the non-issuer underlying credit exposure would qualify as a related party.
- Create a new category of SCA and related party investments. This category (i.e., SCA and Related Party Filing Exempt Investments) includes any investment (1) issued by an affiliate or related party special purpose entity, which itself is not an obligor or ultimate source of the investment repayment, or (2) issued as part of a structure in which the originator, sponsor, manager, servicer or other influential transaction party is an affiliate or related party of the reporting insurance company.
- Clarify that state insurance regulators may require an insurance company to file what would otherwise be an SCA and related party filing exempt investment for analysis and assignment of an NAIC designation by the NAIC SVO.

VOSTF re-exposed a revised amendment to the P&P Manual that would include CLOs as a financially modeled security in Part Four of the P&P Manual in response to the NAIC IAO's issue paper on the risk assessment of structured securities.

VOSTF also exposed the following items with comments due by 13 February 2023:

- A memorandum from the NAIC Structured Securities Group (SSG) and SVO detailing a proposed CLO modeling methodology (excluding scenarios and probabilities). The proposed methodology is based on the results of the SSG's annual CLO stress tests, with assumptions over the mechanics of the modeling process and cash flow.
- An amendment that would define and add guidance for structured equity and funds to the P&P Manual. The proposed amendment would address the process for the assignment of an NAIC designation and category to such investments that is appropriate for the risk and eliminate the potential for RBC arbitrage but would not change how the investment is classified for reporting by the reporting insurance company. The proposed amendment will also be referred to CATF and the RBC Investment Risk and Evaluation (E) Working Group for informational purposes.
- A non-substantive technical amendment to the P&P Manual that would update the NAIC 5GI designation reference to NAIC 5.B GI and clarify that an NAIC 5GI designation is equivalent to an NAIC 5.B designation category.

VOSTF also directed the NAIC staff to revise the proposed amendment to Part One and Part Two of the P&P Manual to clarify the definition of an NAIC designation in response to feedback received.

## Financial Regulation Standards and Accreditation

The F Committee received an update on the status of its referral to LATF regarding potential duplicative accreditation requirements related to the Statements of Actuarial Opinion, appointed actuary and adequacy of reserves in the Actuarial Opinion and Memorandum Regulation (Model #822) and the *Valuation Manual*. Currently, both are required for accreditation under Part A: Laws and Regulations Standard #9: Liabilities and Reserves. LATF will continue its discussion of this issue and provide recommendations for consideration by the F Committee at a future meeting.

## International Insurance Relations

The International Insurance Relations (G) Committee (G Committee) heard an IAIS presentation on international activities related to financial stability. The presentation referenced the Financial Stability Board's announcement to discontinue global systemically important insurer (G-SII) designations in favor of the holistic framework for systemic risk in the insurance sector developed by the IAIS. The IAIS framework is an activities-based rather than an entity-specific approach with three components: the global monitoring exercise (GME), enhanced macroprudential supervisory policy measures (e.g., ComFrame), and a robust implementation process through targeted jurisdictional assessments and individual insurer monitoring. Both state insurance regulators and the NAIC actively participate in the GME, with the Financial Stability (E) Task Force responsible for the NAIC's work to enhance global financial stability.

The G Committee also received an update on the following activities of the IAIS:

- An aggregate report on the results of targeted jurisdictional assessments and a comprehensive report on the overall implementation of the IAIS holistic framework for systemic risk in the insurance sector were approved and sent to the Financial Stability Board to inform its decision on G-SII designations.
- Liquidity metrics as ancillary indicators for the GME have been published.
- The IAIS Global Insurance Market Report is expected to be published before the end of 2022.
- The approval of comparability criteria for the insurance capital standard developed by the IAIS has been delayed to March 2023 to provide additional time to consider scenarios and sensitivity analysis that will be workable for the assessment process. The aggregation method will be subject to this assessment to determine whether it represents an outcome-equivalent approach for measuring group capital.

