ACCOUNTING PRACTICES AND PROCEDURES (E) TASK FORCE

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Accounting Practices and Procedures (E) Task Force
Washington, DC
September 22, 2009

The Accounting Practices and Procedures (E) Task Force met in Washington, DC, Sept. 22, 2009. The following Task Force members participated: Steve Poizner, Chair, represented by Kim Hudson (CA); Susan E. Voss, Vice Chair, and Jim Armstrong (IA); Linda S. Hall represented by Gloria Glover (AK); Jim L. Ridling represented by Richard Ford (AL); Jay Bradford represented by Mel Anderson (AR); Gennet Purcell represented by N. Kevin Brown (DC); Karen Weldin-Stewart represented by Linda Sizemore (DE); Kevin McCarty represented by Al Willis (FL); Michael T. McRaith represented by Jim Hanson (IL); Carol Cutter represented by Connie Ridinger (IN); Ralph S. Tyler, III, represented by Les Schott (MD); Mila Kofman represented by Robert Wake (ME); Ken Ross represented by Judith Weaver (MI); Glenn Wilson represented by Jaki Gardner (MN); John Huff represented by Fred Heese (MO); Ann Frohman represented by Jim Nixon (NE); Roger A. Sevigny represented by Thomas Burke (NH); James J. Wrynn represented by Joseph Fritsch (NY); Mary Jo Hudson represented by Dale Bruggeman (OH); Kim Holland represented by Chris Van Ess (OK); Teresa Miller represented by Russell Latham (OR); Joel Ario represented by Steve Johnson (PA); Joseph Torti, III, represented by Jack Broccoli (RI); Merle D. Scheiber represented by Wendell Malsam (SD); Leslie A. Newman represented by Mark Jaquish (TN); Kent Michie represented by Jake Garn (UT); Alfred W. Gross represented by Doug Stolte (VA); Paulette Thabault represented by Pete Raymond (VT); Mike Kreidler represented by Patrick McNaughton (WA); Sean Dilweg represented by Peter Medley (WI); and Jane L. Cline represented by Leah Cooper (WV).

1. <u>Discuss Significant Items from Working Group Meetings and Adoption of Working Group Reports</u>

Mr. Armstrong provided the report of the Emerging Accounting Issues Working Group noting the following action items: 1) finalized two interpretations; 2) exposed interpretations on Re-REMICs, the federal Term Asset-Backed Securities Loan Facility (TALF) program, and on compiling rejected interpretations; 3) deferred action on an item on e-prescribing fees; and 4) approved the interim minutes. The deadline for the submission of comments on exposed items and for new items is Oct. 28, 2009. Upon a motion made by Mr. Armstrong and seconded by Mr. Ford, the Task Force unanimously adopted the report of the Emerging Accounting Issues Working Group.

Mr. Fritsch provided the report of the Statutory Accounting Principles Working Group, which held a long discussion that resulted in the adoption of substantive revisions to *SSAP No. 10—Income Taxes* (SSAP No. 10) to allow increased admittance of deferred-tax assets (DTAs) for companies with a risk-based capital (RBC) calculation that exceeds stated percentages. The conceptual changes discussed and adopted included the previously exposed SSAP No. 10 with the following modifications: 1) modifications to paragraphs 10e.i and 10.e.ii.a to require that admitted DTAs should correspond with IRS tax-loss carryback provisions, not to exceed three years; 2) addition of paragraph 10.f.iii to require DTAs to be reported as an aggregate write-in for surplus; 3) a sunset provision that expires with year-end Dec. 31, 2010, financial statements; and 4) modification to paragraph 10.f.i to clarify that, by regulation, DTAs may not be used for determining any regulatory trigger that involves admitted assets and/or statutory surplus. This would include triggers contained in the Insurance Holding Company System Regulatory Act (Model No. 440); i.e., determination of ordinary or extraordinary dividends, as well as investment limitations and grounds for rehabilitation and liquidation. In addition, the Statutory Accounting Principles Working Group agreed to the formation of a Deferred Tax Asset Subgroup to further evaluate and conclude on the appropriate calculation of admitted DTAs to be applied with financial statements filed after Dec. 31, 2010, including a study of the realization of DTAs.

Mr. Fritsch noted the Statutory Accounting Principles Working Group adopted three issue papers including: 1) *Issue Paper No. 135—Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Others*; 2) *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Agreements in Run-Off* (Issue Paper No. 137); 3) Issue *Paper No. 138—Fair Value Measurements.* The Working Group also exposed substantive changes to *SSAP No. 62—Property and Casualty Reinsurance – Revised* which included changes consistent with Issue Paper No. 137. The Working Group exposed for comment nonsubstantive disclosures on separate accounts and financial guaranty insurance. The Working Group also rejected one GAAP statement. Due to time restrictions, the Statutory Accounting Principles Working Group did not address several items included on the agenda. The Working Group will conduct a conference call shortly after the Fall National Meeting to address these items. The deadline for the submission of comments on exposed items and for new items is Oct. 28, 2009.

Mr. Fritsch made a motion, seconded by Mr. Johnson, to adopt the report of the Statutory Accounting Principles Working Group.

The Task Force held a robust discussion on the merits of adopting the changes to SSAP No. 10 related to DTAs. Mr. Stolte noted that Virginia had strong concerns about making the changes to SSAP No. 10, noting that deliberative study of the issue was called for, rather than giving in to the demands of industry. He noted concerns with how DTAs are calculated, and the difficulty of making three-year forecasts in even the best of economic times. He also expressed concerns that the auditors generally perform less review on tax projections. Statutory accounting has historically limited admittance of DTAs because of concerns about their ability to be realized. He expressed concerns that this change violates the statutory accounting statement of concepts' of conservatism and recognition. He noted that under this proposal, if a company's RBC deteriorates, the previously admitted DTA could subsequently be nonadmitted, which would cause a spiral effect that would introduce additional volatility to statutory capital and surplus. Mr. Stolte also noted that RBC did not have a charge for DTAs. Mr. Stolte recommended that the newly adopted Deferred Tax Asset Subgroup study the issue in a deliberative manner and come back with a recommendation within the next 12 months.

Mr. Fritsch responded to some of the Mr. Stolte's comments, noting that insurer financial statements were audited. He noted that there would be transparency, because of additional disclosures and segregated reporting. Mr. Fritsch noted that he has personally heard at least 15 presentations on this issue. As this issue was raised in 2008, he felt that it had received adequate discussion. He noted that the proposal contains a sunset clause, which will allow the proposal to go forward, but also allow two years for additional study to determine the appropriate treatment for years after 2010. Mr. Fritsch agreed that a referral could be sent to the Capital Adequacy Task Force to determine an appropriate RBC charge.

Mr. Stolte noted that the discussions on this issue have been on generalities, not on the specifics of the impact, and it was clear to him that company forecasts of future taxable income are not audited. He noted that the industry has not adequately provided the details of this impact. He said he objected to "cloaking" capital and surplus relief under the guise of statutory accounting. He repeated his concerns regarding the proposal being inconsistent with the statement of concepts.

Commissioner Voss said her understanding was that there was some capital and surplus relief in the proposal but that the issue would be studied over two years. She said she understood that the proposal would admit at least an additional five percent of surplus in DTAs and allow two years time for additional study. She asked if the issue was that the amount of time was not enough to study the issue or if the question at hand was a problem with the increase in part of the DTA limitation to more than 15% of capital and surplus. Mr. Fritsch noted that he thought two years was enough time to study the issue. Mr. Fritsch noted that he disagreed with comments that this was inconsistent with the statement of concepts of statutory accounting, because the amounts would be segregated in surplus. Mr. Stolte noted that he had concerns with changing the recoverability period from one year to three years. This makes the DTA amounts more dependent on less-reliable projections. He noted that, even without this increase, there are currently companies that have more than 50% of their capital and surplus in DTAs.

Mr. Johnson noted that the presentation by the ACLI during the Statutory Accounting Principles Working Group meeting, convinced him that it was time to be flexible as regulators, in order to allow insurers to be competitive in obtaining capital. He noted that the proposal in his view contained adequate safeguards, including a sunset provision, a subgroup to further study the issue and separate reporting. He noted that it might be appropriate to have a referral to Capital Adequacy Task Force to determine if there is a need for a RBC charge on the additional admitted DTA. Mr. Johnson continued that now was the time to be a flexible regulator and support the industry.

Mr. Hanson noted that it might be more appropriate to wait for one year and determine a solution to the issue; however, he also noted his agreement with Mr. Johnson. Mr. Heese noted that the number of permitted practices granted to insurers on DTAs in 2008 contributed to the dilemma on this issue. The number of permitted practices caused an "unlevel playing field," by giving some insurers an advantage and, unless a change is made, there is no other way to level the playing field. Mr. Garn noted that most of the permitted practices he saw for 2008 had sunset provisions, so they would need to be renewed each year. Mr. Heese noted that the sunset provision in the SSAP No. 10 change would likely make the industry resistant to return to prior admissibility levels. Mr. Stolte noted that permitted practices was not a reason to change statutory accounting principles and that studying the issue for a year would allow a deliberative response.

Mr. Wake noted that there is a need for uniformity and, once the NAIC has made a clear response on an issue, all of the states should abide by the response and should not issue permitted practices that flout the *Accounting Practices and Procedures Manual*.

Mr. Stolte requested that SSAP No. 10 be divided from the report and receive a separate discussion from the rest of the Statutory Accounting Principles Working Group report. Mr. Hudson noted that the Task Force would divide the SSAP No. 10 changes, for separate discussion and deliberation.

Mr. Stolte next made a motion to amend the motion regarding the adoption on SSAP No. 10, that the Task Force defer taking action on making changes to SSAP No. 10 and direct the Deferred Tax Assets Subgroup to study the issue in a deliberative manner and come back with a recommendation within 12 months to the Statutory Accounting Principles Working Group and the Accounting Practices and Procedures Task Force. Mr. Stolte's motion was seconded by Mr. Garn.

Mr. Stolte's motion to amend the original motion to defer the adoption of changes to SSAP No. 10 and to study and analyze the issue was defeated, with a vote of 13 supporting the motion, 15 opposing the motion, with two states abstaining. The states supporting the motion were: Alaska, District of Columbia, Florida, Indiana, Maine, Maryland, New Hampshire, Oregon, Tennessee, Utah, Virginia, Washington and West Virginia. The states opposing the motion were Arkansas, Delaware, Illinois, Iowa, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota and Vermont. Alabama and Wisconsin abstained. Mr. Hudson then noted that the original motion by Mr. Fritsch was still on the table. The Task Force voted to adopt the report of the Statutory Accounting Principles Working Group, including the adoption of changes to SSAP No. 10 as adopted by Working Group. (Attachment One)

Mr. Garn provided the report of the Blanks Working Group, which adopted eight blanks proposals, including one on expanding the title state pages, effective for 2012; exposed five blanks proposals for public comment; and adopted the listing of editorial changes. The Blanks Working Group also exposed guidance for the website on three items with, a two-week comment deadline ending Oct. 5. The Blanks Working Group also received a memo on a new disclosures adopted in *SSAP No. 43—Loan-backed and Structured Securities – Revised* (SSAP No. 43R). Other than the exposed guidance, the comment deadline on exposed items and all new proposals is Nov. 5, 2009. Upon a motion made by Mr. Garn and seconded by Mr. Willis, the Task Force unanimously adopted the report of the Blanks Working Group (Attachment Two).

Joseph Fritsch provided the report of the Property and Casualty Reinsurance Study Group, which held a conference call to provide technical input to the Statutory Accounting Principles Working Group on the property and casualty reinsurance run-off proposal. Upon a motion made by Mr. Fritsch and seconded by Mr. Ford, the Task Force unanimously adopted the report of the Property and Casualty Reinsurance Study Group (Attachment Three).

2. Adoption of 2010 Proposed Charges

Mr. Hudson noted that the proposed 2010 charges were in the materials and are substantively the same as 2009. He advised that the charges include minor tracked changes to delete the word "quarterly" in the Emerging Accounting Issues Working Group charges, as next year the NAIC will change to a three national meeting process, and minor revisions to delete the Blanks Working Group charge for tracking states that require hardcopy filings for non-domestics. These charges have been reviewed by the chairs of the respective groups and were previously distributed to the Task Force. Upon a motion made by Mr. Fritsch and seconded by Mr. Heese, the Task Force unanimously adopted the 2010 charges of the Task Force (Attachment Four).

3. Adoption of Interim Minutes from the Statutory Accounting Principles Working Group

Mr. Fritsch noted that the Statutory Accounting Principles Working Group ran out of time, and there was a need to adopt the interim minutes of the Working Group. He noted the minutes were in the materials and were previously distributed. On a motion by Mr. Fritsch, seconded by Mr. Johnson, the Task Force unanimously adopted the interim minutes of Aug. 5 on SSAP No. 43R (Attachment Seven); Aug. 20 on a DTA presentation (Attachment Six); and Sept. 20 on SSAP No. 43R (Attachment Five).

Having no further business, the Accounting Practices and Procedures (E) Task Force adjourned.

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Statutory Accounting Principles (E) Working Group
Washington, DC
September 21, 2009

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met in Washington, DC, Sept. 21, 2009. The following Working Group members participated: Joseph Fritsch, Chair (NY); Jim Armstrong, Vice Chair (IA); Kim Hudson (CA); Linda Sizemore (DE); Jim Hanson (IL); Caroline Brock and Stewart Guerin (LA); Judith Weaver (MI); Tom Burke (NH); Matti Peltonin and Lou Felice (NY); Dale Bruggeman (OH); Steve Johnson (PA); Danny Saenz (TX); Doug Stolte and David Smith (VA); and Peter Medley (WI).

1. Public Hearing

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

a. Agenda Item 2003-12

Mr. Fritsch directed the Working Group to agenda item 2003-12: *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Others* and noted that during the Summer National Meeting, the Working Group had exposed Issue Paper No. 135—*Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Others* (Issue Paper No. 135) for public comment. Mr. Fritsch advised that Issue Paper No. 135 requires entities to recognize, at the inception of a guarantee, a liability for the obligations it has undertaken in issuing the guarantee, even if the likelihood of the having to make payments under a guarantee is remote. Issue Paper No. 135 proposes adoption, with modification, for statutory terms, restrictions and concepts. The exposed Issue Paper was modified from the original exposure to require liability recognition for intercompany and related party transactions, as suggested by interested parties, unless such transactions are considered to provide unlimited guarantees. Keith Bell (Travelers) presented the interested parties' comments, advising that there will be a negative stacking effect on risk-based capital (RBC) from the application of guidance as proposed within the Issue Paper. He advised that this effect is compounded based on the number of levels of insurance subsidiaries. Mr. Bell advised that they recommend the Working Group to address this within the accounting guidance or to send this issue to the Capital Adequacy Task Force for consideration of the RBC impact. Mr. Bell identified that the interested parties' comments also communicated that Issue Paper No. 135 does not provide guidance for the subsequent measurement of the liability. He advised that language had been included within the corresponding Generally Accepted Accounting Principles (GAAP) guidance to address this issue. He also noted that the interested parties were proposing a change to the effective date so that insurers have time to renegotiate contracts before the new statutory guidance is required.

Julie Gann (NAIC) provided staff's recommendations, noting current guidance within *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5) already requires disclosures of guarantees, and this disclosure information is currently utilized for determining the RBC impact. By requiring recognition of the fair value of the liability on the face of the financials, surplus would be affected, which would also impact RBC. Although this issue could be referred to the Capital Adequacy Task Force, such referral should not defer consideration of the Issue Paper or subsequent Statement of Statutory Accounting Principle (SSAP) by this Working Group. Mr. Fritsch noted that with the proposed year-end 2010 effective date, there should be time for the Capital Adequacy Task Force to review this issue before the revised SSAP goes into effect. Ms. Gann noted that, in reviewing the interested parties' comment letter, it was suggested that the offsetting entry for a guarantee, recognized as a liability by a parent for a subsidiary, should be to the cost basis of the subsidiary. The staff recommendation of the offsetting entry would be to expense. Staff is proposing revisions to paragraph 21 of Issue Paper No. 135 to clarify this guidance. Staff agrees with the interested parties' comments regarding the subsequent measurement of a guarantee liability, and is proposing revisions to paragraph 22 of Issue Paper No. 135 to add guidance on this issue. Ms. Gann also noted that revisions are proposed to the effective date guidance in paragraph 32, in order to allow time for insurers to review contracts. The proposed revisions do not reflect what was suggested by interested parties, which would have required compliance for contracts issued and modified after 2009. Rather, the proposed staff revisions would require this guidance to be applied for all guarantees issued and outstanding as of Dec. 31, 2010. Staff suggested incorporating a footnote to paragraph 18 to include information obtained from the Basis of Conclusions within *FIN 45, Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* (FIN 45). Mr. Bell inquired whether the offsetting entry for subsidiaries, and not affiliates, would result in an increase to the cost basis, as there is no ownership interest in affiliates. Ms. Gann stated that liabilities recognized for both subsidiaries and affiliates would be charged to expense. Mr. Fritsch stated that this is necessary; otherwise, the impact of the liability recognition would be surplus-neutral. Mr. Hanson stated questions regarding the measurement and recognition of the guarantee liability. Mr. Bell identified that under GAAP, intercompany and affiliates would not be required to establish a liability, but simply disclose the guarantee. Ms. Weaver inquired how difficult it would be for insurers to renegotiate guarantees. Mr. Bell advised that most insurers establish these contracts in response to rating agency requests to guarantee a level of capital and surplus for lower-level companies; therefore, it would not be likely that a contract could be renegotiated if the guarantee is required by a state.

Mr. Johnson made a motion, seconded by Mr. Medley, to adopt Issue Paper No. 135, with the modifications proposed by staff, to direct staff to draft *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets Revised* (SSAP No. 5R) for possible interim exposure and consideration during the Winter National Meeting, and to send a referral to the Capital Adequacy Task Force to address the RBC stacking effect and to consider whether "unlimited" guarantees need an additional RBC charge. This motion was unanimously adopted (Attachment One-B).

b. Agenda Item 2007-24

Mr. Fritsch directed the Working Group to agenda item 2007-24: *Fair Value Measurements* and noted that the Working Group had exposed *Issue Paper No. 138—Fair Value Measurements* (Issue Paper No. 138) for public comment. Jay Muska (Travelers) presented the interested parties' comments and advised that interested parties are supportive of the adoption of Issue Paper No. 138 in general, but noted that removing the own-creditworthiness consideration from the fair value determination for derivatives results in a valuation that no longer represents an exit price. Ms. Gann advised that staff recommends modifying paragraph 16 of Issue Paper No. 138 to clarify that own-creditworthiness should not be considered in the subsequent measurement of liabilities, but indicate that this consideration may be inherent in the initial contractual negotiations that arrive at the liability determination. She advised that this modification would address concerns that the liability recognized would not be able to decrease subsequently as a result of a downgrade in own-creditworthiness. Mr. Muska advised that, for some derivatives, the initial fair value determination would be zero. He advised that interested parties are recommending that the Working Group scope out derivatives from paragraph 16, as it is more of a market-based instrument. Mr. Muska advised that he would be fine with the Working Group proceeding with adoption of the Issue Paper, and directing staff to work with interested parties on considering alternative language for paragraph 16 while drafting the SSAP. Ed Stephenson (Group of North American Insurance Enterprises—GNAIE) advised that the International Accounting Standards Board (IASB) is preparing to receive comments from their exposure of the IASB fair value measurements standard. He advised that there are differences between *FAS 157, Fair Value Measurements* (FAS 157) and what was exposed by the IASB. He noted that the Financial Accounting Standards Board (FASB) and the IASB have committed to resolve the differences between their standards; therefore, revisions to the existing Generally Accepted Accounting Principles (GAAP) guidance should be expected in January or February 2010. Mr. Stephenson stated that, because these revisions are expected, the Working Group should continue deliberations and re-expose Issue Paper No. 138. Mr. Fritsch advised that if the Working Group was to wait to adopt Issue Paper No. 138, then it would not be possible to have guidance available by year-end 2009, and it is proposed that the new SSAP have a year-end 2010 effective date, with application permitted for the year-end 2009 financial statements. Mr. Stephenson stated that consideration of the FASB redeliberations should occur before adopting statutory guidance. Rose Albrizio (AXA Equitable) presented additional interested parties' comments regarding whether there is statutory value in some of the disclosures proposed within Issue Paper No. 138. Ms. Gann advised that staff is recommending that both the "Level 3 Rollforward" and the "Assets Measured at Fair Value on a Recurring Basis Table" be retained for statutory. Mr. Muska inquired whether a materiality threshold could be included for the disclosures. Ms. Gann advised that the Preamble already states that the provisions within the manual need not be applied to immaterial items. Ms. Gann advised that staff supports the interested parties' recommendation to require disclosure of the source of the fair value measurements and proposes modifications to paragraph 41a to include this requirement. Mr. Muska stated that companies that utilize information from the SVO would need to receive information on SVO valuation techniques in order to properly complete the disclosures and classify items within the correct level of the fair value hierarchy. Although companies have the ability to utilize valuation services other than the SVO, he noted that there are companies that continue to utilize the SVO to obtain their reporting information.