The G Committee also reported that the IAIS has launched a public consultation addressing potential updates to the Individual Insurance Monitoring assessment methodology, which is part of the GME. The IAIS is seeking input on how to refine its monitoring of specific indicators (e.g., illiquid assets, derivatives, reinsurance, short-term funding) in the assessment process. Feedback on this public consultation is due by 6 February 2023.

Any new documents released by the IAIS for public consultation will be reviewed by the NAIC staff and discussed at future G Committee meetings before the respective deadlines for submission.

## Stay tuned

The NAIC's 2023 Spring National Meeting is scheduled for 22–25 March in Louisville, Kentucky. A schedule of interim NAIC group meetings is available on the NAIC website.

# Appendix A — Statutory Accounting Principles Working Group

This chart summarizes actions taken by SAPWG since the 2022 Summer National Meeting. Comments on exposed items are due by 10 February 2023, unless otherwise noted. More information on SAPWG exposed items is available on the NAIC website.

| Topic/issue | Status | Discussion | Effective date |
|---|---|---|---|
| **New SSAP or New SAP Concepts in an Existing SSAP[1]** | | | |
| **SSAP No. 26R and SSAP No. 43R — Bond Project (Ref #2019-21)** | Exposed | Exposed revisions to SSAP No. 26R and SSAP No. 43R to incorporate the current version of the principles-based bond definition for use in determining whether an investment (i.e., security) qualifies for reporting as a long-term bond on Schedule D, Part 1 into statutory accounting guidance. The exposure also includes proposed revisions to SSAP No. 2R to exclude asset-backed securities from being reported as a cash equivalent or short-term investment and proposed revisions to SSAP No. 21R to detail the accounting and reporting guidance for debt securities that do not qualify as bonds. An updated issue paper detailing past discussions and concepts in developing the principles-based bond definition was also exposed.<br>Exposed a reporting changes document identifying all areas that may need to be revised to address the more granular reporting that will be required upon adoption of the revised guidance. The exposure details revisions to improve the transparency and granularity of investments reported on Schedule D, Part 1, including a proposal for a new schedule to separately capture information specific to issuer credit obligations (i.e., bonds) and asset-backed securities with revised reporting lines and instructions for investment classification. The exposure also suggests revisions to other annual statement blank schedules and instructions that reference bond reporting. The revised guidance and related reporting requirements are expected to be effective on 1 January 2025.<br>Directed the NAIC staff to provide the exposed reporting changes document to BWG to allow sufficient time to review the proposed changes in the development of the corresponding blanks proposal. | TBD |
| **SSAP No. 86 — Effective Derivatives (Ref #2021-20)** | BWG proposal | Submitted a blanks proposal (Ref #2022-17BWG) to incorporate a new disclosure paragraph in Note 8 of the annual statement with an illustration for the new disclosure, along with new electronic-only columns for Schedule DB to address derivatives with excluded components as detailed in the adopted revisions to SSAP No. 86, effective for 2023 year-end reporting purposes. Reporting entities that early adopt the revised guidance in their assessment of effective hedge relationships would be required to provide these disclosures in a narrative format for 2022 year-end reporting purposes and report the adoption as a change in accounting principle. | TBD |
| **SSAP No. 93 — New Market Tax Credits/Tax Equity Investments (Ref #2022-14)** | Exposed | Exposed a discussion document with NAIC staff questions on potential statutory accounting concepts for tax equity investments. The feedback received will result in either the development of a new or revised SSAP to expand the statutory accounting guidance in SSAP No. 93 to capture all tax equity investments that qualify under specified criteria and provide general federal business tax credits or state premium tax credits.<br>NAIC staff indicated that SSAP No. 94R will also be reviewed to determine whether the guidance addresses items that should be captured in its scope and admittance provisions. | TBD |
| **SSAP No. 7 — Interest Maintenance Reserve (Ref #2022-19)** | Exposed<br>Further analysis needed | Exposed a request for feedback from industry stakeholders on the existing IMR guidance for the disallowance of negative IMR, along with potential guardrails and details on unique considerations that would support the admittance of a negative IMR asset.<br>Directed the NAIC staff to coordinate a joint regulator discussion with LATF on this topic and to develop a memorandum addressing negative IMR considerations for use by state insurance regulators. | TBD |
| **SAP Clarification[2]** | | | |
| **SSAP No. 86 — Derivatives and Hedging (Ref #2017-33)** | Exposed | Exposed an issue paper documenting the extent of the revisions to the statutory accounting guidance for derivatives that were adopted with the review of the US GAAP hedging guidance in ASU 2017-12 (Ref #2021-20) and ASU 2022-01 (Ref #2022-09). | TBD |