Mr. Johnson made a motion, seconded by Mr. Armstrong, to adopt Issue Paper No. 138, with the modifications proposed by staff, direct staff to draft a new SSAP on fair value measurements that considers alternative language for derivatives within paragraph 16 determined after working with interested parties, and to send a referral to the Valuation of Securities Task Force advising of the need to supply information on the valuation techniques utilized when providing pricing information. This motion was unanimously adopted (Attachment One-C).

c. Agenda Item 2007-27

Mr. Fritsch directed the Working Group to agenda item 2007-27: *SOP 03-1, Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and Separate Accounts* (SOP 03-1). Ms. Albrizio advised that interested parties had submitted comments requesting deletion of the proposed *SSAP No. 56—Separate Account* (SSAP No. 56), paragraph 37 disclosure requirement. This disclosure requires identification of whether a statutory separate account product meets the qualifications to be classified as a GAAP separate account product. She advised that interested parties continue to have concerns, as this disclosure represents a different approach from what has been previously required for GAAP and statutory differences, and that interested parties are not clear how this disclosure would meet the objective for statutory accounting. She advised that this disclosure would be a burden for those companies that do not file GAAP financials. Mr. Stolte advised that the disclosure requirement is only asking for basic characteristics of separate account products; whether the product is legally recognized, legally insulated, how the investment is directed, and whether there is a cap on investment performance. Mr. Stolte advised that obtaining this information in a disclosure is needed for consistency and transparency. He advised that a referral has already been made to the Financial Condition Committee to propose regulation for separate account products, as there is a need for more uniformity with these products. Mr. Fritsch advised that the original proposal of the Subgroup was to move toward full GAAP on this issue, and by not moving in that direction, the Subgroup desired additional disclosures and transparency on this issue. Ms. Gann advised that disclosure requirements are considered nonsubstantive revisions, and are effective upon adoption. However, as the Subgroup has established a new interrogatory for the separate account blank for use in complying with the proposed disclosure requirements, staff is recommending that the proposed SSAP No. 56 disclosures initially be effective for the 2010 year-end financial statements. By utilizing this effective date, the new interrogatory will be included in the blank and allow for consistent and comparable reporting. Ms. Gann advised that the interested parties had submitted alternative language for the SSAP No. 56 glossary term "total maximum guarantee" and staff was recommending that this proposed language be reflected within the adopted guidance. Ms. Gann also advised that interested parties' comments noted that the separate account securities lending disclosure was more extensive than the disclosure required within the general account. Staff was suggesting that this disclosure be modified to reflect what is required within the general account. She noted that there is a Securities Lending Subgroup reviewing securities lending disclosures, and the results of that Subgroup would update the general account and separate account securities lending disclosures.

On a motion from Mr. Stolte, seconded by Mr. Armstrong, the Working Group voted to adopt, with no opposition, the nonsubstantive disclosure requirements proposed within SSAP No. 56, with an effective date of year-end 2010 (Attachment One-D) and to submit a blanks proposal requesting inclusion of the prepared general account and separate account annual statement instructions and illustrations (Attachment One-E). Robin Marcotte (NAIC) advised that the blanks proposal would be submitted to the Blanks Working Group during the Winter National Meeting.

d. Agenda Item 2008-28

Mr. Fritsch directed the Working Group to agenda item 2009-28: *Property and Casualty Reinsurance* and advised that during the Summer National Meeting, the Working Group had exposed substantive revisions to *SSAP No. 62R—Property and Casualty Reinsurance (Revised)* (SSAP No. 62R) and *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Agreements in Run-Off* (Issue Paper No. 137). He also advised that this had been referred to the Property and Casualty Reinsurance Study Group. The proposed revisions expand the exceptions to retroactive accounting treatment to include property/casualty reinsurance run-off agreements that meet specified criteria. Joe Sieverling (Reinsurance Association of America—RAA) presented the proposed revisions, noting that a key element within the proposal is that it requires domiciliary state commissioner approval for the ceding insurer and the assuming reinsurer. He noted that the proposal is for run-off business; therefore, it only covers business that is no longer actively marketed by the transferring entity. When this item was considered by the Property and Casualty Reinsurance Study Group, questions were received on how these transactions would flow through the annual statement, particularly Schedule P. As a result, revisions have been proposed to clarify that the ceding entity should report the consideration paid as a paid loss, which would ensure the transaction does not distort Schedule P and the underwriting expense exhibits. Mr. Sieverling advised that example journal entries were prepared to illustrate how these transactions should be reflected within the financial statements. It is proposed that these entries be included within an exhibit in SSAP No. 62R. Mr. Sieverling advised that the Property and Casualty Reinsurance Study Group recommended that the Working Group consider adoption of the proposal with various technical changes.

Mr. Hanson inquired whether there were going to be guidelines for commissioners on what constitutes run-off business. He noted that it is important to clarify that the ceding entity is not to re-enter the ceded line of business for some time. He also noted concerns with paragraphs 68 and 69c, noting that paragraph 68 indicates that these are not novations, but paragraph 69c indicates that these are non-recourse transactions. Mr. Hanson requested clarification to be sure that policyholders were being protected after these transactions occur. Mr. Sieverling advised that the journal entries include examples for the transferor and the transferee. In addressing what constitutes run-off business, he advised that the Study Group decided that having too much specificity might hinder situations when this guidance should be followed, or promote use of this guidance when a commissioner does not think it is appropriate. As such, specific provisions regarding how long a company should wait to re-enter a line of business ceded under this guidance was excluded. Mr. Sieverling noted that application of this guidance is to be made by the domiciliary state commissioner in accordance with what they believe is appropriate. He stated that the guidance intends to indicate that these transactions should have as much risk-transfer as possible, and that there is no recourse back to the ceding company. Mr. Fritsch advised that the direct company is still liable if something happens to the assuming company. This is why these transactions are reported within Schedule F as a credit risk. The regulators believed this credit-risk component was important to retain, as these transactions are not novations; i.e., the direct writer is still liable. Mr. Hanson noted that without general guidelines, the commissioner might have difficulty making and assessing these transactions. Mr. Johnson advised that additional guidelines are not necessary, as Issue Paper No. 137 already includes specific information on the detail of these transactions. Mr. Johnson stated that he is supportive of adopting Issue Paper No. 137, with the proposed changes illustrated in the additional handout to paragraphs 9, 31, 69 and 70 and including the journal entries as an exhibit. He advised that the Working Group should direct staff to revise and re-expose the SSAP, and that additional time would be provided during the SSAP exposure to receive comments on this issue during the Winter National Meeting.

Mr. Medley inquired whether the proposal would be permitted for U.S. domiciled assuming companies only, or if it would also be applicable to non-U.S. domiciled assuming companies. Mr. Sieverling advised that this is not specified, but it is the interpretation that it would be applicable to U.S. and non-U.S. assuming companies. Mr. Medley advised that the guidance prescribes accounting actions, but it is unclear to the extent that non-U.S. companies would apply the prescribed guidance, as these companies might follow different accounting practices.

On a motion from Mr. Johnson, seconded by Mr. Stolte, the Working Group voted to adopt the exposed Issue Paper No. 137, with the modifications proposed within the additional handout and with the inclusion of the example journal entries as an exhibit, and to direct staff to re-expose SSAP No. 62R with the modifications reflected. This motion passed with Mr. Hanson and Mr. Medley opposing (Attachment One-F).

e. Agenda Item 2009-09

Mr. Fritsch directed the Working Group to agenda item 2009-09: *Financial Guaranty Insurance* and advised that during the Summer National Meeting the Working Group had exposed proposed disclosures to *SSAP No. 60—Financial Guaranty Insurance* (SSAP No. 60). He advised that several various comments had been received, and these comment letters had been submitted to the Financial Guaranty Subgroup. Ms. Gann advised that after the Subgroup reviewed the comments, the Subgroup suggested retaining all of the disclosures, but suggested modifications to clarify the disclosures and to reduce significant system changes. Key modifications include clarifying that all "expected" terms and amounts should utilize management estimates and noting when discounting should be utilized. The Subgroup also suggested retaining the Appendix A illustration to be sure the necessary disclosure information is easily identifiable within the notes to the financial statements. Ms. Gann noted that the modifications to the proposed disclosures were included within the public meeting materials.

On a motion from Mr. Hudson, seconded by Mr. Medley, the Working Group voted to re-expose the disclosures with the modifications suggested by the Subgroup. Mr. Fritsch stated that it is the intent by the Working Group to adopt disclosures at the Winter National Meeting for 2009 year-end application.

f. Agenda Item 2009-08

Mr. Fritsch directed the Working Group to agenda item 2009-08: *FSP SOP 94-3-1 and AAG HCO-1, Omnibus Changes to Consolidate and Equity Method Guidance for Not-For-Profit Organizations* (FSP SOP 94-3-1 and AAG HCO-1) and advised that during the Summer National Meeting the Working Group had exposed nonsubstantive revisions to *Issue Paper No. 99, Nonapplicable GAAP Pronouncements* (Issue Paper No. 99) rejecting FSP SOP 94-3-1 and AAG HCO-1 as not applicable to statutory accounting. Mr. Fritsch advised that interested parties agreed with the Working Group's conclusion. On a motion from Mr. Hudson, seconded by Ms. Weaver, the Working Group adopted the revisions to Issue Paper No. 99 as final (Attachment One-G).

2. Consideration of 2009-06

Mr. Johnson requested that the Working Group bypass the scheduled agenda and next consider the issue of 2009-06: Consider Increase in Admission of Deferred Tax Assets Related to Capital and Surplus Relief (EX) Working Group Recommendation. Mr. Fritsch invited CNA to present their proposal. Jeff Alton (CNA) advised that the CNA proposal is more of a long-term issue and requested that the American Council of Life Insurers (ACLI) be given additional opportunity to discuss their proposal. Jim Shea (Prudential) and Mike Monahan (ACLI) suggested that the previously exposed substantive revisions to *SSAP No. 10—Income Taxes* (SSAP No. 10) be considered for adoption with the inclusion of three provisions: 1) add a sunset clause that would expire after 2010 year-end financial statements; 2) incorporate revisions to paragraph 10.e.i. to allow admittance for federal income taxes paid in prior years that can be recovered through loss-carrybacks for existing temporary differences that reverse within three years, rather then the previously exposed guidance that limits admittance to those items which reverse by the end of the subsequent calendar year; and 3) the formation of a Deferred Tax Asset (DTA) Subgroup to study this issue and present a recommendation for application subsequent to the sunset clause. Mr. Monahan stated that by including the sunset clause, all companies will be following the same provisions for their 2009 and 2010 financial statements. Mr. Shea then provided comments supporting the ACLI proposal. Key points communicated by Mr. Shea included:

- There is need to change the accounting guidance. A portion of the nonadmitted deferred tax assets are good assets, and represent unrecognized capital. Reform is necessary to more accurately reflect the value of these assets within the statutory accounting framework.

- The admittance of these assets should appropriately balance the role and importance of the statutory accounting model and accurately reflect a company's financial condition. Guidelines established within the proposal provide that no company with financial ratios below a specified level can record an incremental DTA. In addition, all incremental DTAs will be disclosed in the income statement and balance sheet to provide full transparency.

- The insurance industry competes for capital on a global basis. Capital is the fuel for growth and when the industry's access to capital is impaired, the industry (as well as current and future policyholders) is impacted. Over-conservatism does not help the industry, does not help policyholders and it makes the industry less competitive and efficient. DTAs are a source of capital and a source of liquidity to pay current and future claims when they are expected to come due.

- Statutory accounting currently relies on forecasting models and projections for several aspects, and such forecasts and projects should also be permitted in computing admitted DTAs. Under accounting policies, companies will not be able to project gains that are not already in the investment portfolio. They will not be able to assume capital gains materialize through reversals in the market pricing in order to have capacity to realize reversing temporary differences. Accounting firms will require controls, policies and practices that give requisite comfort in tax forecasts in order to render their overall audit opinion.

- There should not be concerns that DTAs will expire and never receive value. In order for a DTA to expire, it must be of a character of a tax-loss carry forward or tax credit carry forward. Although these items have limited lives and can expire, every tax carry forward has a life that extends beyond three years. Great skepticism would occur on companies that attempt to "forecast" reversal of a net operating loss in the last three years of its allowable life, if it had not reversed during the earlier years of its establishment.

- As a company moves toward insolvency, it will not likely be able to show that the reversing DTA produces a benefit above the amount which can be carried back to collect prior year taxes paid. Also, as a company moves toward insolvency, even without the RBC limitations proposed in the guidance, the company's surplus would be declining and the admitted DTA that is forecasted to produce a benefit will likewise decline.

After hearing Mr. Shea's prepared comments, Mr. Bruggeman suggested alternative language for paragraph 10.e.i. and 10.e.ii.a of the ACLI proposed revisions to clarify that the admitted DTA should correspond with tax loss carryback provisions, not to exceed three years. He advised that this clarifies the proper treatment for property and casualty companies, which are limited to a two-year carryback by tax law. Ms. Shea stated that they are fine with this proposed language. Mr. Shea noted that the proposal requires the assets to be "recoverable"; thus, inherently, the companies would be limited to the tax law provisions, but noted that this suggested language is more clarifying.

Mr. Stolte inquired how the three-year, 15% threshold for determining admitted assets, as requested in the proposal, were derived. Mr. Monahan advised that the industry had originally requested a five-year, 25% threshold — but, after negotiation with regulators, the proposal was revised to three years and 15%. Mr. Stolte inquired how the original proposal for a five-year, 25% threshold was established. Mr. Shea advised that the current SSAP No. 10 threshold for one-year, 10%, is overly conservative and the movement toward three years, 15%, will be a movement in the right direction while the DTA Subgroup further assesses this issue and determines the appropriate time frame and percentage threshold for statutory accounting admittance. Mr. Stolte asked whether empirical evidence exists to support the ACLI position. Mr. Shea advised that a study has yet to be completed. Mr. Shea indicated that DTAs, which were nonadmitted three years ago, have since come into fruition.

Mr. Stolte advised that Virginia has concerns with the ACLI proposal. He advised that tax forecasts, although covered within the overall scope of an independent audit, are not separately audited. These forecasts are only reviewed as part of the overall audit. He advised that the current economic situation has illustrated that it is incredibly difficult to project taxable income for a three-year period. Mr. Shea advised that forecasting is already included within statutory accounting, and that these forecasts are included in material items within the financial statements. Mr. Stolte advised that the ALCI proposal adds increased volatility to the statutory financial statements and seems to contradict the statutory statement of concepts. He advised that this would be a move to less conservatism and that the recognition concept would not be abided. Mr. Bruggeman noted that, for life companies, the three-year carryback period would reflect good assets, especially for tax-paying, strong companies. The proposal would prevent weaker, non-tax-paying companies from benefiting from the changes. He advised that such companies would not benefit under the proposal revisions to paragraph 10.e.i. and they would likely not benefit from the provisions under 10.e.ii.a. if they have not had taxable income in prior years. Mr. Bruggeman advised that auditors would likely challenge projections for future taxable income for such companies, regardless if the threshold was to remain at one year, or if it was moved to three years. Mr. Bruggeman advised that information would be reported on an entity-level basis and extensive disclosures are required so that regulators can clearly identify what is included within each component of the admitted DTAs. Mr. Bruggeman advised that the original 10% threshold came from banking limitations, and advised that moving toward a 15% threshold would only benefit strong companies.

Mr. Monahan advised that, with the sunset provision, all companies would be on a level playing field for the 2009 and 2010 reporting years. This would allow regulators to properly review the DTA data and complete comparisons. Mr. Stolte advised that he is not opposed to the creation of the DTA Subgroup, but that the interim proposed revisions are being cloaked as statutory accounting, when they seem to simply address capital relief. Mr. Hanson agreed with Mr. Stolte, and noted that enough time will not be provided during the sunset provision to establish the correct response. He advised that there were a number of permitted practices provided last year, but there were not many given in Illinois for DTAs. He advised that it is not desired to provide more permitted practices on this issue. He stated that a uniform decision by the Subgroup is necessary to prevent the issuance of permitted practices, and the Subgroup should be utilized in determining the appropriate statutory revisions. He suggested waiting for the Subgroup's recommendation and not incorporating revisions to SSAP No. 10 during this meeting. Mr. Monahan advised that as of March 1, 2010, the regulators should be able to review and assess the impact of the 2009 year-end application of the ACLI proposal. He stated that this information would also be available as of Nov. 15, 2009. Furthermore, he noted that with the permitted practices granted in 2008, the average increase in admitted assets was only 3% – 4%. Mr. Fritsch stated that he favors adoption of the ACLI proposal with the sunset provision, and with the Subgroup taking actions to study revisions for the long-term. By adopting the guidance today, there would be consistent accounting for all companies. He advised that the provisions limiting application based on RBC and the disclosures provide safeguards to prevent weak companies from applying the guidance and to allow full transparency to regulators. Mr. Hanson disagreed with the sunset clause, and advised that the Subgroup should first review this issue, with statutory accounting revisions incorporated after the Subgroup has communicated their findings.

Mr. Johnson advised that the original admittance of the DTA was to provide a "balancing act" in accordance with the move to codification, as a measure to prevent companies from losing to much surplus in the codification process. He advised that he was not originally in favor of admitting DTAs, and the threshold established was a very conservative approach to assist with obtaining a surplus-neutral impact of codification. Mr. Johnson stated that it is concerning that the insurance industry might be lagging behind other industries in obtaining capital, noting that the lack of capital is a solvency issue. He stated that the industry has properly considered restrictions necessary for regulators to consider this proposal. The economic conditions indicated within Mr. Shea's comments and the number of permitted practices granted in 2008 are realities that need to be considered. He advised that the extent of permitted practices granted resulted in an "unlevel playing field" among companies. Mr. Johnson stated that he supports the adoption of this proposal, but noted that the movement to three years with a 15% threshold would create a new benchmark. He stated that the sunset clause is to determine whether the three-year, 15% threshold is appropriate. Mr. Johnson said he believes the controls and disclosures established in the proposal provide the safeguards necessary to move forward today. Mr. Johnson stated that this is a difficult issue, but that it is the right thing going forward to make the insurance industry competitive with other industries. He advised that statutory accounting would continue to review whether expansion of admitted DTAs and the increased admittance is a fair balance to achieve competitiveness for the insurance industry in the general marketplace. As the economic paradigm has changed, regulators need to provide more flexibility, along with the restraints necessary to continue the safeguards of statutory accounting. He suggested that the Working Group take the extraordinary step of adopting the ACLI proposal with the ACLI proposed revisions, so that this can be adopted through the NAIC committee structure for Dec. 31, 2009, reporting. Mr. Johnson stated that he supports the alternative language proposed by Mr. Bruggeman, and would like this language to be incorporated.

Mr. Stolte stated that he does not disagree with some of the points raised by Mr. Johnson, but before granting admitted asset status, the Working Group should determine economic substance of these assets. The projected numbers provided by the ACLI are not supported by documentation. He advised that the concepts of the statutory accounting model are not being followed, and a future economic event, together with the decline of safeguards, might result in companies not being able to pay claims. Mr. Stolte noted that the trend away from statutory concepts is reflected within this issue, as well as the guidance adopted within *SSAP No. 43R—Loan-backed and Structured Securities (Revised)* (SSAP No. 43R) and the guidance exposed in *INT 09-07, Accounting for Re-Securitization of Loan-Backed and Structured Securities (e.g., Re-REMICS)* (INT 09-07). Mr. Hanson stated that in 2005, insurers would never have predicted the economic downturn that occurred in 2007 and 2008. Although he believes there is some merit in revising the guidance, he does not support the sunset clause and believes no action should occur until the results of the Subgroup. Mr. Bruggeman stated, and Mr. Fritsch agreed, that a decision is needed before year-end.

Mr. Bell stated that interested parties conducted a conference call to discuss the ACLI proposal. The interested parties support the proposal only if the conditions of a sunset clause and the formation of a Subgroup were included. Mr. Armstrong stated that he believes an addition to the guidance should be added as paragraph 10.f.iii that requires these DTA admitted assets to be reported as an aggregate write-in to surplus, and not within unassigned funds. He advised that this would prevent the ability for companies to increase dividends as a result of the increased admittance of DTAs. Mr. Bruggeman suggested additional language to restrict such dividends, but Mr. Stolte stated that the accounting guidance would not supersede state regulation on the calculation of dividends. Mr. Armstrong noted that by reporting these as an additional write-in, and not unassigned funds, per regulation in Iowa, the reporting structure would prevent the items from being included within dividend calculations. Mr. Hanson stated that by wanting to restrict dividend calculations resulting from the expanded admittance of DTAs, it appears that the Working Group does not truly believe that these are good assets. Mr. Fritsch suggested a modification to paragraph 10.f.i. to revise the guidance so it does not conflict with existing state regulations. He proposed that the guidance indicate that the commissioner may consider, by regulation, whether to limit DTAs from the consideration of any regulatory trigger. Mr. Fritsch stated that he also supported the addition of paragraph 10.f.iii. proposed by Mr. Armstrong to require reporting within an aggregate write-in to surplus. Mr. Bruggeman noted that disclosures should indicate the tax character of the DTA. Mr. Monahan stated that the ACLI does not have specific language for the sunset clause. Mr. Fritsch stated that the Working Group could consider a motion to adopt with a sunset provision that expires after the reporting of 2010 year-end financial statements and direct NAIC staff to create specific language.

Mr. Johnson made a motion, seconded by Mr. Bruggeman, to adopt the previously exposed changes to SSAP No. 10 for Dec. 31, 2009, reporting with: 1) Modification to paragraphs 10e.i. and 10.e.ii.a. to clarify that the time frame is limited to during a time frame corresponding with tax loss carryback provisions, not to exceed three years; 2) Modification to paragraph 10.f.i. to clarify that, by regulation, deferred tax assets may not be used for determining any regulatory trigger that involves admitted assets and/or statutory surplus [this would include triggers contained in the Insurance Holding Company System Regulatory Act (determination of ordinary or extraordinary dividends), investment limitations and grounds for rehabilitation and liquidation]; 3) Addition of paragraph 10.f.iii. to require admitted deferred tax assets to be reported as an aggregate write-in for surplus; 4) Inclusion of a sunset provision that expires with year-end, Dec. 31, 2010, financial statements; 5) Formation of a DTA Subgroup to further study DTAs and provide a recommendation to the Working Group on the appropriate determination of admitted DTAs to be applied with financial statements filed after Dec. 31, 2010; and 6) Direction to NAIC staff to update the language within SSAP No. 10 to reflect current applicable references (paragraph 10.d.ii. was specifically identified, because RBC percentages for year-end 2008 information were included within the previously exposed SSAP).

Mr. Stolte stated that he could like to make a counter-motion to not adopt revisions to SSAP No. 10, but proceed with forming a Subgroup to review this issue and, after deliberative study, provide a recommendation to be applied for financial statements filed after Dec. 31, 2010. Mr. Fritsch advised that a motion and second was currently on the floor that would need to first be addressed.

Mr. Medley stated that there were many last-minute amendments to the SSAP No. 10 and there is confusion on the proposed revisions. He specifically noted that it was unclear where the sunset language would be included within the SSAP. Mr. Johnson stated that the Working Group needs to move toward a vote, with subsequent review of the finalized wording. He stated that a conceptual vote is needed, so that organizations beyond the Working Group and the NAIC leadership can be advised of these changes as quickly as possible. Mr. Johnson stated that he believes the revisions are sufficiently drafted to proceed with adoption.

Mr. Medley identified that the proposed revisions would require the states to adopt regulations to prohibit the inclusion of the DTAs within the dividend calculations. Mr. Fritsch stated that this is necessary so that the guidance does not conflict with existing state laws. Mr. Medley proposed revisions to paragraph 10.d.ii. to raise the necessary RBC threshold for all companies to 400%. Mr. Johnson stated that he did not agree with modifying the motion to incorporate this change.

The motion proposed by Mr. Johnson passed with a seven-to-five vote, with California, Delaware, Louisiana, Michigan, Ohio, Pennsylvania and Iowa voting in the affirmative (Attachment One-H). Illinois, New Hampshire, Texas, Virginia and Wisconsin opposed the motion.

Mr. Fritsch advised that the Working Group had run out of time, and a conference call would be scheduled to address the remaining agenda items. Mr. Fritsch advised that exposed items would have a comment deadline of Oct. 28, 2009.

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

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Attachment 9

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August 14, 2009

Mr. Joe Fritsch, Chairman
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National Association of Insurance Commissioners
2301 McGee Street, Suite 800
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RE: Comments on Various Agenda Items of the NAIC Statutory Accounting Principles Working Group

Dear Mr. Fritsch,

We appreciate the opportunity to provide comments on Ref 2003-12: FIN 45 and offer the following:

Ref 2003-12: FIN 45: Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Others, and Interpretation of FASB Statement Nos. 5, 57, and 107 and Rescission of FIN No. 34 (FIN 45)

During the 2009 Spring National Meeting, the Working Group directed NAIC staff to modify Issue Paper 135 – FIN 45: *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an Interpretation of FASB Statements No. 5, 57, 107 and rescission of FASB Interpretation No. 35* (Issue Paper No. 135) to prominently include related party guarantees provided within the body of the accounting guidance. Interested parties recommended that intercompany or related party guarantees be valued in the same manner as other guarantees in accordance with FIN 45, i.e., fair value, except for certain "unlimited" related party guarantees. In those cases where an intercompany guarantee has been provided in response to a rating agency's requirement to provide a commitment to support, the amount of the guaranty may be unlimited and, accordingly, there are no observable values to determine the value of the guarantee as it is highly unlikely that a third party would provide an unlimited guarantee. In these limited circumstances, the existence and terms of the guaranty should be disclosed without a requirement to quantify and disclose the amount of the guaranty.

In evaluating and discussing this proposal, interested parties concluded that there is a negative "stacking effect" on the risk-based capital (RBC) of a parent insurer that has provided a guaranty on the obligation of a lower level insurance subsidiary. For example, if a subsidiary insurer incurs debt, the parent's and subsidiary insurer's RBC already reflects the subsidiary insurer'sdebt. If the parent guarantees the subsidiary insurer's debt and records a FIN 45 liability for the guarantee (offset by an increase in the parent's cost basis in the subsidiary insurer), the parent insurer's RBC will have a double RBC effect (and its admitted assets will increase by the amount of the guarantee). This effect would also occur if the guarantee was disclosed but not recorded at the parent insurer. Taking this example one step further, if the guarantee extends down another level to an insurance subsidiary below the first insurance subsidiary, the effect is compounded even further. (The RBC charge for property casualty insurers can be significant because it is outside the co-variance calculation.)

Before this proposal is adopted, the SAPWG should model the effects of adopting Issue Paper 135 on actual companies' balance sheets to determine whether adding these liabilities (and the corresponding assets) to the balance sheet would be a benefit or a detriment to the readers of statutory financial statements. The impact of adding guarantee liabilities and the corresponding assets to the balance sheet on regulatory metrics such as RBC and IRIS should be evaluated. As discussed above, the RBC formula would have to be revised to take into account the stacking effect of adding a liability and, in certain cases a related asset, the balance sheet.

Also, interested parties believe that there needs to be clarification that the guarantor is required to recognize, only at the inception of a guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. Issue Paper No. 135, consistent with FIN 45, does not prescribe the accounting for subsequently measuring the guarantor's recognized liability over the term of the related guarantee. We believe this can be accomplished by adding the following sentences from FIN 45 to paragraph 22 of the issue paper:

> *This Interpretation does not describe in detail how the guarantor's liability for its obligations under the guarantee would be measured subsequent to its initial recognition.*

This sentence was included in FIN 45 but was dropped in Issue Paper 135. We believe that it is important to include this guidance as the measurement/accounting subsequent to initial recognition will be different depending on the nature of the guaranty as further discussed below.

In discussing the issue paper among interested parties, there was confusion as to what the appropriate offsetting entry to the liability recorded as a result of a guarantee made on behalf of an affiliate should be. Many companies read the issue paper to require that the parent insurer should record an expense when it guarantees the obligation of a subsidiary insurer to a third party. Paragraph 21 e of Issue Paper 135 states:

"If a guarantee were issued to an unrelated party for no consideration on a stand alone basis, the offsetting would be to expense."

There is no corresponding guidance in Issue Paper 135 for a guarantee issued to a related party for no consideration. In such cases, the offsetting entry would generally not be an expense but rather an increase in the parent insurer's cost basis in the subsidiary insurer. The result is that both the parent and subsidiary insurers will have recognized a liability for the same third party obligation. While this is logical in the context of separate, stand-alone financial statements for the parent and the subsidiary insurers, the impact on RBC will need to be addressed to avoid the parent insurer having a double counting effect in its RBC.

With regard to the effective date of the new guidance, we agree that the guidance should be applied prospectively but recommend that it be applicable to guarantees issued or modified after December 31, 2009. This will allow insurers the opportunity to re-consider any inter-company guarantees and address them prior to having to adopt the new guidance. Interested parties would like to point out that it is unclear in paragraph 32 of Issue Paper 135 whether the proposed accounting guidance would apply to a guarantee in effect prior to the date of the proposed accounting guidance and renewed, without modification, after the effective date. Additionally, we recommend that before Issue Paper become effective, the final version should be forwarded to the Capital Adequacy Working Group for review, to ensure that any required changes in the RBC formulae be effective concurrently with the effective date of the new accounting requirements.

* * * * *

Thank you for considering our comments. We look forward to working with you, Mr. Armstrong, and the Working Group at the NAIC Fall meeting in Washington, D.C. If you have any questions in the interim, please do not hesitate to contact either one of us.

Sincerely,	Sincerely,
D. Keith Bell	Rose Albrizio

cc: Mr. James Armstrong, Iowa DOI
Robin Marcotte, NAIC staff
Interested Parties

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August 7, 2009

Mr. Joe Fritsch, Chairman
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RE: Comments on Various Agenda Items of the NAIC Statutory Accounting Principles Working Group

Dear Mr. Fritsch,

We appreciate the opportunity to provide comments on the items that were exposed for comment during the NAIC Summer meeting in Minneapolis, Minnesota. We offer the following comments:

Ref 2003-12: FIN 45: Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Others, and Interpretation of FASB Statement Nos. 5, 57, and 107 and Rescission of FIN No. 34 (FIN 45)

During the 2009 Spring National Meeting, the Working Group directed NAIC staff to modify Issue Paper 135 – FIN 45: *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an Interpretation of FASB Statements No. 5, 57, 107 and rescission of FASB Interpretation No. 35* (Issue Paper No. 135) to prominently include related party guarantees provided within the body of the accounting guidance. Interested parties recommended that intercompany or related party guarantees be valued in the same manner as other guarantees in accordance with FIN 45, i.e., fair value, except for certain "unlimited" related party guarantees. In those cases where an intercompany guarantee has been provided in response to a rating agency's requirement to provide a commitment to support, the amount of the guaranty may be unlimited and, accordingly, there are no observable values to determine the value of the guarantee as it is highly unlikely that a third party would provide an unlimited guarantee. In these limited circumstances, the existence and terms of the guaranty should be disclosed without a requirement to quantify and disclose the amount of the guaranty.

Interested parties will be submitting a separate letter on Issue Paper No. 135 early next week.

Ref 2007-24: Issue Paper 138—Fair Value Measurements

Issue Paper 138 proposes adoption, with modification of *FAS 157, Fair Value Measurements* (FAS 157) to define fair value, establish a framework for measuring fair value, and expand disclosures about fair value. The modifications from FAS 157 include rejection of the GAAP provision to include consideration of own-credit-risk in determining the fair value of a liability. Issue Paper 138 proposes adoption of the FASB definition of fair value, the three-level fair value hierarchy and proposes adoption of the *FSP FAS 157-4: Determining the Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly.*

As currently drafted, paragraph 16 precludes the use of non-performance risk (i.e., own credit–risk) in the fair value calculation for liabilities. Excluding own credit-risk for liabilities means that the fair value calculation for liabilities does not agree with the fair value definition in paragraph 6 of the issue paper, since for liabilities, fair value would no longer be based on an exit notion. While the notion of own credit-risk is generally not appropriate for insurance liabilities due to the regulatory restrictions placed on the payment of claims, the use of own credit-risk has not been controversial for the valuation of derivatives. The calculation of fair value of derivatives inherently includes the credit risk of the parties to the contract, and needs to be reflected in the measurement in order to calculate the exit value. From an operational perspective, it would require the insurer to calculate the fair value of the derivative and, if in a positive position, record an asset; however, if the derivative is in a negative position, the insurer would have to recalculate the fair value and eliminate the effect of its own credit standing. The implication is that two insurers could enter into a fixed-to-floating swap and both insurers could record an asset, even though one party is in an economically superior position than the other.

Interested parties believe that there are two possible solutions to addressing derivatives:

1. scope derivatives out of the own credit-risk guidance for liabilities (paragraph 16); or
2. remove the own credit-risk wording from Issue Paper 138.

We believe that the first alternative is the more appropriate approach as it would result in the use of fair value for derivatives and leave the remaining guidance in the issue paper intact.

The Issue Paper is drafted to incorporate the disclosures from FAS 157 which are not meaningful under statutory accounting in many instances. The vast majority of assets held by insurers are bonds which are not carried at fair value. Even lower classes of bonds (NAIC 3 -6 for non-life insurers) may not be at fair value if the amortized cost is lower. The result is that the fair value tables would give an incomplete set of information and would be relevant only for the small amount of investments recorded at fair value.

Interested parties recommend eliminating the Level 3 roll forward as it does not provide a complete set of information and its value is very limited since many of the assets that would be reported in Level 3 for GAAP are not carried at fair value for statutory accounting. Also, we do not recommend including the Assets Measured at Fair Value on a Recurring Basis Table unless the amounts would be material to the financial statements. We believe that the disclosure should include a description of how the reporting company determined the fair value of the invested assets that are reported at fair value but where the fair value was not determined by the Securities Valuation Office.

Ref 2007-27: SSAP No. 56: *SOP 03-1: Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for Separate Accounts*

The Working Group exposed for public comment proposed revisions to *SSAP No. 56—Separate Accounts* (SSAP No. 56) and the Annual Statement Instructions received by the Separate Account Subgroup. The proposed revisions to SSAP No. 56 recommend that SOP 03-01 be rejected for statutory accounting but includes enhanced disclosure requirements, including disclosures based on the separate account classification criteria in SOP 03-01. These enhanced disclosure requirements are intended to provide regulators with an increased understanding of the reporting entity's separate account activity as well as how the separate account activity could affect the general account. The Separate Account Subgroup also proposed Annual Statement instructions to address the proposed disclosures within SSAP No. 56.

The proposed disclosures in paragraph 37 will require all reporting entities to identify the separate account products that were classified differently under GAAP. Interested parties continue to have concerns with this disclosure for the following reasons:

- The ultimate objective of Statutory Accounting Principles (SAP) is to ensure that policyholder, contract holder and other legal obligations are met when they come due and that companies maintain capital and surplus at all times and in such forms as required by statute to provide an adequate margin of safety (Preamble, paragraph 27). It is not easily understood how this proposed disclosure meets the objective of SAP.

- The Preamble also discusses a comparison of GAAP and SAP providing examples of differences including reserving, certain nonadmitted assets and deferred acquisition costs, deferred taxes and reinsurance. However, SAP does not require disclosure of these differences in the Annual Statement, and therefore, SAP should not require disclosure of the separate account products that are classified differently under GAAP. This difference is no more or less important that all the other differences between GAAP and SAP. Also, this proposed disclosure could open SAP to disclosure of all GAAP to SAP differences, which the Preamble already acknowledges that there are differences between GAAP and SAP, but SAP is a comprehensive basis of accounting for use by insurance departments, insurers and auditors.

- In the Subgroup meetings discussing these proposed disclosures, Interested Parties heard two main concerns that are trying to be addressed: (1) appropriate compensation by the separate account to the general account for guarantees held in the general account and (2) the identification and prevention of creating a preferable class of separate account policyholders over general account policyholders. These two issues are addressed through proposed disclosures in paragraphs 30 (c) (disclosure of risk charges paid by the separate account to the general account) and 34 (a) (disclosure of separate account assets are not legally insulated from the general account). Since both concerns expressed by the Subgroup are being met in other disclosures, it is not clear what benefit the regulators gain by the information being requested by this proposed disclosure.

- This proposed disclosure is required by all reporting entities, even those entities that do not file GAAP financial statements. For companies that do not complete GAAP financial statements this requirement would be onerous. This will be the first time these companies would be required to perform the review necessary for the disclosure and it would be subject to certification made on the Jurat page. Without having an understanding of what information this would be providing to the regulators, we don't believe there is a benefit is disclosing this information.

While we understand the goal to provide financial statements that are clear, understandable and transparent as possible, Interested Parties do not see the value of disclosing the separate account products that are classified differently under GAAP. As discussed in the Preamble, GAAP and SAP have very different objectives, therefore Interested Parties are not in favor of this proposed disclosure and recommend that this proposed paragraph 37 disclosure not be required.

The July 1, 2009 exposed document also includes a Glossary of terms, which Interested Parties provided suggestions for those definitions. Interested Parties would like to offer the following suggested changes:

- The definition of Total Maximum Guaranteed is limited to account value, so it may not pick up situations where the underlying for the guarantee is something other than account value. We recommend the following changes:

  Is the difference between the total amount of liability the general account is subject to reimbursing and the policyholder's ~~current account value~~ contract value referenced by the guarantee (e.g., account value). For guarantees in the event of death, it is the minimum guaranteed amount available to the contract holder upon death in excess of the contract holder's contract value referenced by the guarantee (e.g., account balance) at the balance sheet date. For guarantees of amounts at annuitization, it is the present value of the minimum guaranteed annuity payments available to the contract holder

> *determined in accordance with the terms of the contract in excess of the contract value referenced by the guarantee (e.g., ~~current~~ account balance).*

In addition to the proposed changes to SSAP, there were proposed changes to the Annual Statement Instructions. Illustrations 6.6 for the Separate Account Annual Statement relates to the requirements being proposed in paragraph 36 of SSAP 56, however it appears much more detailed that the disclosure decription within paragraph 36. In addition, Illustration 6.6 is much more detailed than its counterpart in the General Account Annual Statement. For example, the Illustration 6.6 is asking for individual separate account securities lending detail by each loaned security (a Separate Account Schedule LS), the collateral received and how the collateral was invested. However, paragraph 36 asks for among other things, "disclose……the amount of loaned securities from the separate account at the reporting date, the percentage of separate account assets lent as of that date, a description for which type of accounts….are lent…the policy for requiring collateral, whether the collateral is restricted as the amount of collateral for transactions that extend beyond one year from the reporting date." Illustration 6.6 would present significantly more information that is currently required in paragraph 36.

Rather, any securities lending disclosure in the Separate Account Annual Statement should not be any more detailed than the disclosure requirements within the General Account Annual Statement. There is currently no requirement in the General Account Annual Statement to present significant amounts of securities lending collateral detail. Also, there is a Securities Lending Subgroup, chaired by Max McGee, which is currently recommending securities lending disclosures for the General Account Annual Statement. Once these disclosures are finalized for the General Account Annual Statement, they should then be possibly duplicated within the Separate Account Annual Statement. The disclosures within the Separate Account Annual Statement should be consistent with those disclosures in the General Account Annual Statement.

Ref 2008-28: Transfer of P&C Run off Portfolios

The Working Group exposed *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Agreements in Run-Off* (Issue Paper No. 137) and proposed changes to *SSAP No. 62—Property and Casualty Reinsurance* to expand the exception to retroactive accounting treatment to include property and casualty reinsurance run-off agreements that meet specified criteria as modified during the meeting. Reinsurance agreements and retrocession agreements that meet insurance risk transfer requirements and meet the specified criteria will receive prospective accounting treatment. In addition, these exposed changes were referred to the Property and Casualty Reinsurance Study Group of the Accounting Practices and Procedures Task Force for further discussion.

Interested parties agree with the proposed changes to allow prospective reinsurance treatment for property and casualty reinsurance run-off agreements that meet the criteria specified in the proposal.

Ref 2009-09: Disclosures for Financial Guarantee Insurance Contracts

The Working Group exposed a proposed change to SSAP No. 60, *Financial Guarantee Insurance,* which would incorporate the financial guarantee disclosures and illustrative example as proposed by the Financial Guarantee Subgroup of the Statutory Accounting Principles Working Group.

A separate comment letter will be provided by financial guaranty insurers.

Ref 2009-08: FSP SOP 94-3-1 and AAG HCO-1, Omnibus Changes to Consolidation and Equity Method Guidance for Not-for-Profit Organizations

Statutory accounting has previously rejected GAAP guidance pertaining to consolidation as well as GAAP guidance specific for not-for-profit organizations. All impacted GAAP pronouncements identified within this FSP have previously been rejected, or deemed not applicable, for statutory accounting. The Working Group exposed its conclusion to reject FSP 94-3-1 as not applicable to statutory accounting.

Interested parties agree with the Working Group's conclusion.

* * * * *

Thank you for considering our comments. We look forward to working with you, Mr. Armstrong, and the Working Group at the NAIC Fall meeting in Washington, D.C. If you have any questions in the interim, please do not hesitate to contact either one of us.

Sincerely, Sincerely,

D. Keith Bell Rose Albrizio

cc: Mr. James Armstrong, Iowa DOI
Robin Marcotte, NAIC staff
Interested Parties

CIFG | The Value Within

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August 3, 2009

Mr. Joseph Fritsch
Chair, NAIC Statutory Accounting Principles Working Group
NAIC
2301 McGee Street, Suite 800
Kansas City, Missouri, 64108

RE: Statutory Disclosure Requirements for Financial Guarantee Contracts
Comments related to Proposed Footnote Disclosures related to SSAP #60 (Exposure Reference 2009-09)

Dear Mr. Fritsch

The NAIC Statutory Accounting Principles Working Group has a proposed exposure draft (ED) of additional footnote disclosure requirements for Financial Guaranty companies as an expansion of SSAP#60 to be effective for year end 2009. The proposed footnote disclosures are intended to mirror FAS 163 footnote disclosure requirements under US GAAP with modifications necessary for application under current statutory accounting guidance.

We believe that the implementation of the footnote disclosures without adopting a more comprehensive statutory accounting model for financial guaranty companies using FAS 163 as the basis, and as contemplated under Issue Paper 136, would be premature and create confusion for the user's of the statutory financial statements. There would be a disconnect between the financial statements and the footnotes.

The adoption of the statutory footnote disclosures will require a determination of amounts and methods that are not presently incorporated into SSAP#60. Implicit with footnote disclosures is an underlying framework for determining scope, methods, and treatment of the calculated disclosure amounts. FAS 163 provides the necessary linkage related to the footnote requirements under US GAAP. Adopting footnotes disclosures modeled after US GAAP without a similar statutory accounting framework will lead to inconsistencies in the footnote disclosure methods and amounts. A user of the statutory statement will not be able to relate the balance sheet to corresponding footnote disclosure leading to further confusion and inconsistencies.

We have prepared a number of comments related to the proposed footnote disclosures that will illustrate the need for a complete accounting guideline prior to the requirement of footnote disclosures.

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Scope issues

Contracts

FAS 163 scope relates to financial guarantee contracts that are included under FAS 60 paragraph 6, and specifically excludes contracts that are accounted for as derivative instruments. Is it implied that the scope of the statutory footnote disclosures would be similar or inclusive of contracts that are accounted for as derivative instruments under US GAAP?

Cash Flow Periods

Underlying the US GAAP unearned premium revenue (UPR) calculation is a requirement to use the contract period for projecting the cash flows and period of risk. Under certain circumstances, the use of expected periods can be used to reflect prepayment assumptions that can be reasonably estimated and are part of a homogenous pool of assets.

The concept of "contract period" versus "expected period" method is critical in determining all the ED paragraph #15 footnote disclosures. The cash flow of projected premiums and insured risk could vary greatly under these two methods. It is unclear based on the current SSAP#60 requirements how the cash flows would be determined. ED paragraphs 15 (b) refers to "a schedule of premiums expected to be collected", can it be inferred that the "expected period" method can be used for all contracts? ED paragraphs 15 (b) & (c) are schedules of projected cash flows that are dependent on the method selected.