[1] The terms "substantive" and "nonsubstantive" in these headings have been replaced with "New SSAP or New SAP Concepts in an Existing SSAP" or "SAP Clarification," respectively, when referencing the different types of revisions to statutory accounting guidance. The terms used in previously adopted SSAPs, issue papers and agenda items have been retained, with the new terms to be used prospectively when considering future revisions to statutory accounting guidance.

[2] Ibid.

* No action was taken on this topic/issue since the 2022 Summer National Meeting.

| Topic/issue | Status | Discussion | Effective date |
|---|---|---|---|
| **SSAP No. 107 — State ACA Reinsurance Programs (Ref #2021-09)** | Deferred* | Previously directed the NAIC staff to continue developing revisions to the statutory accounting guidance in SSAP No. 107, *Risk-Sharing Provisions of the Affordable Care Act*, to clarify that state-based reinsurance programs being run under Section 1332 waivers should follow the hybrid accounting approach provided by SSAP No. 107 if they operate in a similar manner to the Affordable Care Act transitional reinsurance program. Specifically, revisions are needed to address the diversity in which state-based reinsurance programs operate as identified in feedback received. | TBD |
| **SSAP No. 19 and SSAP No. 73 — Leasehold Improvements After Lease Termination (Ref #2021-25)** | Adopted | Adopted revisions to SSAP No. 19 and SSAP No. 73 to clarify that the amortization of leasehold improvements will immediately end when a lease is terminated and require that any remaining, unamortized leasehold improvement balance be immediately expensed. The revisions address scenarios where the lease terminates naturally or when the lessee purchases a property it was leasing, with a limited exception provided in SSAP No. 73 that would allow leasehold improvements necessary for the functionality of specific health care delivery assets to be excluded in some cases from the purchase price (i.e., cost) of the real estate property. | Immediately |
| **SSAP No. 5R — Conceptual Framework Updates — Liabilities (Ref #2022-01)** | Re-exposed | Re-exposed revisions to SSAP No. 5R and a related draft issue paper to incorporate updates from FASB Concepts Statement No. 8 into the statutory accounting framework. The proposed revisions would update the definition of a liability as a present obligation of an entity to transfer an economic benefit and incorporate clarifying language that the updated definition is applicable unless another authoritative statement provides more topic-specific contradictory guidance. | TBD |
| **SSAP No. 86 — ASU 2022-01, Fair Value Hedging — Portfolio Layer Method (Ref #2022-09)** | Adopted | Adopted revisions to SSAP No. 86 to incorporate key aspects of the US GAAP guidance for portfolio and partial-term hedges from ASU 2022-01 and ASU 2017-12 applicable to fair value hedges of recognized assets. The revisions establish the criteria for these types of derivative instruments to qualify for hedge accounting treatment as a fair value hedge of a recognized asset or a closed block of financial assets (not liabilities), along with specific hedge assessment guidance addressing the portfolio layer method and guidance for reporting the basis adjustment when a portfolio layer method interest rate hedging relationship is discontinued (or partially discontinued) in a voluntary de-designation or in anticipation of a breach. | 1 January 2023, with early adoption permitted for 2022 year-end reporting purposes |
| **SSAP No. 21R — Collateral for Loans (Ref #2022-11)** | Re-exposed | Re-exposed revisions to SSAP No. 21R to clarify that an asset pledged as collateral in a collateral loan must qualify as an admitted invested asset in order for the collateral loan to be admitted. The proposed revisions include suggested guidance to address the fair value assessment of an equity investment in a joint venture, partnership or limited liability company that is pledged as collateral in a collateral loan when the equity investment is not directly owned by the reporting entity. | TBD |
| **INT 03-02: Modification to an Existing Intercompany Pooling Arrangement (Ref #2022-12)** | Re-exposed | Re-exposed an intent to nullify INT 03-02: *Modification to an Existing Intercompany Pooling Arrangement*, as it is inconsistent with the guidance in SSAP No. 25 for the recognition of economic and noneconomic transactions between related parties, to allow for further discussion with industry stakeholders on the implications of nullifying the interpretive guidance. | TBD |
| **SSAP No. 25, SSAP No. 97 — Related Parties — Footnote Updates (Ref #2022-13)** | Adopted | Adopted revisions to SSAP No. 25 and SSAP No. 97 to exempt foreign open-end investment funds governed and authorized in accordance with regulations established by the applicable foreign jurisdiction from the look-through provisions included in SSAP No. 25. The revisions apply to foreign open-end investment funds in which ownership percentage is not deemed to represent control unless the reporting entity has control with the power to direct the underlying company. | Immediately |
| **SSAP No. 25 — Affiliate Reporting Clarification (Ref #2022-15)** | Exposed | Exposed revisions to SSAP No. 25 to clarify that any invested asset held by a reporting entity that is issued by an affiliated entity, or which includes the obligations of an affiliated entity, is an affiliated investment. | TBD |
| **SSAP No. 100R — ASU 2022-03, Fair Value Measurement of Restricted Securities (Ref #2022-16)** | Exposed | Exposed revisions to SSAP No. 100R, *Fair Value*, to adopt the US GAAP guidance in ASU 2022-03, *Fair Value Measurement (Topic 820): Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions*, with modification for consistency with the language in the respective statutory accounting statements. Items restricted as to sale would be captured as restricted assets in accordance with SSAP No. 1, *Accounting Policies, Risks & Uncertainties, and Other Disclosures*, and subject to admittance considerations under SSAP No. 4, *Assets and Nonadmitted Assets*. | TBD |
| **SSAP No. 34 — Interest Income Disclosure Update (Ref #2022-17)** | Exposed | Exposed revisions to SSAP No. 34, *Investment Income Due and Accrued*, that would add additional disclosures to the annual statement blank to capture the gross, nonadmitted and admitted amounts for interest income due and the cumulative amount of paid-in-kind interest included in current principal balances. | TBD |