The "expected method" is a shorter period than the "contract method" generally due to expected prepayments. FAS 163 further requires the contract be part of a "homogeneous pool" of assets before adopting the "expected method". Would the requirement of a contract being part of a homogenous pool of assets also apply to the statutory requirements? Or, will this be open such that each company can select a method based on its own criteria?

Premium issues

Premium balance receivables

The schedule of future installments due in ED paragraph 15 (b) would represent the premium balance receivable that would be different than the amount in the statutory financial statement assets, line 13-premiums and considerations. Under FAS 163 the premium balance receivable is the basis for determining the UPR at the initial recording and for adjustments. The premium balance receivable is discounted recognizing the time value of money over the installment period. The related UPR is effectively discounted matching the method used to compare with the discounted claim liability.

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Unearned premium revenue

The UPR, under FAS 163, is formulated using a "constant rate" method based on the sum of all insured principle amounts outstanding during the each reporting period over the period of the contract (contract period or expected period). This method would be applied to all financial guarantee contracts regardless of the timing of the premium payments.

SSAP#60 distinguishes between UPR recognition methods based on the contract's premium payment type. For installment premiums, a monthly pro-rata method is used. The ED footnote disclosure would use the "in proportion with the amount and expected coverage period of the insured risk, which would have been reflected if the premium had been received at inception". Clarification is needed on the calculation, is the UPR calculation meant to follow the method currently used for policies where the premium is received at policy inception? If so, that calculation would require system modifications, because it is different than the current method used for installment premiums under SSAP#60 and also FAS 163. Companies would need the time to make system modifications and to properly test these changes to accommodate this footnote disclosure.

The schedule of future expected premium revenue as required under paragraph 15 (e) is essentially earned premium projections for the future, but it would generate a revenue stream that would be different than the net earned premium (line 1) that will be recognized in the statement of income during the future reporting periods, since the basis of revenue recognition has fundamental differences in the calculation methods. Therefore, a reconciliation between the statement of income and the related footnote disclosure would not be possible. Also, the future expected premium revenue balance presented in the footnote will be different than the UPR in the statutory balance sheet (line 9 of the liabilities).

Undiscounted unearned premium revenue

The ED footnote disclosure # 16 (a) (9) for claim liability incorporates a comparison of the claim liability to the UPR at the reporting date. The UPR as calculated in the ED footnotes in paragraph 15 (a) to (e) is on an undiscounted basis. However, the claim liability is determined on a discounted basis. Therefore, since the basis of calculation recognizing the time value of money in one valuation and not the other makes the comparison less meaningful. The premium component should be discounted on a similar basis as the claim liability.

Change in Assumptions/Estimates

Changes in the estimated cash flows for both premiums and insured risk will occur for contracts that are premium installments and collected upfront. When these changes occur, the calculations of expected future earnings will be impacted. There are two potential methods for reflecting the change in estimates; either prospectively or retrospectively. Under FAS 163 it is clear that for installment contracts the change would be

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prospectively treated without an impact to earnings (an offset to UPR and the related premium balance receivable).

However, for upfront contracts it has been interpreted differently within the financial guaranty industry…some using retrospective treatment and others using a prospective model. SSAP#60 does not provide any guidance on changes. What would be the appropriate method for Statutory accounting disclosures?

Claims issues

Claim Liability Methods

Under existing statutory claim reserving methods a reserve is established for losses on insured obligations that have defaulted or where a review has determined that a loss is probable or expected (case reserves). In addition to case reserves contingency reserves are calculated based on state regulated mandated formulas.

FAS 163 claim liability methods require contract specific reserves to reflect the liabilities of all possible outcomes and are probability weighted. The US GAAP methods are applied across the surveillance categories as illustrated in the ED footnote tables. Also, certain contracts that have claim liabilities under statutory accounting are treated as derivatives for US GAAP and would not be in the US GAAP financial disclosures.

The statutory balance sheet for claims liability, including the contingent claim reserves do not appear to be linked to the disclosures of claim liabilities. This will make the claim liability footnote misleading to the user adding further confusion to the statements. The claim liability in the footnote disclosures will not agree to the claim liability in the statutory balance sheet (lines 1 and 3 of the liabilities).

Net Claim Liability

The net claim liability disclosure required under ED paragraph 16 (a) (7 & 8) and in appendix A – disclosure illustration, displays the net claim liability to be the compared to the UPR resulting in the "claim liability reported in the balance sheet". Also, the excess of the claim liability over the UPR is to be determined on a "contract by contract basis". Again, a claim liability schedule included such an amount become meaningless as it will not agree with the balance sheet liability.

Weighted Average Life

The Weighted Average Life (WAL) disclosure required under ED paragraph 16 (a) (2) is impacted by the same scope question for determining the premium cash flows. The calculation results will vary on the selection of the expected period (contract period or expected period) that could result in significantly different WAL results.

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We are available to review and discuss our comments with you or any of the Working Group, appropriate Sub Working Group, or NAIC staff members.

Lori Pitta
U.S. Controller

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Attachment 9

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We are available to review and discuss our comments with you or any of the Working Group, appropriate Sub Working Group, or NAIC staff members.

Lori Pitta
U.S. Controller

David A. Buzen
Chief Financial Officer

August 7, 2009

Attn: Mr. Joe Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2604

File Reference: Issue Paper No. 136 – Accounting for Financial Guarantee Contracts

Dear Mr. Fritsch:

MBIA Inc., together with its consolidated subsidiaries, (collectively, "MBIA") operates the largest financial guarantee insurance business in the industry and is a provider of asset management advisory services. MBIA appreciates the opportunity to comment on Issue Paper No. 136 – *Accounting for Financial Guarantee Contracts*, ("Issue Paper No. 136"). MBIA's financial guarantee business is currently operated through two subsidiaries, National Public Finance Guarantee Corporation ("National") and MBIA Insurance Corporation and its subsidiaries ("MBIA Corp."). National is subject to insurance regulations and supervision of the State of Illinois (its state of incorporation). MBIA has submitted applications to its regulators to redomesticate National to New York. MBIA Corp. is an insurance company registered in the state of New York. National and MBIA Corp. issue insurance policies that represent unconditional commitments to guarantee the timely payment of principal and interest on municipal bonds, asset-backed and mortgage-backed securities, investor-owned utility bonds, as well as other debt issues in both new issues and secondary markets.

MBIA welcomes the opportunity to improve the disclosures and increase transparency into our insurance business for the users of our statutory financial statements. We believe that the proposed disclosures, which are based on the disclosure requirements of FAS 163, *Accounting for Financial Guarantee Insurance Contracts*, are an excellent step towards increased transparency. We do have some concerns, however, that we would like addressed, specifically regarding instances where U.S. GAAP guidance on the accounting for financial guarantee insurance contracts differs from current statutory guidance. For clarity, we will include suggestions for modifications to the proposed disclosure language. Our concerns regarding the disclosure requests are primarily related to clarifications of key points in the disclosures. These key points include:

- Whether amounts disclosed related to installment contracts are based on a contract period or expected period?
- Whether amounts disclosed should be discounted or undiscounted?

MBIA Inc. • 113 King Street • Armonk, NY 10504 • +1 914 273 4545 • *www.mbia.com*

Consistent with our letter to the NAIC dated February 4, 2009, we believe that the most accurate representation of financial information related to our insurance contracts is based on expected period. We believe the use of contract period in our disclosures could result in overstating expected future premiums to be recognized on our installment contracts. This is not consistent with the conservative guidelines for recognizing assets generally consistent with other statutory accounting guidelines as discussed in our letter dated February 4, 2009. Additionally, as all financial guarantee balances recorded on the statement of assets, liabilities, surplus and other funds are presented on a discounted basis, we recommend that the disclosures, in certain locations, specify that the amounts are to be reported on a discounted basis with a discount rate calculated consistent with current statutory guidelines.

With respect to these two points, we recommend the following changes to the disclosure requirements (items removed represented by a strikethrough and items to be added are underlined):

15.a.1. The total amount of premium expected to be collected ~~The unearned premium revenue~~ as of the reporting date, in proportion with the amount and expected coverage period of the insured risk, which would have been reflected if the premium had been received at inception, discounted at the average rate of return on the admitted assets of the financial guarantee insurer as of the measurement date.

As we are recommending that the installment premiums expected to be collected are presented on a discounted basis, we recommend that additional paragraphs be added to the rollforward (paragraph 15.c.) to allow for a proper rollforward of a discounted amount.

15.c.4.a. Adjustments for changes in the period of a financial guarantee insurance contract and an explanation of why those adjustments occurred.

15.c.4.b. Accretion of the installment premiums expected to be collected discount.

15.c.4.c. Other adjustments with explanations provided for significant or recurring adjustments

(We note that 15.c.4.a, 15.c.4.b., and 15.c.4.c. correspond with paragraphs 30.c.4.a., 30.c.4.b, and 30c.4.c. of FAS 163.)

15.d. For non-installment contracts for which premium revenue recognition has been accelerated, the amount and reasons for acceleration. For installment premiums for which the insured obligation is retired early, the outstanding principal is paid down by the issuer, and/or other situations that impact the receipt and recognition of future installment premiums, describe the situation impacting the future installment premiums~~, the monetary impact to future installment premiums and, if applicable, disclosure of any resulting premium receivables that will be earned when received~~.

(As the quantitative information will be reflected in the tabular disclosures proposed by paragraphs 15.c., only qualitative disclosures should be required per paragraph 15.d.)

15.e. A schedule of the future expected premium revenue <u>on non-installment contracts</u> as of the latest date of the statement of financial position detailing the following:

(It is expected that 15.e. will reconcile to line 9 of the Statement of Liabilities, Surplus and Other Funds, therefore, it will include only expected premium revenue on non-installment contracts.)

We support the requirement for the expanded disclosures as described in Issue Paper No. 136, as applied to the statutory blanks. We believe that these additional disclosures provide important information for users, including regulators. We would encourage the Working Group to consider eliminating the need for the Financial Guaranty Insurance Exhibit as we believe the financial guarantee disclosures, as currently proposed in the issue paper, provide more meaningful information and in some cases are redundant to what the Issue Paper is proposing. We have attached our most recent (year end 2008) Financial Guarantee Insurance Exhibit for reference.

****

Thank you for considering these proposals and for the opportunity to contribute to the standard-setting process. Should you have any questions about this letter, please do not hesitate to contact Kelley Kortman, Vice President of Accounting Policy Group at (914) 765-3263 or myself at (914) 765-3557.

Sincerely,

Huy M. Tran
Managing Director
Deputy Controller and Head of Accounting Policy
MBIA Inc.

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Attachment 9

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SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

FINANCIAL GUARANTY INSURANCE EXHIBIT

For the Year Ended December 31, 2008

(To Be Filed by March 1)

NAIC Group Code 0528 NAIC Company Code 12041 Employer's I.D. Number 43-0899449

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

PART 1

Showing Total Net Exposures (Principal & Interest) By Year Payable
On Municipal Bond Guaranties In Force As Of Year End

Year Payable	1 Municipal Obligation Bonds	2 Special Revenue Bonds	Industrial Development Bonds 3 Type I	 4 Type II	 5 Type III	6 Totals
1. 2009	40,622,213,977	12,171,356,686	3,621,598	239,825,305	2,244,566	53,039,262,132
2. 2010	41,056,066,188	12,104,535,325	33,116,819	282,161,478	2,244,566	53,478,124,376
3. 2011	41,054,086,165	12,064,631,250	26,884,491	235,367,505	2,751,267	53,383,720,678
4. 2012	39,931,172,238	11,626,675,301	4,694,913	289,249,093	2,208,082	51,853,999,627
5. 2013	40,475,607,526	12,579,947,616	444,755	249,576,073	2,208,082	53,307,784,052
6. 2014	38,002,601,729	11,810,991,279	445,883	426,639,926	2,208,082	50,242,886,899
7. 2015	37,012,057,760	12,602,464,804	222,077	411,501,046	2,208,082	50,028,453,769
8. 2016	35,184,847,220	11,222,886,736		536,309,210	2,208,082	46,946,251,248
9. 2017	34,660,773,133	11,074,818,695		216,961,870	2,208,082	45,954,761,780
10. 2018	31,893,984,011	10,576,329,506		197,711,751	4,474,408	42,672,499,676
11. 2019	30,023,083,890	10,236,493,534		236,131,328	2,041,251	40,497,750,003
12. 2020	29,054,746,800	9,990,518,108		374,747,257	2,041,251	39,422,053,416
13. 2021	27,206,794,606	9,276,811,436		658,174,827	2,041,251	37,143,822,120
14. 2022	25,033,467,556	9,152,240,073		187,927,122	2,041,251	34,375,676,002
15. 2023	22,749,308,166	8,638,641,400		325,691,716	2,041,251	31,715,682,533
16. 2024 - 28	75,323,869,629	31,163,822,321		1,080,105,257	9,124,273	107,576,921,480
17. 2029 - 33	56,677,487,272	26,042,320,159		2,005,102,043	41,289,264	84,766,198,738
18. 2034+	36,923,872,173	23,450,638,713		856,968,824		61,231,479,710
19. Totals	682,886,040,039	245,786,122,942	69,430,536	8,810,151,631	85,583,091	937,637,328,239

PART 2

Showing Total Net Exposures (Principal & Interest) By Year Payable
On Non-Municipal Bond Guaranties In Force As Of Year End

Year Payable	Corporate Obligations 1 Type I	 2 Type II	 3 Type III	4 Cons Debt Obligation	5 Pass Thru Securities	6 Ltd Partnerships	7 Other Non-Investment Grade Obligations	8 All Other Guaranties	9 Totals
1. 2009	651,591,026	1,324,783,496	61,940,215				7,041,915,488	20,135,554,122	29,215,784,347
2. 2010	424,015,143	1,683,995,253	44,662,670				4,953,067,708	15,704,888,897	22,810,629,671
3. 2011	359,232,149	2,237,416,149	140,820,684				3,632,363,601	19,558,763,503	25,928,596,086
4. 2012	85,912,684	1,275,922,719	37,098,760				2,921,433,836	22,644,537,488	26,964,905,487
5. 2013	10,034,562	1,061,072,718	36,999,697				1,897,485,437	31,574,254,928	34,579,847,342
6. 2014	62,657,702	963,579,097	36,999,697				10,419,198,066	21,925,031,454	33,407,466,016
7. 2015	38,651,859	1,372,723,622	36,999,697				729,953,197	18,887,222,634	21,065,551,009
8. 2016		1,004,273,378	37,098,761				393,588,504	14,417,377,329	15,852,337,972
9. 2017		1,004,925,696	36,999,697				286,384,387	12,429,873,707	13,758,183,487
10. 2018		884,090,470	36,999,697				258,652,164	4,295,293,046	5,475,035,377
11. 2019		1,197,357,516	36,999,697				189,157,821	2,934,626,582	4,358,141,616
12. 2020		1,217,253,142	37,098,760				158,147,523	915,532,585	2,328,032,010
13. 2021		1,093,076,615	36,999,697				135,061,779	849,432,605	2,114,570,696
14. 2022		952,474,543	36,999,697				71,111,765	587,790,084	1,648,376,089
15. 2023		525,538,354	36,999,697				61,771,217	443,091,210	1,067,400,478
16. 2024 - 28		2,107,691,789	220,025,851				287,726,142	2,179,022,062	4,794,465,844
17. 2029 - 33		1,534,876,391	185,196,611				184,296,535	3,193,727,302	5,098,096,839
18. 2034+		6,323,188,661	779,737,119				(49,281,763)	3,189,753,117	10,243,397,134
19. Totals	1,632,095,125	27,764,239,609	1,876,676,704				33,572,033,407	195,865,772,655	260,710,817,500

240-2

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3A

MUNICIPAL OBLIGATION BONDS

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	683,057,870	123,960,465,297	1	18,784,920		140,340,759		140,340,759
2. 2008 I.P.								
3. 2007 S.P.	198,829,986	36,083,410,649	1	10,063,403	72,206,959	(31,355,441)		40,851,518
4. 2007 I.P.	4,449,795	807,543,050	1	4,362,268	1,852,982	(938,729)		914,253
5. 2006 S.P.	153,938,472	27,936,556,268	1	6,655,362	67,868,910	(36,240,782)		31,628,128
6. 2006 I.P.	3,229,993	586,174,951	1	2,458,979	1,873,482	(1,209,849)		663,633
7. 2005 S.P.	225,569,319	40,936,030,469	1	14,888,692	90,559,289	(44,213,919)		46,345,370
8. 2005 I.P.	3,569,336	647,758,525	1	1,760,899	934,558	(201,204)		733,354
9. 2004 S.P.	263,193,430	47,764,005,680	1	17,449,345	82,609,203	(28,533,601)		54,075,602
10. 2004 I.P.	9,838,312	1,785,444,254	1	1,502,707	3,224,017	(1,202,642)		2,021,375
11. 2003 S.P.	321,768,821	58,394,192,609	1	23,818,828	84,626,920	(18,516,445)		66,110,475
12. 2003 I.P.	8,096,876	1,469,410,617	1	2,112,849	3,173,293	(1,509,713)		1,663,580
13. 2002 S.P.	234,857,413	42,621,621,813	1	17,537,224	66,397,001	(18,143,304)		48,253,697
14. 2002 I.P.	11,206,672	2,033,772,476	1	1,407,170	4,697,791	(2,395,273)		2,302,518
15. 2001 S.P.	156,370,840	28,377,979,270	1	5,028,543	47,428,461	(15,300,579)		32,127,882
16. 2001 I.P.	16,999,791	3,085,100,155	1	3,036,268	5,143,839	(1,651,070)		3,492,769
17. 2000 S.P.	96,268,210	17,470,631,100	1	4,198,561	29,151,106	(9,371,884)		19,779,222
18. 2000 I.P.	8,666,018	1,572,697,896	1	1,043,237	3,068,434	(1,287,918)		1,780,516
19. 1999 S.P.	124,324,746	22,562,295,334	1	7,730,418	34,000,541	(8,456,835)		25,543,706
20. 1999 I.P.	8,375,377	1,519,952,668	1	700,839	3,800,165	(2,079,364)		1,720,801
21. 1998 S.P.	169,254,726	30,716,130,432	1	12,270,722	53,736,151	(18,961,152)		34,774,999
22. 1998 I.P.	10,594,535	1,922,682,553	1	458,752	3,753,403	(1,576,655)		2,176,748
23. 1997 S.P.	193,997,707	35,206,454,801	1	8,573,941	42,920,256	(3,061,576)		39,858,680
24. 1997 I.P.	10,263,199	1,862,552,242	1	418,853	3,659,996	(1,551,324)		2,108,672
25. 1996 S.P.	159,213,654	28,893,889,523	1	5,465,162	40,599,227	(7,887,262)		32,711,965
26. 1996 I.P.	6,437,456	1,168,261,195	1	225,184	2,747,047	(1,424,410)		1,322,637
27. 1995 S.P.	128,655,266	23,348,192,505	1	4,210,330	33,016,679	(6,583,227)		26,433,452
28. 1995 I.P.	4,084,240	741,202,673	1	3,300	1,754,376	(915,230)		839,146
29. 1994 S.P.	150,898,777	27,384,916,356	1	3,222,024	33,106,679	(2,103,085)		31,003,594
30. 1994 I.P.	6,234,623	1,131,451,344	1	6,967	939,370	341,593		1,280,963
31. 1993 S.P.	208,976,658	37,924,815,635	1	4,511,468	42,904,306	31,943		42,936,249
32. 1993 I.P.	2,931,355	531,978,532	1	883	565,348	36,927		602,275
33. 1992 S.P.	175,926,096	31,926,842,042	1	2,809,769	33,733,396	2,412,300		36,145,696
34. 1992 I.P.	2,764,170	501,637,957	1	1,958	460,796	107,129		567,925
35. 1991 S.P.	93,542,058	16,975,892,610	1	728,553	20,365,326	(1,146,217)		19,219,109
36. 1991 I.P.	7,778,768	1,411,680,859	1		930,438	667,784		1,598,222
37. 1990 S.P.	86,455,964	15,689,917,257	1	718,351	16,152,965	1,610,238		17,763,203
38. 1990 I.P.	10,495,584	1,904,725,162	1	104,384	1,449,673	706,745		2,156,418
39. 1989 S.P.	65,956,953	11,969,783,164	1	529,540	14,290,116	(738,630)		13,551,486
40. 1989 I.P.	10,907,299	1,979,442,589	1	10,863	1,537,713	703,296		2,241,009
41. Prior to 1989 S.P.	392,811,203	71,286,872,771	1	1,023,870	21,927,267	79,881,891		101,809,158
42. Prior to 1989 I.P.	49,378,500	8,961,146,841	1	18,168	2,753,743	10,041,686		12,795,429
43. Totals	4,480,170,068	813,055,512,124	1	189,853,554	975,921,222	(31,675,029)		944,246,193

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3B

SPECIAL REVENUE BONDS

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	305,932,854	55,520,301,471	1	5,675,119		62,856,825		62,856,825
2. 2008 I.P.	331,314	60,126,352	1	187,765		68,072		68,072
3. 2007 S.P.	144,408,538	26,207,076,138	1	7,298,263	26,537,021	3,133,091		29,670,112
4. 2007 I.P.	14,155,015	2,568,833,985	1	6,086,374	5,633,059	(2,724,776)		2,908,283
5. 2006 S.P.	181,573,782	32,951,776,841	1	10,597,901	18,138,330	19,167,736		37,306,066
6. 2006 I.P.	50,115,247	9,094,850,668	1	5,900,308	5,307,540	4,989,116		10,296,656
7. 2005 S.P.	223,528,620	40,565,686,927	1	10,579,182	24,898,492	21,027,596		45,926,088
8. 2005 I.P.	24,195,201	4,390,914,092	1	10,043,395	5,331,971	(360,836)		4,971,135
9. 2004 S.P.	151,495,163	27,493,147,635	1	7,714,073	16,697,203	14,428,924		31,126,127
10. 2004 I.P.	69,542,953	12,620,565,849	1	13,991,716	1,270,556	13,017,707		14,288,263
11. 2003 S.P.	205,916,420	37,369,447,459	1	13,519,866	23,069,387	19,238,107		42,307,494
12. 2003 I.P.	163,969,383	29,756,953,122	1	26,858,117	5,591,817	28,097,258		33,689,075
13. 2002 S.P.	136,127,352	24,704,217,084	1	7,594,941	21,150,641	6,818,023		27,968,664
14. 2002 I.P.	10,608,880	1,925,285,947	1	854,473	1,601,958	577,738		2,179,696
15. 2001 S.P.	159,918,617	29,021,825,351	1	13,868,893	15,837,707	17,019,099		32,856,806
16. 2001 I.P.	10,850,343	1,969,106,301	1	1,110,949	1,021,681	1,207,626		2,229,307
17. 2000 S.P.	134,416,625	24,393,756,521	1	208,769	12,827,161	14,790,017		27,617,178
18. 2000 I.P.	12,494,512	2,267,487,943	1	1,431,989	1,805,684	761,433		2,567,117
19. 1999 S.P.	157,745,423	28,627,436,886	1	7,752,272	16,890,773	15,519,530		32,410,303
20. 1999 I.P.	15,242,108	2,766,118,140	1	2,172,419	1,171,269	1,960,368		3,131,637
21. 1998 S.P.	182,846,786	33,182,799,935	1	9,574,703	38,701,057	(1,133,440)		37,567,617
22. 1998 I.P.	30,376,404	5,512,670,854	1	2,784,711	3,110,648	3,130,474		6,241,122
23. 1997 S.P.	216,865,052	39,356,391,255	1	8,559,746	34,581,303	9,975,692		44,556,995
24. 1997 I.P.	9,102,459	1,651,902,550	1	362,922	1,319,518	550,669		1,870,187
25. 1996 S.P.	162,307,961	29,455,440,432	1	5,531,700	23,166,284	10,181,436		33,347,720
26. 1996 I.P.	5,120,310	929,227,338	1	367,631	351,879	700,138		1,052,017
27. 1995 S.P.	125,232,028	22,726,947,699	1	2,199,088	17,550,220	8,179,895		25,730,115
28. 1995 I.P.	10,298,623	1,868,980,798	1	222,049	1,017,396	1,098,554		2,115,950
29. 1994 S.P.	103,174,499	18,723,975,606	1	2,368,585	16,139,215	5,058,971		21,198,186
30. 1994 I.P.	6,968,362	1,264,609,420	1	16,077	402,490	1,029,227		1,431,717
31. 1993 S.P.	185,434,241	33,652,368,066	1	3,188,160	27,633,252	10,465,983		38,099,235
32. 1993 I.P.	2,594,610	470,866,435	1	2,962	270,522	262,565		533,087
33. 1992 S.P.	129,039,739	23,417,966,122	1	1,686,236	17,771,438	8,741,008		26,512,446
34. 1992 I.P.	2,610,419	473,735,447	1		441,552	94,783		536,335
35. 1991 S.P.	93,763,745	17,016,124,012	1	508,305	13,305,060	5,959,596		19,264,656
36. 1991 I.P.	8,449,989	1,533,493,148	1	265,489	764,877	971,254		1,736,131
37. 1990 S.P.	66,369,169	12,044,591,644	1	516,314	9,844,108	3,792,071		13,636,179
38. 1990 I.P.	788,530	143,101,498	1		131,823	30,188		162,011
39. 1989 S.P.	53,410,831	9,692,929,033	1	260,408	7,828,856	3,144,909		10,973,765
40. 1989 I.P.	6,176,034	1,120,818,711	1	111,532	456,990	811,935		1,268,925
41. Prior to 1989 S.P.	184,031,591	33,397,816,769	1	181,323	9,161,570	37,466,636		46,628,206
42. Prior to 1989 I.P.	130,001,035	23,592,420,899	1	1,910,012	9,012,452	26,370,898		35,383,350
43. Totals	3,887,530,767	705,504,092,383	1	194,064,737	437,744,760	378,476,096		816,220,856

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3C

INDUSTRIAL DEVELOPMENT BONDS - TYPE I

	1	2	3	4	5	Current Year		8
Calendar Year Written	Net Premiums Written	Net Principal Guaranteed	Average Premium (Cols. 1/2)	Current Year Earned Premium	Prior Year Reserve	6 Addition to Reserve	7 Withdrawals from Reserve	Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	203,640	36,956,328	1	9,736		41,840		41,840
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.								
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.	535,110	97,111,145	1		55,539	54,405		109,944
10. 2004 I.P.								
11. 2003 S.P.				28,058				
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.								
16. 2001 I.P.								
17. 2000 S.P.	811,665	147,299,919	1		342,989	(176,225)		166,764
18. 2000 I.P.								
19. 1999 S.P.	49,208	8,930,153	1		7,356	2,754		10,110
20. 1999 I.P.								
21. 1998 S.P.								
22. 1998 I.P.								
23. 1997 S.P.								
24. 1997 I.P.								
25. 1996 S.P.								
26. 1996 I.P.								
27. 1995 S.P.								
28. 1995 I.P.								
29. 1994 S.P.								
30. 1994 I.P.								
31. 1993 S.P.								
32. 1993 I.P.								
33. 1992 S.P.								
34. 1992 I.P.								
35. 1991 S.P.								
36. 1991 I.P.								
37. 1990 S.P.								
38. 1990 I.P.								
39. 1989 S.P.								
40. 1989 I.P.								
41. Prior to 1989 S.P.	34,633	6,285,096	1		4,955	6,929		11,884
42. Prior to 1989 I.P.								
43. Totals	1,634,256	296,582,641	1	37,794	410,839	(70,297)		340,542

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3D

INDUSTRIAL DEVELOPMENT BONDS - TYPE II

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year: 6 Addition to Reserve	Current Year: 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	8,779,402	1,593,274,517	1	103,488		1,803,812		1,803,812
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.	182,599	33,137,764	1	163,550	124,424	(86,907)		37,517
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.	4,262,052	773,471,759	1	121,872	395,243	480,436		875,679
10. 2004 I.P.	3,786,048	687,087,128	1	1,157,623	514,553	263,327		777,880
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.	745,695	135,327,697	1	29,630	79,632	73,578		153,210
14. 2002 I.P.								
15. 2001 S.P.	1,951,005	354,065,821	1	97,764	223,481	177,372		400,853
16. 2001 I.P.	2,487,043	451,345,311	1	388,880	324,550	186,437		510,987
17. 2000 S.P.	9,175,367	1,665,133,865	1	342,055	1,190,491	694,676		1,885,167
18. 2000 I.P.	1,806,513	327,843,737	1	229,932	475,555	(104,390)		371,165
19. 1999 S.P.	2,704,659	490,838,110	1	69,327	462,962	92,736		555,698
20. 1999 I.P.	1,113,681	202,109,389	1	217,733	352,727	(123,911)		228,816
21. 1998 S.P.	3,921,211	711,616,346	1	117,946	594,958	210,692		805,650
22. 1998 I.P.	834,493	151,442,729	1	117,708	96,194	75,261		171,455
23. 1997 S.P.	4,639,428	841,957,439	1	132,270	636,800	316,415		953,215
24. 1997 I.P.	4,135,832	750,565,468	1	(18,813)	728,156	121,590		849,746
25. 1996 S.P.	4,920,562	892,977,188	1	46,882	831,944	179,032		1,010,976
26. 1996 I.P.	1,884,291	341,958,622	1	77,390	485,689	(98,544)		387,145
27. 1995 S.P.	9,940,694	1,804,024,311	1	45,862	1,575,354	467,056		2,042,410
28. 1995 I.P.	2,653,001	481,463,250	1	68,786	572,698	(27,614)		545,084
29. 1994 S.P.	17,499,792	3,175,839,864	1	163,570	2,541,050	1,054,449		3,595,499
30. 1994 I.P.	1,449,882	263,122,704	1		316,173	(18,281)		297,892
31. 1993 S.P.	18,059,097	3,277,341,716	1	83,895	2,932,648	777,766		3,710,414
32. 1993 I.P.	321,859	58,410,487	1	(3,296)	21,032	45,097		66,129
33. 1992 S.P.	7,951,212	1,442,975,698	1		1,127,366	506,286		1,633,652
34. 1992 I.P.	705,568	128,045,544	1		126,434	18,532		144,966
35. 1991 S.P.	8,504,555	1,543,395,662	1	315,277	1,121,730	625,612		1,747,342
36. 1991 I.P.	946,869	171,836,490	1		80,591	113,952		194,543
37. 1990 S.P.	3,471,225	629,953,454	1		486,834	226,362		713,196
38. 1990 I.P.	1,001,578	181,765,019	1		127,591	78,193		205,784
39. 1989 S.P.	829,757	150,583,288	1	924	156,553	13,929		170,482
40. 1989 I.P.	971,226	176,256,794	1		165,390	34,158		199,548
41. Prior to 1989 S.P.	5,706,287	1,035,569,695	1	2,695	538,848	1,152,139		1,690,987
42. Prior to 1989 I.P.	2,884,589	523,491,579	1		212,527	584,671		797,198
43. Totals	140,227,072	25,448,228,445	1	4,072,950	19,620,178	9,913,919		29,534,097

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3E

INDUSTRIAL DEVELOPMENT BONDS - TYPE III

	1	2	3	4	5	Current Year		8
Calendar Year Written	Net Premiums Written	Net Principal Guaranteed	Average Premium (Cols. 1/2)	Current Year Earned Premium	Prior Year Reserve	6 Addition to Reserve	7 Withdrawals from Reserve	Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.								
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.								
10. 2004 I.P.								
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.	163,865	29,738,081	1	6,097	22,107	11,561		33,668
16. 2001 I.P.								
17. 2000 S.P.	338,281	61,390,723	1	10,300	61,458	8,045		69,503
18. 2000 I.P.								
19. 1999 S.P.					1,827	(1,827)		
20. 1999 I.P.								
21. 1998 S.P.								
22. 1998 I.P.								
23. 1997 S.P.					19,656	(19,656)		
24. 1997 I.P.								
25. 1996 S.P.	144,389	26,203,610	1		20,334	9,332		29,666
26. 1996 I.P.								
27. 1995 S.P.	177,630	32,236,096	1		34,988	1,508		36,496
28. 1995 I.P.								
29. 1994 S.P.	35,270				1,474	(1,474)		
30. 1994 I.P.		6,400,844				7,247		7,247
31. 1993 S.P.					74,858	(74,858)		
32. 1993 I.P.								
33. 1992 S.P.	7,689	1,395,389	1		216,593	(215,013)		1,580
34. 1992 I.P.	22,348	4,055,716	1			4,592		4,592
35. 1991 S.P.	28,962	5,255,992	1	242	1,966	3,985		5,951
36. 1991 I.P.								
37. 1990 S.P.	1,538	279,191	1	35	5,897	(5,581)		316
38. 1990 I.P.								
39. 1989 S.P.	7,236	1,313,197	1		3,440	(1,953)		1,487
40. 1989 I.P.	20,558	3,730,904	1			4,224		4,224
41. Prior to 1989 S.P.	1,865,574	338,561,956	1		5,518	383,092		388,610
42. Prior to 1989 I.P.	368,814	66,931,938	1		152,754	70,030		222,784
43. Totals	3,182,154	577,493,637	1	16,674	622,870	183,254		806,124

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

Attachment 9

CONTINGENCY RESERVE FOR MUNICIPAL OBLIGATIONS

PART 3F

TOTALS - ALL MUNICIPAL BONDS WRITTEN

	1	2	3	4	5	Current Year		8
Calendar Year Written	Net Premiums Written	Net Principal Guaranteed	Average Premium (Cols. 1/2)	Current Year Earned Premium	Prior Year Reserve	6 Addition to Reserve	7 Withdrawals from Reserve	Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	997,973,766	181,110,997,613	1	24,573,263		205,043,235		205,043,235
2. 2008 I.P.	331,314	60,126,352	1	187,765		68,072		68,072
3. 2007 S.P.	343,238,524	62,290,486,787	1	17,361,666	98,743,980	(28,222,349)		70,521,631
4. 2007 I.P.	18,787,409	3,409,514,799	1	10,612,192	7,610,465	(3,750,413)		3,860,052
5. 2006 S.P.	335,512,254	60,888,333,109	1	17,253,263	86,007,240	(17,073,045)		68,934,195
6. 2006 I.P.	53,345,240	9,681,025,619	1	8,359,287	7,181,022	3,779,267		10,960,289
7. 2005 S.P.	449,097,939	81,501,717,396	1	25,467,874	115,457,781	(23,186,323)		92,271,458
8. 2005 I.P.	27,764,537	5,038,672,617	1	11,804,294	6,266,529	(562,040)		5,704,489
9. 2004 S.P.	419,485,755	76,127,736,219	1	25,285,290	99,757,188	(13,569,836)		86,187,352
10. 2004 I.P.	83,167,313	15,093,097,231	1	16,652,046	5,009,126	12,078,392		17,087,518
11. 2003 S.P.	527,685,241	95,763,640,068	1	37,366,752	107,696,307	721,662		108,417,969
12. 2003 I.P.	172,066,259	31,226,363,739	1	28,970,966	8,765,110	26,587,545		35,352,655
13. 2002 S.P.	371,730,460	67,461,166,594	1	25,161,795	87,627,274	(11,251,703)		76,375,571
14. 2002 I.P.	21,815,552	3,959,058,423	1	2,261,643	6,299,749	(1,817,536)		4,482,213
15. 2001 S.P.	318,404,327	57,783,608,523	1	19,001,297	63,511,756	1,907,452		65,419,208
16. 2001 I.P.	30,337,177	5,505,551,767	1	4,536,097	6,490,070	(257,008)		6,233,062
17. 2000 S.P.	241,010,148	43,738,212,128	1	4,759,685	43,573,205	5,944,630		49,517,835
18. 2000 I.P.	22,967,043	4,168,029,576	1	2,705,158	5,349,673	(630,875)		4,718,798
19. 1999 S.P.	284,824,036	51,689,500,483	1	15,552,017	51,363,459	7,156,358		58,519,817
20. 1999 I.P.	24,731,166	4,488,180,197	1	3,090,991	5,324,161	(242,907)		5,081,254
21. 1998 S.P.	356,022,723	64,610,546,713	1	21,963,371	93,032,166	(19,883,900)		73,148,266
22. 1998 I.P.	41,805,432	7,586,796,136	1	3,361,171	6,960,245	1,629,080		8,589,325
23. 1997 S.P.	415,502,187	75,404,803,495	1	17,265,957	78,158,015	7,210,875		85,368,890
24. 1997 I.P.	23,501,490	4,265,020,260	1	762,962	5,707,670	(879,065)		4,828,605
25. 1996 S.P.	326,586,566	59,268,510,753	1	11,043,744	64,617,789	2,482,538		67,100,327
26. 1996 I.P.	13,442,057	2,439,447,155	1	670,205	3,584,615	(822,816)		2,761,799
27. 1995 S.P.	264,005,618	47,911,400,611	1	6,455,280	52,177,241	2,065,233		54,242,474
28. 1995 I.P.	17,035,864	3,091,646,721	1	294,135	3,344,470	155,711		3,500,181
29. 1994 S.P.	271,608,338	49,284,731,826	1	5,754,179	51,788,418	4,008,861		55,797,279
30. 1994 I.P.	14,652,867	2,665,584,312	1	23,044	1,658,033	1,359,785		3,017,818
31. 1993 S.P.	412,469,996	74,854,525,417	1	7,783,523	73,545,064	11,200,833		84,745,897
32. 1993 I.P.	5,847,824	1,061,255,454	1	549	856,902	344,589		1,201,491
33. 1992 S.P.	312,924,736	56,789,179,251	1	4,496,005	52,848,793	11,444,581		64,293,374
34. 1992 I.P.	6,102,505	1,107,474,664	1	1,958	1,028,782	225,036		1,253,818
35. 1991 S.P.	195,839,320	35,540,668,276	1	1,552,377	34,794,082	5,442,975		40,237,057
36. 1991 I.P.	17,175,626	3,117,010,497	1	265,489	1,775,906	1,752,990		3,528,896
37. 1990 S.P.	156,297,896	28,364,741,546	1	1,234,700	26,489,804	5,623,091		32,112,895
38. 1990 I.P.	12,285,692	2,229,591,679	1	104,384	1,709,087	815,126		2,524,213
39. 1989 S.P.	120,204,777	21,814,608,682	1	790,872	22,278,965	2,418,254		24,697,219
40. 1989 I.P.	18,075,117	3,280,248,998	1	122,395	2,160,093	1,553,612		3,713,705
41. Prior to 1989 S.P.	584,449,288	106,065,106,287	1	1,207,888	31,638,157	118,890,688		150,528,845
42. Prior to 1989 I.P.	182,632,938	33,143,991,257	1	1,928,180	12,131,476	37,067,286		49,198,762
43. Totals	8,512,744,317	1,544,881,909,230	1	388,045,709	1,434,319,868	356,827,941		1,791,147,809

S.P. = Single Premiums

I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

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CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4A

CORPORATE OBLIGATIONS TYPE I

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	2,118,454	157,117,362	1	35,004		177,879		177,879
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.	6,011			4,732				
5. 2006 S.P.								
6. 2006 I.P.	6,403,016	465,215,069	1	2,701,929	552,142	(25,453)		526,689
7. 2005 S.P.	1,869,752	318,343,920	1	537,875	384,294	(23,884)		360,410
8. 2005 I.P.	13,413,073	604,263,889	2	3,383,309	701,709	(17,597)		684,112
9. 2004 S.P.	252,000	62,500,000	0		75,615	(4,856)		70,759
10. 2004 I.P.	19,611,086	664,292,659	3	2,528,450	784,066	(31,993)		752,073
11. 2003 S.P.	1,616,890	30,000,000	5		36,295	(2,331)		33,964
12. 2003 I.P.	21,722,439	618,102,185	4		747,806	(48,027)		699,779
13. 2002 S.P.	3,068,624	201,435,074	2	248,404	239,953	(11,900)		228,053
14. 2002 I.P.	21,783,015	1,047,282,407	2		1,267,047	(81,375)		1,185,672
15. 2001 S.P.	2,790,601	405,382,694	1	66,481	490,449	(31,499)		458,950
16. 2001 I.P.	12,575,505	763,859,905	2		924,150	(59,353)		864,797
17. 2000 S.P.	3,557,842	270,442,659	1		327,193	(21,014)		306,179
18. 2000 I.P.	10,629,724	948,784,995	1		1,147,881	(73,722)		1,074,159
19. 1999 S.P.	777,125	145,425,897	1		175,942	(11,299)		164,643
20. 1999 I.P.	10,982,354	960,935,047	1		1,162,580	(74,666)		1,087,914
21. Prior to 1999 S.P.	18,562,447	2,857,901,045	1		3,457,611	(222,063)		3,235,548
22. Prior to 1999 I.P.	42,345,377	4,542,146,993	1		5,495,284	(352,932)		5,142,352
23. Totals	194,085,335	15,063,431,800	1	9,506,184	17,970,017	(916,085)		17,053,932

CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4B

CORPORATE OBLIGATIONS TYPE II

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	2,102,069	87,010,384	2	11,187		98,508		98,508
2. 2008 I.P.								
3. 2007 S.P.	7,229,752	193,180,218	4	184,084	136,930	81,777		218,707
4. 2007 I.P.	18,848,046	4,982,137,657	0	12,429,157	6,077,014	(436,530)		5,640,484
5. 2006 S.P.	4,179,784	365,743,451	1	113,480	434,674	(20,601)		414,073
6. 2006 I.P.	15,553,126	2,152,131,142	1	6,060,351	2,407,706	28,810		2,436,516
7. 2005 S.P.	12,049,732	821,465,898	1	342,101	985,168	(55,153)		930,015
8. 2005 I.P.	20,661,523	693,162,043	3	8,985,746	807,089	(22,332)		784,757
9. 2004 S.P.	10,667,427	469,733,767	2	303,938	560,159	(28,354)		531,805
10. 2004 I.P.	23,307,494	1,419,323,197	2	5,231,703	1,570,437	36,437		1,606,874
11. 2003 S.P.								
12. 2003 I.P.	39,317,358	1,471,838,097	3	5,514,011	1,540,395	125,934		1,666,329
13. 2002 S.P.	1,302,279	68,886,146	2	20,294	83,341	(5,352)		77,989
14. 2002 I.P.	1,657,655	66,693,968	2	184,750	80,081	(4,574)		75,507
15. 2001 S.P.	45,195,613	1,922,930,403	2	6,152,135	2,311,108	(134,079)		2,177,029
16. 2001 I.P.	26,722,373	521,873,948	5	9,130,075	479,196,293	(439,889,715)		39,306,578
17. 2000 S.P.	27,793,371	1,632,204,550	2	811,658	1,921,244	(73,358)		1,847,886
18. 2000 I.P.	14,533,513	360,487,835	4	168,471	430,284	(22,161)		408,123
19. 1999 S.P.	11,101,726	501,354,339	2	180,923	603,929	(36,325)		567,604
20. 1999 I.P.	21,080,185	914,548,525	2	141,720	1,106,460	(71,062)		1,035,398
21. Prior to 1999 S.P.	132,685,423	5,751,713,200	2	5,136,490	6,957,290	(445,538)		6,511,752
22. Prior to 1999 I.P.	85,611,112	3,532,766,834	2	963,014	4,273,794	(274,203)		3,999,591
23. Totals	521,599,561	27,929,185,602	2	62,065,288	511,483,396	(441,147,871)		70,335,525