| Topic/issue | Status | Discussion | Effective date |
|---|---|---|---|
| **INT 22-02: Third Quarter 2022 through First Quarter 2023 Reporting of the Inflation Reduction Act — Corporate Alternative Minimum Tax** | Adopted | Adopted INT 22-02 to provide an interpretation of statutory accounting guidance for third quarter 2022 reporting purposes. In this statutory interpretation, a consensus was reached that a reasonable estimate for the tax calculations affected by the CAMT was not determinable for reporting in the third quarter 2022 statutory-basis financial statements. Because reasonable estimates were not determinable, reporting entities did not record the effect of the CAMT in their quarterly statement blank but were required to make certain disclosures regarding the CAMT and the Act.<br>Adopted revisions to INT 22-02 to extend its applicability to year-end 2022 and first quarter 2023 statutory-basis financial statements, with an additional disclosure requirement related to a reporting entity's status as an applicable corporation. The revised statutory interpretation also provides an exception such that updated estimates or tax calculations affected by the Act determined after the filing date of the relevant financial statements (i.e., annual or quarterly statement blank) would not be recognized as Type I subsequent events. This exception is intended to prevent a reporting entity from having to amend its audited statutory-basis financial statements for material Type I subsequent events resulting from updated information received after the filing date of the 2022 annual statement blank related to the accounting for the enactment of the Act.<br>INT 22-02 will be automatically nullified on 15 June 2023. | Immediately |