S.P. = Single Premiums
I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

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CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4C

CORPORATE OBLIGATIONS TYPE III

	1	2	3	4	5	Current Year		8
Calendar Year Written	Net Premiums Written	Net Principal Guaranteed	Average Premium (Cols. 1/2)	Current Year Earned Premium	Prior Year Reserve	6 Addition to Reserve	7 Withdrawals from Reserve	Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.	346,000	17,000,000	2	6,892	117,355	(98,109)		19,246
4. 2007 I.P.	3,019,000	100,000,000	3	847,108		113,214		113,214
5. 2006 S.P.								
6. 2006 I.P.					187,284	(187,284)		
7. 2005 S.P.								
8. 2005 I.P.	13,469,684	713,257,576	2	4,618,215	725,906	81,602		807,508
9. 2004 S.P.								
10. 2004 I.P.	4,070,149	13,975,837	29	105,782	16,909	(1,086)		15,823
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.								
16. 2001 I.P.	9,574,059	90,000,000	11		108,886	(6,993)		101,893
17. 2000 S.P.					26,268	(26,268)		
18. 2000 I.P.	59,498	13,612,352	0		16,469	(1,058)		15,411
19. 1999 S.P.								
20. 1999 I.P.	1,115,126	24,874,999	4		30,095	(1,933)		28,162
21. Prior to 1999 S.P.	14,922,210	1,328,538,449	1	24,036	1,608,291	(104,198)		1,504,093
22. Prior to 1999 I.P.	15,102,260	735,345,351	2		889,652	(57,137)		832,515
23. Totals	61,677,986	3,036,604,564	2	5,602,033	3,727,115	(289,250)		3,437,865

CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4D

CONSUMER DEBT OBLIGATIONS

	1	2	3	4	5	Current Year		8
Calendar Year Written	Net Premiums Written	Net Principal Guaranteed	Average Premium (Cols. 1/2)	Current Year Earned Premium	Prior Year Reserve	6 Addition to Reserve	7 Withdrawals from Reserve	Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.								
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.								
10. 2004 I.P.								
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.								
16. 2001 I.P.								
17. 2000 S.P.								
18. 2000 I.P.								
19. 1999 S.P.								
20. 1999 I.P.								
21. Prior to 1999 S.P.								
22. Prior to 1999 I.P.								
23. Totals								

S.P. = Single Premiums
I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

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CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4E

PASS - THROUGH SECURITIES

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.								
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.								
10. 2004 I.P.								
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.								
16. 2001 I.P.								
17. 2000 S.P.								
18. 2000 I.P.								
19. 1999 S.P.								
20. 1999 I.P.								
21. Prior to 1999 S.P.								
22. Prior to 1999 I.P.								
23. Totals								

CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4F

LIMITED PARTNERSHIPS

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.								
5. 2006 S.P.								
6. 2006 I.P.								
7. 2005 S.P.								
8. 2005 I.P.								
9. 2004 S.P.								
10. 2004 I.P.								
11. 2003 S.P.								
12. 2003 I.P.								
13. 2002 S.P.								
14. 2002 I.P.								
15. 2001 S.P.								
16. 2001 I.P.								
17. 2000 S.P.								
18. 2000 I.P.								
19. 1999 S.P.								
20. 1999 I.P.								
21. Prior to 1999 S.P.								
22. Prior to 1999 I.P.								
23. Totals								

S.P. = Single Premiums
I.P. = Installment Premiums

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CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4G

OTHER NON-INVESTMENT GRADE OBLIGATIONS

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.								
2. 2008 I.P.								
3. 2007 S.P.								
4. 2007 I.P.	36,157,807	19,729,859,254	0	19,871,555	692,635	21,644,353		22,336,988
5. 2006 S.P.								
6. 2006 I.P.	21,024,974	10,470,408,085	0	8,397,185	326,658	11,527,323		11,853,981
7. 2005 S.P.								
8. 2005 I.P.	21,923,719	7,748,214,644	0	3,761,406	2,760,559	6,011,515		8,772,074
9. 2004 S.P.								
10. 2004 I.P.	16,009,470	4,299,597,119	0	1,516,852	1,203,523	3,664,228		4,867,751
11. 2003 S.P.								
12. 2003 I.P.	11,179,350	1,980,700,966	1	187,415	2,468,927	(226,494)		2,242,433
13. 2002 S.P.	103,313	23,529,402	0		28,467	(1,828)		26,639
14. 2002 I.P.	20,740,718	2,651,778,251	1	456,558	2,645,569	356,619		3,002,188
15. 2001 S.P.	71,589	14,058,356	1		17,008	(1,092)		15,916
16. 2001 I.P.	25,076,547	4,174,937,829	1	1,183,368	3,030,279	1,696,340		4,726,619
17. 2000 S.P.	333,542	133,336,147	0		161,316	(10,361)		150,955
18. 2000 I.P.	60,256,278	10,125,372,566	1	1,115,245	12,043,058	(579,706)		11,463,352
19. 1999 S.P.	903,430	38,811,735	2		46,956	(3,016)		43,940
20. 1999 I.P.	61,597,941	8,115,088,685	1	1,873,294	10,623,108	(1,435,681)		9,187,427
21. Prior to 1999 S.P.	10,132,423	565,631,041	2		1,154,493	(514,119)		640,374
22. Prior to 1999 I.P.	120,623,188	18,249,030,199	1	783,488	18,195,594	2,464,886		20,660,480
23. Totals	406,134,289	88,320,354,279	0	39,146,366	55,398,150	44,592,967		99,991,117

CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4H

ALL OTHER GUARANTIES

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	2,963,530	46,707,704	6	311,692		52,880		52,880
2. 2008 I.P.								
3. 2007 S.P.	200,000	75,000,007	0	46,145	90,738	(5,827)		84,911
4. 2007 I.P.	148,903,254	64,727,830,668	0	102,730,087	95,866,848	(22,585,800)		73,281,048
5. 2006 S.P.	330,597	297,134,569	0	(826,211)	359,486	(23,088)		336,398
6. 2006 I.P.	109,259,070	40,743,278,694	0	43,890,519	60,885,667	(14,758,520)		46,127,147
7. 2005 S.P.	7,226,317	1,126,619,935	1	74,229	1,363,033	(87,540)		1,275,493
8. 2005 I.P.	177,894,737	34,938,488,974	1	41,527,097	47,119,474	(7,564,169)		39,555,305
9. 2004 S.P.	15,333,551	2,183,117,099	1	210,746	2,641,228	(169,631)		2,471,597
10. 2004 I.P.	145,322,368	34,085,191,940	0	21,429,660	44,587,849	(5,998,596)		38,589,253
11. 2003 S.P.	588,844	307,015,382	0	21,737	371,440	(23,855)		347,585
12. 2003 I.P.	255,121,397	33,743,965,985	1	21,364,381	40,695,778	(2,492,841)		38,202,937
13. 2002 S.P.	25,018,161	6,796,678,609	0	325,429	8,188,241	(493,441)		7,694,800
14. 2002 I.P.	314,641,056	60,072,792,255	1	14,371,980	72,584,388	(4,573,501)		68,010,887
15. 2001 S.P.	4,202,840	3,292,213,068	0		3,983,060	(255,810)		3,727,250
16. 2001 I.P.	288,780,605	60,946,895,960	0	4,760,091	75,601,207	(6,600,711)		69,000,496
17. 2000 S.P.	7,734,625	3,738,646,531	0	425,483	4,518,518	(285,842)		4,232,676
18. 2000 I.P.	227,850,335	44,001,006,864	1	7,518,453	52,981,959	(3,166,603)		49,815,356
19. 1999 S.P.	3,754,406	2,044,323,962	0	358	2,473,311	(158,847)		2,314,464
20. 1999 I.P.	161,427,677	35,150,680,090	0	2,103,935	41,552,172	(1,756,636)		39,795,536
21. Prior to 1999 S.P.	57,322,952	6,395,674,769	1	238,779	7,267,592	(26,785)		7,240,807
22. Prior to 1999 I.P.	564,658,375	106,704,225,912	1	2,242,300	132,885,684	(12,081,426)		120,804,258
23. Totals	2,518,534,697	541,417,488,977	0	262,766,890	696,017,673	(83,056,589)		612,961,084

S.P. = Single Premiums
I.P. = Installment Premiums

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

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CONTINGENCY RESERVE FOR NON-MUNICIPAL OBLIGATIONS

PART 4I - TOTALS - ALL NON-MUNICIPAL OBLIGATIONS WRITTEN

Calendar Year Written	1 Net Premiums Written	2 Net Principal Guaranteed	3 Average Premium (Cols. 1/2)	4 Current Year Earned Premium	5 Prior Year Reserve	Current Year 6 Addition to Reserve	Current Year 7 Withdrawals from Reserve	8 Contingency Reserve (Cols. 5 + 6 - 7)
1. 2008 S.P.	7,184,053	290,835,450	2	357,883		329,267		329,267
2. 2008 I.P.								
3. 2007 S.P.	7,775,752	285,180,225	3	237,121	345,023	(22,159)		322,864
4. 2007 I.P.	206,934,118	89,539,827,579	0	135,882,639	102,636,497	(1,264,763)		101,371,734
5. 2006 S.P.	4,510,381	662,878,020	1	(712,731)	794,160	(43,688)		750,472
6. 2006 I.P.	152,240,186	53,831,032,990	0	61,049,984	64,359,457	(3,415,123)		60,944,334
7. 2005 S.P.	21,145,801	2,266,429,753	1	954,205	2,732,495	(166,576)		2,565,919
8. 2005 I.P.	247,362,736	44,697,387,126	1	62,275,773	52,114,737	(1,510,980)		50,603,757
9. 2004 S.P.	26,252,978	2,715,350,866	1	514,684	3,277,002	(202,841)		3,074,161
10. 2004 I.P.	208,320,567	40,482,380,752	1	30,812,447	48,162,784	(2,331,010)		45,831,774
11. 2003 S.P.	2,205,734	337,015,382	1	21,737	407,735	(26,186)		381,549
12. 2003 I.P.	327,340,544	37,814,607,233	1	27,065,807	45,452,906	(2,641,429)		42,811,477
13. 2002 S.P.	29,492,377	7,090,529,231	0	594,127	8,540,002	(512,521)		8,027,481
14. 2002 I.P.	358,822,444	63,838,546,881	1	15,013,288	76,577,085	(4,302,831)		72,274,254
15. 2001 S.P.	52,260,643	5,634,584,521	1	6,218,616	6,801,625	(422,479)		6,379,146
16. 2001 I.P.	362,729,089	66,497,567,642	1	15,073,534	558,860,815	(444,860,431)		114,000,384
17. 2000 S.P.	39,419,380	5,774,629,887	1	1,237,141	6,954,539	(416,842)		6,537,697
18. 2000 I.P.	313,329,348	55,449,264,612	1	8,802,169	66,619,651	(3,843,250)		62,776,401
19. 1999 S.P.	16,536,687	2,729,915,933	1	181,281	3,300,138	(209,488)		3,090,650
20. 1999 I.P.	256,203,283	45,166,127,346	1	4,118,949	54,474,415	(3,339,978)		51,134,437
21. Prior to 1999 S.P.	233,625,455	16,899,458,504	1	5,399,305	20,445,277	(1,312,703)		19,132,574
22. Prior to 1999 I.P.	828,340,312	133,763,515,289	1	3,988,802	161,740,008	(10,300,817)		151,439,191
23. Totals	3,702,031,868	675,767,065,222	1	379,086,761	1,284,596,351	(480,816,828)		803,779,523

S.P. = Single Premiums
I.P. = Installment Premiums

PART 5 - MUNICIPAL BOND EXPOSURES WRITTEN

PART 5A - GROSS EXPOSURES WRITTEN DURING YEAR

	1 Direct Exposure Written	2 Assumed Exposure Written	3 Ceded Exposure Written	4 Net Exposure Written (Cols. 1 + 2 - 3)
1. MUNIC OBLIGATION BONDS	3,561,171,891	242,144,341,277	6,353,249,556	239,352,263,612
2. SPECIAL REVENUE BONDS	3,847,375,925	55,390,926,453	5,761,809,880	53,476,492,498
3. IDB'S - TYPE I		39,003,586		39,003,586
4. IDB'S - TYPE II		2,098,757,735	316,617,652	1,782,140,083
5. IDB'S - TYPE III				
6. TOTAL MUNICIPAL BONDS	7,408,547,816	299,673,029,051	12,431,677,088	294,649,899,779

PART 5B - NET OUTSTANDING EXPOSURE

	1 Net Outstanding Exposure (Part 5A, Col. 4)	2 Less Collateral Held	3 Exposures Net of Collateral	4 Net Exposure Prior Year	5 Net Exposure Expired During Year	6 Net Outstanding Exposure
1. MUNIC OBLIGATION BONDS	239,352,263,612		239,352,263,612	465,894,583,056	22,360,806,629	682,886,040,039
2. SPECIAL REVENUE BONDS	53,476,492,498		53,476,492,498	213,880,959,719	21,571,329,275	245,786,122,942
3. IDB'S - TYPE I	39,003,586		39,003,586	32,531,250	2,104,301	69,430,535
4. IDB'S - TYPE II	1,782,140,083		1,782,140,083	7,472,109,328	444,097,779	8,810,151,632
5. IDB'S - TYPE III				87,837,306	2,254,216	85,583,090
6. TOTAL MUNICIPAL BONDS	294,649,899,779		294,649,899,779	687,368,020,659	44,380,592,200	937,637,328,238

PART 5C - BREAKDOWN OF NET OUTSTANDING EXPOSURES AT YEAR-END

	1 Direct Exposure	2 Assumed Exposure	Ceded Exposure 3 Authorized	Ceded Exposure 4 Unauthorized	5 Net Outstanding Exposure (Part 5B, Col. 6) (Cols. 1 + 2 - 3 - 4)
1. MUNIC OBLIGATION BONDS	468,446,082,099	236,818,523,451	7,366,322,843	15,012,242,667	682,886,040,040
2. SPECIAL REVENUE BONDS	208,458,067,299	54,835,522,371	7,396,933,901	10,110,532,827	245,786,122,942
3. IDB'S - TYPE I	31,518,750	37,919,412	7,627		69,430,535
4. IDB'S - TYPE II	7,472,547,361	2,084,410,350	336,278,000	410,528,080	8,810,151,631
5. IDB'S - TYPE III	85,592,494		9,404		85,583,090
6. TOTAL MUNICIPAL BONDS	684,493,808,003	293,776,375,584	15,099,551,775	25,533,303,574	937,637,328,238

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

NON-MUNICIPAL BOND EXPOSURES WRITTEN

PART 6A - GROSS EXPOSURES WRITTEN DURING YEAR

	1 Direct Exposure Written	2 Assumed Exposure Written	3 Ceded Exposure Written	4 Net Exposure Written (Cols. 1 + 2 - 3)
1. CORP OBLIGATION BONDS - TYPE I	(4,660,965)	232,705,097	57,938,177	170,105,955
2. CORP OBLIGATION BONDS - TYPE II	(2,095,937)	188,154,077	767,461,490	(581,403,350)
3. CORP OBLIGATION BONDS - TYPE III			258,337,391	(258,337,391)
4. CONSUMER DEBT OBLIGATIONS				
5. PASS THROUGH SECURITIES				
6. LIMITED PARTNERSHIPS				
7. OTHER NON-INVESTMENT GRADE OBLIGATIONS	682,125,095		1,429,490,867	(747,365,772)
8. ALL OTHER GUARANTEES	2,910,552,530		8,297,763,144	(5,387,210,614)
9. TOTAL NON-MUNICIPAL BONDS	3,585,920,723	420,859,174	10,810,991,069	(6,804,211,172)

PART 6B - NET OUTSTANDING EXPOSURE

	1 Net Outstanding Exposure (Part 6A, Col. 4)	2 Less Collateral Held	3 Exposures Net of Collateral	4 Net Exposure Prior Year	5 Net Exposure Expired During Year	6 Net Outstanding Exposure
1. CORP OBLIGATION BONDS - TYPE I	170,105,955		170,105,955	1,760,166,355	298,177,187	1,632,095,123
2. CORP OBLIGATION BONDS - TYPE II	(581,403,350)		(581,403,350)	28,652,425,855	306,782,889	27,764,239,616
3. CORP OBLIGATION BONDS - TYPE III	(258,337,391)		(258,337,391)	1,663,222,271	(471,791,819)	1,876,676,699
4. CONSUMER DEBT OBLIGATIONS						
5. PASS THROUGH SECURITIES						
6. LIMITED PARTNERSHIPS						
7. OTHER NON-INVESTMENT GRADE OBLIGATIONS	(747,365,772)		(747,365,772)	40,503,506,601	6,184,107,422	33,572,033,407
8. ALL OTHER GUARANTEES	(5,387,210,614)		(5,387,210,614)	208,181,255,657	6,928,272,389	195,865,772,654
9. TOTAL NON-MUNICIPAL BONDS	(6,804,211,172)		(6,804,211,172)	280,760,576,739	13,245,548,068	260,710,817,499

PART 6C - BREAKDOWN OF NET OUTSTANDING EXPOSURES AT YEAR-END

	1	2	Ceded Exposure		5
	Direct Exposure	Assumed Exposure	3 Authorized	4 Unauthorized	Net Outstanding Exposure (Part 6B, Col. 6) (Cols. 1 + 2 - 3 - 4)
1. CORP OBLIGATION BONDS - TYPE I	1,781,801,606	228,774,303	2,759,358	375,721,428	1,632,095,123
2. CORP OBLIGATION BONDS - TYPE II	30,020,057,729	1,783,623,081	1,185,304,813	2,854,136,381	27,764,239,616
3. CORP OBLIGATION BONDS - TYPE III	2,188,582,370			311,905,671	1,876,676,699
4. CONSUMER DEBT OBLIGATIONS					
5. PASS THROUGH SECURITIES					
6. LIMITED PARTNERSHIPS					
7. OTHER NON-INVESTMENT GRADE OBLIGATIONS	36,372,364,277		286,801,525	2,513,529,345	33,572,033,407
8. ALL OTHER GUARANTEES	223,957,688,070	1,085,591,864	1,405,478,791	27,772,028,489	195,865,772,654
9. TOTAL NON-MUNICIPAL BONDS	294,320,494,052	3,097,989,248	2,880,344,487	33,827,321,314	260,710,817,499

Attachment 9

SUPPLEMENTAL EXHIBIT FOR THE YEAR 2008 OF THE MBIA Insurance Corporation

PART 7 - LOSS DEVELOPMENT (000 omitted)

	Losses paid during the year less reinsurance received during the year			Salvage and subrogation received in the current year			7	8	Losses unpaid December 31 of current year				Development		Estimated Liability on unpaid losses		Change in such estimated liability	
	1	2	3	4	5	6			9	10	11	12	13	14	15	16	17	18
	On losses incurred during 2008	On losses incurred during 2007	On losses incurred prior to 2007	On losses incurred during 2008	On losses incurred during 2007	On losses incurred prior to 2007	Total (Cols. 1 + 2 + 3 - 4 - 5 - 6)	Losses paid during 2007 on losses incurred prior to 2007	On losses incurred during 2008	On losses incurred during 2007	On losses incurred prior to 2007	Total Per Col. 5, Part 3A (Cols. 9 + 10 + 11)	On losses incurred prior to 2008 (Cols. 2 + 3 + 10 + 11)	On losses incurred prior to 2007 (Cols. 3 + 8 + 11)	Dec. 31, 2007	Dec. 31, 2006	Dec. 31, 2007 (Col. 13 less Col. 15)	Dec. 31, 2006 (Col. 14 less Col. 16)
1. Municipal Obligation Bonds											15	15	15	15	15	15		
2. Special Revenue Bonds	5,825	266	22,980			3,423	25,648	27,387	54,866	2,100	155,050	212,016	180,395	205,416	171,779	180,137	8,617	25,279
3. IDB's - Class I																		
4. IDB's - Class II	1,183			963			220		(220)			(220)						
5. IDB's - Class III						32	(32)											
6. Total Municipal Bonds	7,007	266	22,980	963		3,455	25,835	27,387	54,646	2,100	155,065	211,811	180,410	205,431	171,794	180,152	8,617	25,279
7. Corporate Obligation Bonds - Class I																		
8. Corporate Obligation Bonds - Class II																		
9. Corporate Obligation Bonds - Class III						734	(734)				(4,266)	(4,266)	(4,266)	(4,266)	(5,000)	(5,000)	734	734
10. Consumer Debt Obligations																		
11. Pass Through Securities																		
12. Limited Partnerships																		
13. Other Non-Investment Grade Obligations	749,217	1,145,591	76,565	15,850	13,773	19,234	1,922,515	74,281	1,356,387	571,434	(94,444)	1,833,377	1,699,146	56,402	745,221	(86,967)	953,925	143,369
14. All Other Non-Municipal			231			19,409	(19,178)	1,327			14,950	14,950	15,181	16,508	3,618	(17,353)	11,563	33,861
15. Total Non-Municipal Bonds	749,217	1,145,591	76,796	15,850	13,773	39,378	1,902,603	75,608	1,356,387	571,434	(83,760)	1,844,061	1,710,061	68,644	743,840	(109,320)	966,222	177,964
16. Totals	756,225	1,145,857	99,776	16,813	13,773	42,833	1,928,438	102,995	1,411,033	573,534	71,305	2,055,872	1,890,472	274,076	915,634	70,833	974,838	203,243

Attachment 9

Ambac Financial Group, Inc.
One State Street Plaza
New York, NY 10004
212.208.3177 Fax: 212.208.3108
sleonard@ambac.com

Sean T. Leonard
Senior Vice President and
Chief Financial Officer

August 14, 2009

Ambac

Mr. Joseph Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2604

Re: Disclosures for Financial Guarantee Insurance Contracts

Dear Sir:

Ambac Assurance Corporation ("Ambac") is pleased to offer the following comments in response to the proposed disclosures for financial guarantee insurance contracts as proposed by the Financial Guarantee Subgroup. Ambac is domiciled in the State of Wisconsin and is a provider of financial guarantees to clients in both the public and private sectors.

It is our understanding that the Statutory Accounting Principles Working Group ("SAPWG"), after considering comments it received on *Issue Paper No. 136 – Accounting for Financial Guarantee Contracts* ("IP 136"), formed the Financial Guarantee Subgroup comprised of New York, Maryland and Wisconsin state insurance regulators. This Subgroup was then directed to prioritize adopting enhanced financial guarantee disclosures to be incorporated within SSAP No. 60 effective for the 2009 reporting period, which would be similar to disclosures required by FAS 163 "Accounting for Financial Guarantee Insurance Contracts, an interpretation of FASB Statement No. 60" ("FAS 163").

We believe the NAIC should consider the following issues related to the proposed enhanced financial guarantee disclosures:

- Paragraph 15.a.(1) requires the following disclosure for installment premium contracts: "The unearned premium revenue as of the reporting date, *in proportion with the amount and expected coverage period of the insured risk*, which would have been reflected if the premium had been received at inception." (emphasis added). The emphasized language is consistent with the current revenue recognition principle in paragraph 4 of SSAP 60 "Financial Guarantee Insurance" ("SSAP 60"). This suggests that the intent of this disclosure is to compute what the unearned premium revenue would have been for installment-paying policies under the <u>existing</u> SSAP 60 revenue recognition guidance for non-installment paying policies. This would impose a significant burden since it would require a significant allocation of internal resources to make the necessary system enhancements to compute a number for disclosure purposes for one period only and will be of no value to users of our financial statements to the extent some or all of the revenue recognition principles of IP 136 are adopted. Additionally, measurement assumptions regarding discount rate and weighted average life would need to be specifically addressed in such a disclosure requirement. As such, we would strongly recommend eliminating this disclosure.

Ambac

- Paragraphs 15.b., c. and e. all require the use of "expected" future premiums to be collected and/or earned. It is unclear what assumptions should be used to estimate expected premiums. We believe it seems there could be several methods used to develop an estimate including: i) use the revenue recognition principles as currently proposed in IP 136, which requires a contractual life assumption for all policies, ii) use the revenue recognition principles of FAS 163, which requires an expected or contractual life assumption depending on the type of security being insured or iii) use our own internal estimate of what we believe to be the expected life for all policies. We believe the term "expected" should be defined consistently with any revised revenue recognition measurement principles for SSAP 60. However, to the extent the NAIC is still deliberating revising IP 136 (which will ultimately impact SSAP 60), we would ask that these disclosure requirements be deferred and reconsidered at a later date.

- Paragraph 15.c. requires a rollforward of expected future premiums. It is unclear whether this rollforward should be prepared on a discounted or undiscounted basis. Additionally, as noted above, the definition of "expected" is subject to interpretation. To the extent this disclosure is to be presented on a discounted basis, we would re-emphasize that the system enhancements necessary to compute a disclosure like this are extremely onerous and would be of no value to users of our financial statements to the extent some or all of the revenue recognition principles of IP 136 are ultimately adopted. As such, we would strongly recommend eliminating this disclosure.

- The latter part of paragraph 15.d., which addresses accelerated revenue recognition, states "describe the situation impacting the future installment premiums, the monetary impact to future installment premiums and, if applicable, disclosure of any resulting premium receivables that will be earned when received." This language is somewhat confusing and it is unclear to us what we would be expected to disclose. We would strongly recommend that paragraph 15.d. be simplified and mirror the disclosure requirement in paragraph 30.d. of FAS 163.

- Paragraph 15.f. (1) requires the following disclosure: "The rate used to discount the claim liability. This rate shall equal the average rate of return on the admitted assets of the financial guaranty insurer *as of the date of the computation of the reserve*." (emphasis added). We would like to clarify that in accordance with the current guidance in SSAP 60, paragraph 7, the discount rate should only be adjusted at the end of each calendar year. As such, we would not expect to change the rate we disclose at interim reporting periods under the existing statutory accounting guidance in SSAP 60.

If a representative of the NAIC staff wishes to discuss the contents of this comment letter, please contact Sean Leonard at (212) 208-3177 (sleonard@ambac.com) or Rich Alger at (212) 208-3196 (ralger@ambac.com).

Sincerely,

Sean Leonard
Senior Vice President and
Chief Financial Officer

Attachment 9

SBLI®

THE NO NONSENSE
LIFE INSURANCE COMPANY®

August 6, 2009

Mr. Joe Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2604

Re: Ref #2009-06; Consider Increase in Admission of Deferred Tax Assets Related to Capital and Surplus Relief (EX) Working Group Recommendation

Dear Mr. Fritsch:

I am writing to you to express the views of The Savings Bank Life Insurance Company of Massachusetts ("SBLI") regarding the above-referenced matter.

SBLI joins with the others in the insurance industry that have already expressed their views on this matter by urging that the Statutory Accounting Principles Working Group ("SAPWG") take prompt and favorable action to approve the exposed amendments to SSAP 10 to increase the admissibility of deferred tax assets.

By way of background, SBLI is the leading seller of life insurance polices (based on volume) in Massachusetts. Our company is organized to provide safe, low cost life insurance. Our mission depends on our ability to fairly compete with other insurers and financial service companies. The proposed amendments to SSAP 10 will allow insurers to report their financial condition more accurately and for insurers to be treated more uniformly, regardless of their state of domicile. This will enable SBLI to fulfill its mission.

The basis for SBLI's position on this issue may be summarized briefly as follows:

Substantively, SBLI believes that the proposed amendments reflect the fact that deferred tax assets are valuable receivables. As such, deferred tax assets should be taken into consideration when a company reports its financial condition in order to give regulators and consumers an accurate summary of a company's financial strength. In addition, the revised version of the amendments, adopted by the Capital and Surplus Relief Working Group, to the original approach made by the American Council of Life Insurers, is a reasonable compromise, reflecting the best of the willingness of regulators and the industry to work together to address important emerging issues. It would be a set back in this regard if SAPWG were to now reject the Capital and Surplus Relief Working Group's compromise.

THE SAVINGS BANK LIFE INSURANCE COMPANY OF MASSACHUSETTS®
One Linscott Road, Woburn, MA 01801 • 800-795-7254

Equally important is the need for the NAIC to develop a uniform policy with respect to this matter and for that policy to be effective as of December 31, 2009, at the latest. According to the NAIC's own published information, approximately sixty-five life insurance companies obtained permission from their domicile states to use the proposed revision to SSAP 10 as a permitted accounting practice as of December 31, 2008. SBLI believes that the allowance of such permitted practices requests was completely reasonable on the merits, but the fact that some regulators permitted this while others did not creates an unlevel playing field for the industry, and for regulators as well. To restore uniformity with respect to the accounting of deferred tax assets, prompt action by SAPWG is called for.

Thank you for your consideration of this matter.

Sincerely,

Robert K. Sheridan
President and Chief Executive Officer

cc: Commissioner Nonnie S. Burnes
Robin Marcotte, NAIC

Statutory Issue Paper No. 135

Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others

Status:
Adopted Sept. 21, 2009

SUMMARY OF ISSUE:

1. In November 2002, the Financial Accounting Standards Board (FASB) issued *FASB Interpretation No. 45: Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, and 107 and rescission of FASB interpretation No. 34* (FIN 45) to elaborate on the disclosures required for obligations issued under certain guarantees and to clarify that a guarantor is required to recognize, at the inception of a guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. In November 2005, the FASB issued FASB Staff Position *FIN 45-3, Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Granted to a Business or its Owners* (FSP FIN 45-3). This FSP modified the scope of FIN 45 to expressly include guarantees granted to a business or owner guarantying that the revenue of the business (or a specific portion of the business) for a specified period will be at least a specified amount within the scope of FIN 45. For purposes of this Issue Paper, the Statutory Accounting Principles Working Group will consider FIN 45, as modified by FSP FIN 45-3 for statutory accounting.

2. Current statutory accounting guidance for guarantees is limited to the disclosure requirements in paragraph 16 of *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5). In accordance with this existing guidance, guarantees shall be disclosed in the financial statements even though the possibility of loss may be remote and disclosures are required regarding the indebtedness of others. These disclosure requirements were incorporated through the adoption of *FASB Interpretation No. 34—Disclosure of Indirect Guarantees on Indebtedness of Others, An Interpretation of FASB Statement No. 5* (FIN 34) and *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees, An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45 and Clarification of the Effective Date of FASB Statement No. 161* (FSP FAS 133-1 and FIN 45-4). With the issuance of FIN 45, FASB superseded FIN 34.

3. The purpose of this issue paper is to update statutory accounting principles for guarantees. The proposed result will be adoption, with modification, of guidance from FIN 45, and the incorporation of substantive revisions to SSAP No. 5 and nonsubstantive revisions to *SSAP No. 25—Accounting for and Disclosures about Transactions with Affiliates and Other Related Parties* (SSAP No. 25). In accordance with the adoption, with modification, of FIN 45, guarantors will be required to recognize, at the inception of the guarantee, a liability for the obligations it has undertaken in issuing the guarantee, including its obligation to stand ready to perform over the term of the guarantee in the event that the specified triggering events or conditions occur. The adoption, with modification, of FIN 45 will also require the following disclosures by guarantors: (a) the nature of the guarantee, including the approximate term of the guarantee, how the guarantee arose, and the events or circumstances that would require the guarantor to perform under the guarantee; (b) the maximum potential amount of future payments under the guarantee; (c) the carrying amount of the liability, if any, for the guarantor's obligations under the guarantee; and (d) the nature and extent of any recourse provisions or available collateral that would enable the guarantor to recover the amounts paid under the guarantee.

SUMMARY CONCLUSION

4. This issue paper adopts, with modification, guidance within FIN 45, as modified by FSP FIN 45-3, indicating that at the inception of a guarantee, the guarantor shall recognize in its statement of financial position a liability for that guarantee, which generally equals the fair value of the guarantee at its inception. This issue paper also adopts the disclosures within the modified FIN 45 to ensure proper information is provided within the financial statements regarding guarantees, even if the likelihood of having to make payments under a guarantee is remote.

DISCUSSION

5. The FASB issued FIN 45 as a result of observing differing interpretations about the disclosures required of guarantors under *FASB Statement No. 5, Accounting for Contingencies* (FAS 5) and about the need for a guarantor to recognize an initial liability for its obligation under a guarantee. As some constituents believed that FAS 5 prohibited a guarantor from initially recognizing a liability for a guarantee issued unless it is probable that payments will be required under that guarantee, the issuance of FIN 45 clarified the requirements of FAS 5 relating to the guarantor's accounting for and disclosures of certain guarantees issued.

6. FIN 45 clarified that a guarantor is required to disclose (a) the nature of the guarantee, including the approximate term of the guarantee, how the guarantee arose, and the events or circumstances that would require the guarantor to perform under the guarantee; (b) the maximum potential amount of future payments under the guarantee; (c) the carrying amount of the liability, if any, for the guarantor's obligations under the guarantee; and (d) the nature and extent of any recourse provisions or available collateral that would enable the guarantor to recover the amounts paid under the guarantee. For product warranties, instead of disclosing the maximum potential amount of future payments under the guarantee, a guarantor is required to disclose its accounting policy and methodology used in determining its liability for product warranties as well as a tabular reconciliation of the changes in the guarantor's product warranty liability for the reporting period. In issuing FIN 45, the FASB noted that disclosures under the prior practice generally included only the nature and amount of guarantees, but did not provide the same level of useful information as required by FIN 45.

7. FIN 45 also clarified that a guarantor is required to recognize, at the inception of a guarantee, a liability for the obligations it has undertaken in issuing the guarantee, including its ongoing obligation to stand ready to perform over the term of the guarantee in the event that the specified triggering events or conditions occur. The objective of the initial measurement of that liability is the fair value of the guarantee at its inception. Before the issuance of FIN 45, the FASB believed that many entities may not be recognizing a liability for a guarantee because the recognition requirements in FAS 5 (pertaining to loss contingencies) have not been met at the inception of the guarantee and the premium for the guarantee was not separately identified because it was embedded in purchase or sales agreements, service contracts, joint venture agreements, or other commercial agreements.

8. In issuing FIN 45, and requiring recognition of a liability for the obligations undertaken upon issuing a guarantee, the FASB believed that it resulted with a more representationally faithful depiction of the guarantor's assets and liabilities. When a guarantee is issued without a separately identified premium in conjunction with another transaction, the gain or loss recognized on that other transaction would be misstated if the guarantor fails to recognize a liability for the guarantee. For example, if a seller-guarantor issues to its customer's bank a guarantee of the customer's loan to facilitate the customer's obtaining funds to pay the seller for the assets being purchased, the failure to recognize a liability for the issuance of the guarantee overstates the profit on the sale. In those circumstances, the recognition of the liability for the guarantee results in a more representationally faithful depiction of the seller-guarantor's liabilities and results of operations. The initial recognition and initial measurement requirements within FIN 45 were

expected to affect primarily the accounting for multiple-element transactions that include issuance of a guarantee by one party to the other. Additionally, the FASB concluded that the disclosures required by FIN 45 improve the transparency of the financial statement information about the guarantor's obligations and liquidity risks related to guarantees issued.

9. The FASB concluded that the disclosures and initial recognition of guarantees required by FIN 45 complies with the *FASB Concept Statement No. 1, Objectives of Financial Reporting by Business Enterprises*, as financial reporting should provide information to help users assess the amounts, timing, and uncertainty of the guarantor's prospective net cash flows. Furthermore, the FASB concluded that recognition of a liability at the inception of a guarantee is consistent with the definition of a liability in *FASB Concepts Statement No. 6, Elements of Financial Statements*.

10. In November 2005, the FASB issued FASB Staff Position *FIN 45-3, Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Granted to a Business or its Owners* (FSP FIN 45-3). This FSP modified the scope of FIN 45 to expressly include guarantees granted to a business or owner guarantying that the revenue of the business (or a specific portion of the business) for a specified period will be at least a specified amount within the scope of FIN 45. In making this decision, the FASB concluded that a minimum revenue guarantee granted to a business or its owners meets the characteristics in paragraph 3(a) of FIN 45 because the guarantee's underlying (business gross revenues) is related to an asset or equity security of the guaranteed party. The FASB also clarified that the five examples included within paragraph 3(a) do not constitute an all-inclusive listing of the contracts that would meet the scope provisions of FIN 45.

11. In considering FIN 45, as modified for FIN 45-3, for statutory accounting purposes, the adoption of the guidance in FIN 45 is consistent with the conservatism concept stated within the preamble: "In order to provide a margin of protection for policyholders, the concept of conservatism should be followed when developing estimates as well as establishing accounting principles for statutory reporting." In accordance with this concept, it is presumed that there must be a compelling reason to have statutory accounting principles that are less conservative then GAAP. In reviewing this issue, staff was unable to identify any such compelling reasons, however, until FIN 45 is adopted for statutory accounting, it will result with less-conservative financial statements for statutory accounting.

12. It is anticipated that comments will be received indicating that the initial recognition of a liability will not represent a "probable" occurrence, and thus will not meet the definition of a liability per SSAP No. 5, paragraph 3. Similar to the FASB's response to such comments, the probability of performance under the guarantee will affect the measurement of the liability at inception, but the probability of performance does not change the fact that a liability has been created upon the issuance of the guarantee and should be reflected in the financial statements. The recognition of a liability for a guarantee is a valid under SSAP No. 5 because it clarifies that the definition of a liability within SSAP No. 5 should not be understood as prohibiting the recognition of a liability for the obligations undertaken in issuing a guarantee, even if the likelihood of the event that would trigger performance under the guarantee is less than remote.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

13. Statutory accounting guidance regarding guarantees is included within *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5). The guidance for guarantees is limited to disclosures within paragraph 16. The current disclosure requirements, which require disclosure of guarantees even if the possibility of loss is remote and disclosures on guarantees on the indebtedness of

others, were adopted from *FASB Interpretation No. 34, Disclosure of Indirect Guarantees of Indebtedness of Others, An Interpretation of FASB Statement No. 5* and *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees, An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45 and Clarification of the Effective Date of FASB Statement No. 161*.

> 16. Certain loss contingencies, the common characteristic of each being a guarantee, shall be disclosed in financial statements even though the possibility of loss may be remote. Examples include (a) guarantees of indebtedness of others, and (b) guarantees to repurchase receivables (or, in some cases, to repurchase related properties) that have been sold or otherwise assigned. The disclosure of those loss contingencies, and others that in substance have the same characteristics, shall be applied to statutory financial statements. The disclosure shall include the nature and amount of the guarantee. Consideration shall be given to disclosing, if estimable, the value of any recovery that could be expected to result, such as from the guarantor's right to proceed against an outside party.
>
> a. For guarantees on indebtedness of others, disclosure shall include the nature of the guarantee, including the approximate term of the guarantee, how the guarantee arose, the events and circumstances that would require the guarantor to perform under the guarantee, and the current status as of the reporting date of the payment/performance risk of the guarantee. For example, the current status of the payment/performance risk of a credit-risk related guarantee could be based on either recently issued external credit ratings or current internal groupings used by the guarantor to manage its risk. An entity that uses internal groupings shall disclose how those groupings are determined and used for managing risk.

14. With the adoption of this issue paper, SSAP No. 5 will reflect the adoption, with modification, of FIN 45, as modified by FSP FIN 45-3. The statutory modifications require an initial liability recognition for guarantees issued as part of intercompany or related party transactions and revise the GAAP guidance to reflect statutory accounting terms and restrictions. (For example, a GAAP exclusion for capital leases will not be incorporated within SSAP No. 5 as the concept of capital leases has previously been rejected for statutory accounting.) Although FIN 45 does not require initial liability recognition for the following guarantees: 1) guarantee issued either between parents and their subsidiaries or between corporations under common control; 2) parent's guarantee of its subsidiary debt to a third party, and 3) subsidiary's guarantee of the debt owed to a third party by either its parent or another subsidiary of that parent, this Issue Paper requires an initial liability recognition under statutory accounting for such guarantees. For these instances, and other intercompany and related party guarantees, this Issue Paper requires that an initial liability must be recognized for the guarantee unless the guarantee is considered "unlimited". (An example of an intercompany "unlimited" guarantee would be a guarantee issued in response to a rating agency's requirement to provide a commitment to support.) In instances in which an "unlimited" guarantee exists, this Issue Paper would require disclosure, pursuant to the disclosure requirements adopted from FIN 45. These disclosure requirements include the maximum potential amount of future payments of the guarantee, and if the guarantor is unable to determine the maximum potential, the reasons why this amount cannot be determined. The adoption of this Issue Paper will also revise the current disclosure requirements, presented within SSAP No. 5, paragraph 16a, regarding guarantees on the indebtedness of others. These disclosure requirements, adopted from FSP FAS 133-1 and FIN 45-4, will be reorganized within SSAP No. 5 and presented in a manner consistent with the modifications incorporated within FIN 45 pursuant to the adoption of this FASB Staff Position.

15. Upon adoption of this Issue Paper, the NAIC will release an updated Statement of Statutory Accounting Principle (SSAP) No. 5 for comment. The SSAP will contain the adopted substantive changes to SSAP No. 5, shown in this Issue Paper. 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 SSAP has been adopted.

16. Guidance is currently included within paragraph 18e of *SSAP No. 25—Accounting for and Disclosures About Transactions with Affiliates and Other Related Parties* (SSAP No. 25) that requires related party disclosures for guarantees or undertakings that result in a material contingent exposure:

> 18. The financial statements shall include disclosures of all material related party transactions. In some cases, aggregation of similar transactions may be appropriate. Sometimes, the effect of the relationship between the parties may be so pervasive that disclosure of the relationship alone will be sufficient. If necessary to the understanding of the relationship, the name of the related party should be disclosed. Transactions shall not be purported to be arm's-length transactions unless there is demonstrable evidence to support such statement. The disclosures shall include:
>
> e. Any guarantees or undertakings, written or otherwise, for the benefit of an affiliate or related party which result in a material contingent exposure of the reporting entity's or any related party's assets or liabilities;

17. This Issue Paper also proposes nonsubstantive revisions to the SSAP No. 25, paragraph 18e guidance to require the FIN 45 disclosure requirements for related party guarantees, including those issued between parents and their subsidiaries or between corporations under common control and situations in which a parent guarantees its subsidiary's debt to a third party or the subsidiary has guaranteed debt owed to a third party by either its parent or another subsidiary of that parent.

18. The adoption of FIN 45 or FSP FIN 45-4 will not impact any of the existing statutory interpretations of SSAP No. 5:

a. *INT 01-31: Assets Pledged as Collateral* (INT 01-31) – This interpretation addresses the accounting issues on whether assets pledged as collateral under specific situations should be considered admitted assets. The consensus reached for INT 01-31 is that the collateral would continue to be recorded as an admitted asset until the reporting entity has committed a contract default that has not been cured in accordance with the contract provisions. To the extent that an uncured default remains without the secured party utilizing the collateral to offset the obligation, the pledging insurer should only record an admitted asset for the amount of collateral that it can redeem.

b. *INT 01-32: EITF 01-10: Accounting for the Impact of the Terrorist Attacks of September 11, 2001* (INT 01-32) – This interpretation incorporated specific disclosures for losses and costs incurred as a result of the September 11, 2001 events. On June 2, 2007, these disclosure requirements were deemed no longer useful by the Statutory Accounting Principles Working Group.

c. INT 03-07: EITF 00-19: Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, A Company's Own Stock (INT 03-07) – This interpretation rejected the guidance in EITF 00-19 as not applicable to statutory accounting.

d. *INT 04-05: Clarification of SSAP No. 5 Guidance on When a Judgment is Deemed Rendered* (INT 04-05) – The consensus reached under INT 04-05 incorporated guidance within SSAP No. 5 that a judgment is considered "rendered" when a court enters a verdict, notwithstanding the entity's ability to file post trial motions and to appeal.