## US GAAP guidance rejected or exposed for rejection/disposal

**Rejected as not applicable to statutory accounting:**

- ASU 2022-02, *Financial Instruments — Credit Losses (Topics 326): Troubled Debt Restructurings and Vintage Disclosures*, with the retained guidance in SSAP No. 36, *Troubled Debt Restructuring*, identified as superseded US GAAP guidance (Ref #2022-10)

**Exposed to reject as not applicable to statutory accounting:**

- ASU 2022-04, *Liabilities — Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations* (Ref #2022-18)

## SAPWG agenda items from prior years with an extended period of no action taken

**Substantive listing:**

- ASU 2016-13, *Credit Losses* (Ref #2016-20)
- SSAP No. 41R — Amortization and Accretion Surplus Notes (Ref #2017-12)
- Derivatives Hedging Fixed Indexed Products (Ref #2020-36)

**Nonsubstantive listing:**

- SSAP No. 26R and SSAP No. 43R — Measurement Method for NAIC 5 Designations (Ref #2015-17)
- Aging and Revenue Recognition of Multi-Peril Crop Policies (Ref #2015-33)
- Appendix C Introduction (Ref #2016-42)
- SSAP No. 61R — Reinsurance Credit (Ref #2017-28)
- SSAP No. 41R — Surplus Note Accounting (Ref #2018-07)
- SSAP No. 68 and SSAP No. 97 — ASU 2014-17, *Business Combinations — Pushdown Accounting* (Ref #2019-12)
- SSAP No. 68 and SSAP No. 97 — Attribution of Goodwill (Ref #2019-14)
- SSAP No. 51R, SSAP No. 53, SSAP No. 54R and SSAP No. 59 — Expanded MGA and TPA Disclosures (Ref #2019-36)
- SSAP No. 62R — Retroactive Reinsurance Exception (Ref #2019-49)
- SSAP No. 53, SSAP No. 54R and SSAP No. 66 — Premium Refunds and Other Adjustments (Ref #2020-30)

## Appendix B — Blanks Working Group

This chart summarizes actions taken by BWG since the 2022 Summer National Meeting. Comments on exposed items are due by 1 February 2023, unless otherwise noted. More information on BWG exposed items is available on the NAIC website.

| Adopted items | Statement type(s)[1] | Filing(s) | Effective date |
|---|---|---|---|
| 2022-12BWG: Combines the Health Analysis of Operations by Lines of Business Supplement page and the Health Care Receivable Supplement pages (Exhibits 3 and 3A) into a single filing set for Health annual statement blank pages that are filed as a supplement by Life and Fraternal insurance companies to be consistent with the Life Supplement filed by Health insurance companies. | L/F | Annual | Annual 2023 |
| 2022-19BWG MOD: Modifies the Life Insurance (State Page) to include the line of business detail reported on the Analysis of Operations by Lines of Business pages and adds definitions for life and annuity products to the lines of business definitions in the instructions to the Health annual statement blank. This item is a replacement for 2021-18BWG. | L/F, H | Annual | Annual 2023 |

| Exposed items | Statement type(s)[1] | Filing(s) | Proposed effective date |
|---|---|---|---|
| 2022-14BWG: Modifies Exhibit1, Parts 1 and 2, and Exhibit 8, Parts 1 and 2, to include the line of business detail reported on the Analysis of Operations by Lines of Business pages. | L/F | Annual and Quarterly | Annual 2023 |
| 2022-15BWG: Modifies Schedule H, Part 5 to remove the 5% of premiums filing exemption. | L/F, P/C | Annual | Annual 2023 |
| 2022-16BWG: Removes portions of the Supplemental Health Care Exhibit (i.e., Part 3 and the Expense Allocation Report) for duplication, as this information is not regularly used by regulators as part of the annual statement. | L/F, P/C, H | Annual | Annual 2023 |
| 2022-17BWG: Adds a new disclosure paragraph in Note 8 with an illustration for the new disclosure, along with new electronic-only columns and related instructions to Schedule DB, Part A and Part B for both Section 1 and Section 2, to address derivatives with excluded components in response to actions taken by SAPWG (SAPWG #2021-20). | L/F, P/C, H, T | Annual and Quarterly | Annual 2023 |
| 2022-18BWG: Provides instructional corrections on the handling of exchange-traded funds and NAIC SVO-identified funds within the IMR and the Asset Valuation Reserve. | L/F, SA | Annual | Annual 2023 |
| 2022-20BWG: Modifies the Health annual and quarterly statement blanks and the Health annual statement blank pages that are filed as supplement by Life and Fraternal insurance companies to change the order of presentation for the vision and dental lines of business to be consistent with all other statement types. | H | Annual and Quarterly | Annual 2023 |

[1] L/F = Life and Fraternal; P/C = Property and Casualty; H = Health; T = Title; SA = Separate Accounts.

# Appendix C — Risk-based capital developments

This chart summarizes developments that affect RBC requirements for each of the insurance sectors based on actions taken by CATF and the various NAIC groups that report to it since the 2022 Summer National Meeting.

| Topic/issue | NAIC group | Status | Discussion | Effective date |
|---|---|---|---|---|
| All RBC | | | | |
| **Revised Affiliated Investment Structure and Instructions (Ref #2022-09-CA)** | Capital Adequacy Task Force | Comments due from BWG and SAPWG by 28 January 2023 | Exposed revisions to the structure and related instructions for the calculation of the RBC requirement for affiliated investments in each of the RBC formulas to improve the calculation and provide consistency in the treatment of affiliate investments across insurance sectors. | 2023 |
| **Health Premiums and Underwriting Risk Premium References (Ref #2022-13-CA)** | Capital Adequacy Task Force | Comments due by 28 January 2023 | Exposed revisions to modify the line references in the Health Premiums and Underwriting Risk — Premium Risk for Comprehensive Medical, Medicare Supplement and Dental & Vision pages (LR019, LR020, PR019 and PR020) for consistency with the line of business categories used in Schedule H, Part 1 of the P&C annual statement blank. | 2023 |
| Health RBC | | | | |
| **Preferred Stock Instructions (Ref #2022-10-H)** | Capital Adequacy Task Force | Adopted | Adopted revisions to the preferred stock instructions for the Health RBC formula to delete the reference to bond factors and provide consistency with the preferred stock instructions for the P&C RBC formula. | 2023 |
| **Underwriting Risk — Analysis of Operations (Ref #2022-11-H)** | Capital Adequacy Task Force | Adopted | Adopted revisions to modify the annual statement source descriptions on XR013 and XR014 for consistency with the revised presentation of information reported in the Analysis of Operations by Lines of Business pages of the Health annual statement blank in response to actions taken by BWG (Ref #2021-17BWG MOD). | 2023 |
| P&C RBC | | | | |
| **PR035 Line of Business Categories (Ref #2022-07-P)** | Capital Adequacy Task Force | Adopted | Adopted revisions to modify the line of business categories on PR035 for consistency with the line of business categories used in the Underwriting and Investment Exhibit, Part 1B of the P&C annual statement blank. | 2023 |
| **Independent Model Review Instructions (Ref #2022-08-CR)** | Capital Adequacy Task Force | Adopted | Adopted revisions to clarify the instructions for companies to obtain permission to use their own models and the requirements expected from companies that submit their own models for permission to use in the calculation of the catastrophe risk charge on PR027A, PR027B, PR027C, PR027 and PR027INT of the P&C RBC formula. | 2023 |
| **2022 Catastrophe Events Lists (Ref #2022-12-CR)** | Capital Adequacy Task Force | Adopted | Adopted the 2022 US and Non-US catastrophe events lists that identify catastrophic events occurring through 30 September 2022. New events that occur after the development of these lists will be separately identified and exposed for inclusion in updated lists applicable to 2022 year-end reporting. | 2022 |