19. The Form A summary of this issue also identified *INT 01-03: Assets Pledged as Collateral or Restricted for the Benefit of a Related Party* (INT 01-03) as a possible interpretation that may be affected with FIN 45. The consensus under INT 01-03 indicates that if an asset of an insurance entity is pledged or otherwise restricted by a related party, the assets are not under the exclusive control of the insurance entity, and should not be recognized ion the balance sheet. As this interpretation specifically addresses the treatment of the pledged asset, and not the recording or disclosure of a guarantee, it is anticipated that no revisions will be necessary to this interpretation with the adoption of this Issue Paper.

Generally Accepted Accounting Principles

20. This issue paper adopts, with modifications, guidance included within FIN 45, as modified by FSP FIN 45-3. (Guidance from FSP FAS 133-1 and FIN 45-4 has previously been adopted for statutory accounting. However, the current version of FIN 45, including the revisions from FSP FAS 133-1 and FIN 45-4 are reflected below.)

FIN 45, as Modified by FSP FIN 45-3 and FSP FIN 45-4:

INTRODUCTION

1. The Board observed differences in interpretation about the disclosures required of issuers of guarantees and about the need for an issuer of a guarantee to recognize an initial liability for its obligations under the guarantee. This Interpretation clarifies the requirements for a guarantor's accounting for and disclosures of certain guarantees issued and outstanding. This Interpretation also incorporates without reconsideration the guidance in FASB Interpretation No. 34, Disclosure of Indirect Guarantees of Indebtedness of Others, which is being superseded.

SCOPE

2. This Interpretation addresses the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under guarantees. This Interpretation also clarifies the requirements related to the recognition of a liability by a guarantor at the inception of a guarantee for the obligations the guarantor has undertaken in issuing that guarantee. As discussed in paragraph 12, this Interpretation does not specify the subsequent measurement of the guarantor's recognized liability for either the noncontingent aspect of the guarantee or the contingent aspect of the guarantee. The accounting for the contingent aspect of the guarantee, if it is not accounted for as a derivative under FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, is covered by FASB Statement No. 5, Accounting for Contingencies. The provisions in Statement 5 about disclosure of a loss that is reasonably possible are not affected by this Interpretation.

3. Except as provided in paragraphs 6 and 7, the provisions of this Interpretation apply to guarantee contracts that have any of the following characteristics:

   a. Contracts that contingently require the guarantor to make payments (either in cash, financial instruments, other assets, shares of its stock, 1 or provision of services) to the guaranteed party based on changes in an underlying 2 that is related to an asset, a liability, or an equity security of the guaranteed party. Thus, for example, the provisions apply to the following:

(1) A financial standby letter of credit, which is an irrevocable undertaking (typically by a financial institution) to guarantee payment of a specified financial obligation

(2) A market value guarantee on either a financial asset (such as a security) or a nonfinancial asset owned by the guaranteed party

(3) A guarantee of the market price of the common stock of the guaranteed party

(4) A guarantee of the collection of the scheduled contractual cash flows from individual financial assets held by a special-purpose entity (SPE)

(5) A guarantee granted to a business or its owner(s) that the revenue of the business (or a specific portion of the business) for a specified period of time will be at least a specified amount.

b. Contracts that contingently require the guarantor to make payments (either in cash, financial instruments, other assets, shares of its stock, or provision of services) to the guaranteed party based on another entity's failure to perform under an obligating agreement (performance guarantees). Thus, for example, the provisions apply to a performance standby letter of credit, which is an irrevocable undertaking by a guarantor to make payments in the event a specified third party fails to perform under a nonfinancial contractual obligation.

c. Indemnification agreements (contracts) that contingently require the indemnifying party (guarantor) to make payments to the indemnified party (guaranteed party) based on changes in an underlying that is related to an asset, a liability, or an equity security of the indemnified party, such as an adverse judgment in a lawsuit or the imposition of additional taxes due to either a change in the tax law or an adverse interpretation of the tax law.

d. Indirect guarantees of the indebtedness of others, as that phrase is used in paragraphs 17 and 18 (and originally in Interpretation 34), even though the payment to the guaranteed party may not be based on changes in an underlying that is related to an asset, a liability, or an equity security of the guaranteed party.

4. Commercial letters of credit and other loan commitments, which are commonly thought of as guarantees of funding, are not included in the scope of this Interpretation because those arrangements do not meet any of the four characteristics identified in paragraph 3 above. Similarly, the scope of this Interpretation does not encompass indemnifications or guarantees of an entity's own future performance (for example, a guarantee that the guarantor will not take a certain future action). It does not include a noncontingent forward contract for which the net settlement can flow from either party to the other party; however, a contingent forward contract may meet one of the characteristics in paragraph 3 and be included in the scope of this Interpretation.

5. Some securitizations and other arrangements involve the subordination of the rights of some investors (or creditors) to the rights of others, in which case, for example, the investors in one (subordinated) class or tranche of an entity's securities might not receive any cash flows until the investors in another (priority) class or tranche are fully paid. Because that type of subordination provides credit protection by the subordinated investors, those subordination arrangements are commonly thought of as guarantees issued by the subordinated investors. Such subordination arrangements do not meet the

characteristic-based scope provisions in paragraph 3 and, thus, are not included in the scope of this Interpretation.

Scope Exceptions from the Entire Interpretation

6. Notwithstanding the characteristic-based scope provisions in paragraph 3, this Interpretation does not apply to the following guarantee contracts:

   a. A guarantee or an indemnification that is excluded from the scope of Statement 5 under paragraph 7 of that Statement.

   b. A lessee's guarantee of the residual value of the leased property at the expiration of the lease term, if the lessee (guarantor) accounts for the lease as a capital lease under FASB Statement No. 13, Accounting for Leases.

   c. A contract that meets the characteristics in paragraph 3(a) but is accounted for as contingent rent under Statement 13.

   d. A guarantee (or an indemnification) that is issued by either an insurance company or a reinsurance company and accounted for under FASB Statement No. 60, Accounting and Reporting by Insurance Enterprises, No. 97, Accounting and Reporting by Insurance Enterprises for Certain Long-Duration Contracts and for Realized Gains and Losses from the Sale of Investments, No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts, or No. 120, Accounting and Reporting by Mutual Life Insurance Enterprises and by Insurance Enterprises for Certain Long-Duration Participating Contracts (including guarantees embedded in either insurance contracts or investment contracts).

   e. A contract that meets the characteristics in paragraph 3(a) but provides for payments that constitute a vendor rebate (by the guarantor) based on either the sales revenues of, or the number of units sold by, the guaranteed party. (Vendor rebates based on the volume of purchases by the buyer would not meet the characteristics in paragraph 3(a) because the underlying relates to an asset of the seller, not the buyer who receives the rebates.)

   f. A guarantee (or an indemnification) whose existence prevents the guarantor from being able to either account for a transaction as the sale of an asset that is related to the guarantee's underlying or recognize in earnings the profit from that sale transaction.

   g. A registration payment arrangement within the scope of FSP EITF 00-19-2, "Accounting for Registration Payment Arrangements."

   h. A guarantee that is accounted for as a credit derivative instrument at fair value under Statement 133, as described in paragraph 44DD of Statement 133.

Scope Exceptions from Only the Initial Recognition and Initial Measurement Provisions

7. The following types of guarantees are not subject to the initial recognition and initial measurement provisions of this Interpretation but are subject to its disclosure requirements:

   a. A guarantee, other than a credit derivative as described in paragraph 44DD of Statement 133, that is accounted for as a derivative instrument at fair value under Statement 133.

b. A guarantee for which the underlying is related to the performance (regarding function, not price) of nonfinancial assets that are owned by the guaranteed party. Thus, the initial recognition and initial measurement provisions of this Interpretation do not apply to product warranties issued by the guarantor, regardless of whether the guarantor is required to make payment in services or cash, including separately priced extended warranty or product maintenance contracts that are addressed in FASB Technical Bulletin No. 90-1, Accounting for Separately Priced Extended Warranty and Product Maintenance Contracts.

c. A guarantee issued in a business combination that represents contingent consideration (as addressed in FASB Statement No. 141, Business Combinations).

d. A guarantee for which the guarantor's obligation would be reported as an equity item (rather than a liability) under generally accepted accounting principles (GAAP).

e. A guarantee by an original lessee that has become secondarily liable under a new lease that relieved the original lessee from being the primary obligor (that is, principal debtor) under the original lease, as discussed in paragraph 38 of Statement 13, as amended by FASB Statement No. 145, Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections. This exception shall not be applied by analogy to secondary obligations that are not accounted for under paragraph 38 of Statement 13. (The disclosure requirements of this Interpretation do apply to the original lessee that has become secondarily liable for the lease payments.)

f. A guarantee issued either between parents and their subsidiaries or between corporations under common control.

g. A parent's guarantee of its subsidiary's debt to a third party (whether the parent is a corporation or an individual).

h. A subsidiary's guarantee of the debt owed to a third party by either its parent or another subsidiary of that parent.

INTERPRETATION

Initial Recognition and Initial Measurement of the Liability for a Guarantor's Obligations

8. The issuance of a guarantee obligates the guarantor (the issuer) in two respects: (a) the guarantor undertakes an obligation to stand ready to perform over the term of the guarantee in the event that the specified triggering events or conditions occur (the noncontingent aspect) and (b) the guarantor undertakes a contingent obligation to make future payments if those triggering events or conditions occur (the contingent aspect).

9. Because the issuance of a guarantee imposes a noncontingent obligation to stand ready to perform in the event that the specified triggering events or conditions occur, the provisions of paragraphs 8–12 of Statement 5 regarding the guarantor's contingent obligation under a guarantee should not be interpreted as prohibiting the guarantor from initially recognizing a liability for that guarantee even though it is not probable that payments will be required under that guarantee. At the inception of a guarantee, the guarantor shall recognize in its statement of financial position a liability for that guarantee. Except as indicated in paragraph 10, the objective of the initial measurement of the liability is the fair value of the guarantee at its inception.

a. When a guarantee is issued in a standalone arm's-length transaction with an unrelated party, the liability recognized at the inception of the guarantee should be the premium received or receivable by the guarantor as a practical expedient.

b. When a guarantee is issued as part of a transaction with multiple elements with an unrelated party (such as in conjunction with selling an asset or entering into an operating lease), the liability recognized at the inception of the guarantee should be an estimate of the guarantee's fair value. In that circumstance, guarantors should consider what premium would be required by the guarantor to issue the same guarantee in a standalone arm's-length transaction with an unrelated party as a practical expedient.

c. When a guarantee is issued as a contribution to an unrelated party, the liability recognized at the inception of the guarantee should be measured at its fair value, consistent with the requirement to measure the contribution made at fair value, as prescribed in paragraph 18 of FASB Statement No. 116, Accounting for Contributions Received and Contributions Made. For example, a community foundation may have a loan guarantee program to assist not-for-profit organizations in obtaining bank financing at a reasonable cost. Under that program, the community foundation may issue a guarantee of a not-for-profit organization's bank debt. Upon the issuance of the guarantee, the community foundation would recognize a liability for the fair value of that guarantee. The issuance of that guarantee would not be considered merely a conditional promise to give under paragraph 22 of Statement 116 because, upon the issuance of the guarantee, the not-for-profit organization will have received the gift of the community foundation's credit support, which enables the not-for-profit organization to obtain a lower interest rate on its borrowing.

10. In the event that, at the inception of the guarantee, the guarantor is required to recognize a liability under Statement 5 for the related contingent loss, the liability to be initially recognized for that guarantee shall be the greater of (a) the amount that satisfies the fair value objective as discussed in paragraph 9 or (b) the contingent liability amount required to be recognized at inception of the guarantee by paragraph 8 of Statement 5. For many guarantors, it would be unusual for the contingent liability amount under (b) above to exceed the amount that satisfies the fair value objective under (a) above at the inception of the guarantee.

11. This Interpretation does not prescribe a specific account for the guarantor's offsetting entry when it recognizes the liability at the inception of a guarantee. That offsetting entry depends on the circumstances in which the guarantee was issued, as illustrated by the following examples:

a. If the guarantee were issued in a standalone transaction for a premium, the offsetting entry would be consideration received (such as cash or a receivable).

b. If the guarantee were issued in conjunction with the sale of assets, a product, or a business, the overall proceeds (such as the cash received or receivable) would be allocated between the consideration being remitted to the guarantor for issuing the guarantee and the proceeds from the sale. That allocation would affect the calculation of the gain or loss on the sale transaction.

c. If the guarantee were issued in conjunction with the formation of a partially owned business or a venture accounted for under the equity method, the recognition of the liability for the guarantee would result in an increase to the carrying amount of the investment.

d. If a residual value guarantee were provided by a lessee-guarantor when entering into an operating lease, the offsetting entry (representing a payment in kind made by the lessee when entering into the operating lease) would be reflected as prepaid rent, which would be accounted for under paragraph 15 of Statement 13.

e. If a guarantee were issued to an unrelated party for no consideration on a standalone basis (that is, not in conjunction with any other transaction or ownership relationship), the offsetting entry would be to expense.

12. This Interpretation does not describe in detail how the guarantor's liability for its obligations under the guarantee would be measured subsequent to its initial recognition. The liability that the guarantor initially recognized under paragraph 9 consistent with the fair value objective discussed in that paragraph would typically be reduced (by a credit to earnings) as the guarantor is released from risk under the guarantee. Depending on the nature of the guarantee, the guarantor's release from risk has typically been recognized over the term of the guarantee (a) only upon either expiration or settlement of the guarantee, (b) by a systematic and rational amortization method, or (c) as the fair value of the guarantee changes (as is done, for example, for guarantees accounted for as derivatives). The discussion in this paragraph about how the guarantor typically reduces the liability that it initially recognized does not encompass the recognition and subsequent adjustment of the contingent liability recognized under Statement 5 related to the contingent loss for the guarantee.

Disclosures about a Guarantor's Obligations under Guarantees

13. A guarantor shall disclose the following information about each guarantee, or each group of similar guarantees, even if the likelihood of the guarantor's having to make any payments under the guarantee is remote, except as provided in paragraph 14 with respect to the disclosure specified in paragraph 13(b):

a. The nature of the guarantee, including the approximate term of the guarantee, how the guarantee arose, the events or circumstances that would require the guarantor to perform under the guarantee and the current status (that is, as of the date of the statement of financial position) of the payment/performance risk of the guarantee. For example, the current status of the payment/performance risk of a credit-risk-related guarantee could be based on either recently issued external credit ratings or current internal groupings used by the guarantor to manage its risk. An entity that uses internal groupings shall disclose how those groupings are determined and used for managing risk.

b. The maximum potential amount of future payments (undiscounted) the guarantor could be required to make under the guarantee. That maximum potential amount of future payments shall not be reduced by the effect of any amounts that may possibly be recovered under recourse or collateralization provisions in the guarantee (which are addressed under (d) below). If the terms of the guarantee provide for no limitation to the maximum potential future payments under the guarantee, that fact shall be disclosed. If the guarantor is unable to develop an estimate of the maximum potential amount of future payments under its guarantee, the guarantor shall disclose the reasons why it cannot estimate the maximum potential amount. (Refer to the following paragraph for an exception to the requirements of this subparagraph.)

c. The current carrying amount of the liability, if any, for the guarantor's obligations under the guarantee (including the amount, if any, recognized under paragraph 8 of Statement 5), regardless of whether the guarantee is freestanding or embedded in another contract.

d. The nature of (1) any recourse provisions that would enable the guarantor to recover from third parties any of the amounts paid under the guarantee and (2) any assets held either as collateral or by third parties that, upon the occurrence of any triggering event or condition under the guarantee, the guarantor can obtain and liquidate to recover all or a portion of the amounts paid under the guarantee. The guarantor shall indicate, if estimable, the approximate extent to which the proceeds from liquidation of those assets would be expected to cover the maximum potential amount of future payments under the guarantee.

14. For product warranties and other guarantee contracts that are excluded from the initial recognition and initial measurement requirements of this Interpretation pursuant to paragraph 7(b) (collectively referred to as product warranties), a guarantor is not required to disclose the maximum potential amount of future payments specified in paragraph 13(b) above. Instead, the guarantor is required to disclose for those product warranties the following information:

a. The guarantor's accounting policy and methodology used in determining its liability for product warranties (including any liability [such as deferred revenue] associated with extended warranties).

b. A tabular reconciliation of the changes in the guarantor's aggregate product warranty liability for the reporting period. That reconciliation should present the beginning balance of the aggregate product warranty liability, the aggregate reductions in that liability for payments made (in cash or in kind) under the warranty, the aggregate changes in the liability for accruals related to product warranties issued during the reporting period, the aggregate changes in the liability for accruals related to preexisting warranties (including adjustments related to changes in estimates), and the ending balance of the aggregate product warranty liability.

15. The disclosures required by this Interpretation do not eliminate or affect the requirement in FASB Statement No. 107, Disclosures about Fair Value of Financial Instruments, as amended by FASB Statement No. 126, Exemption from Certain Required Disclosures about Financial Instruments for Certain Nonpublic Entities, that certain entities disclose the fair value of their financial guarantees issued.

16. Some guarantees are issued to benefit entities that meet the definition of a related party in paragraph 24(f) of FASB Statement No. 57, Related Party Disclosures, such as joint ventures, equity method investees, and certain entities for which the controlling financial interest cannot be assessed by analyzing voting interests. In those cases, the disclosures required by this Interpretation are incremental to the disclosures required by Statement 57.

Indirect Guarantees of Indebtedness of Others Encompassed by Paragraph 12 of Statement 5

17. An indirect guarantee of the indebtedness of another arises under an agreement that obligates one entity to transfer funds to a second entity upon the occurrence of specified events, under conditions whereby (a) the funds become legally available to creditors of the second entity and (b) those creditors may enforce the second entity's claims against the first entity under the agreement. Examples of indirect guarantees include agreements

to advance funds if a second entity's net income, coverage of fixed charges, or working capital falls below a specified minimum.

18. The term guarantees of indebtedness of others in paragraph 12 of Statement 5 includes indirect guarantees of indebtedness of others as described in paragraph 17 of this Interpretation.

RESCISSION OF INTERPRETATION 34

19. Interpretation 34 is superseded by this Interpretation.

EFFECTIVE DATE AND TRANSITION

20. The initial recognition and initial measurement provisions in paragraphs 9 and 10 shall be applied only on a prospective basis to guarantees issued or modified after December 31, 2002, irrespective of the guarantor's fiscal year-end. The guarantor's previous accounting for guarantees issued prior to the date of this Interpretation's initial application shall not be revised or restated to reflect the effect of the recognition and measurement provisions of the Interpretation.

21. The disclosure requirements in paragraphs 13–16 are effective for financial statements of interim or annual periods ending after December 15, 2002. The guidance on indirect guarantees of the indebtedness of others in paragraph 18 continues to apply to financial statements for fiscal years ending after June 15, 1981.

21. FIN 45 supersedes FASB Interpretation No. 34, Disclosure of Indirect Guarantees of Indebtedness of Others, An Interpretation of FASB Statement No. 5 (FIN 34). FIN 34 had previously been adopted within SSAP No. 5 and resulted with disclosure requirements for guarantees, even if the possibility of payment under the guarantee was remote. The guidance in FIN 45 has incorporated more conservative accounting and disclosure requirements for guarantees than FIN 34.

22. The NAIC Statutory Accounting Principles Working Group previously considered *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees: An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45; and Clarification of the Effective Date of FASB Statement No. 161* (FSP FAS 133-1 and FIN 45-4), and adopted revisions to SSAP No. 5 to incorporate the revised disclosures within paragraph 13a of FIN 45 as modified by FSP FAS 133-1 and FIN 45-4. (The revisions to FIN 45 from FSP FAS 133-1 and FIN 45-4 are reflected within the FIN 45 guidance included in paragraph 20 of this Issue paper.)

RELEVANT LITERATURE:

Statutory Accounting
– *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets*

Generally Accepted Accounting Principles
– *FASB Statement No. 5, Accounting for Contingencies*
– *FASB Statement No. 114, Accounting by Creditors for Impairment of a Loan*
– *FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements*
– *FASB Interpretation No. 14, Reasonable Estimation of the Amount of a Loss, An Interpretation of FASB Statement No. 5*

- *FASB Interpretation No. 45, Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, 107 and rescission of FASB Interpretation No. 35*
- *FASB Interpretation No. 45-3, Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Grated to a Business or Owner*
- *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees, an Amendment of FASB Statement No. 133 and FASB Interpretation No. 45. and Clarification of the Effective Date of FASB Statement No. 161.*
- *Accounting Principles Board Opinions No. 12, Omnibus Opinion—1967, paragraphs 2 and 3*

STATE REGULATIONS:
No additional guidance obtained from state statutes or regulations.

Appendix A: Proposed Substantive Revisions to SSAP No. 5 Adopting, with Modification, FIN 45

SCOPE OF STATEMENT

1. This statement defines and establishes statutory accounting principles for liabilities, contingencies and impairments of assets.

SUMMARY CONCLUSION

Liabilities

2. A liability is defined as certain or probable[1] future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or to provide services to other entities in the future as a result of a past transaction(s) or event(s).

3. A liability has three essential characteristics: (a) it embodies a present duty or responsibility to one or more other entities that entails settlement by probable1 future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, (b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened. This includes, but is not limited to, liabilities arising from policyholder obligations (e.g., policyholder benefits, reported claims and reserves for incurred but not reported claims). Liabilities shall be recorded on a reporting entity's financial statements when incurred.

4. Estimates (e.g., loss reserves) are required in financial statements for many ongoing and recurring activities of a reporting entity. The mere fact that an estimate is involved does not of itself constitute a loss contingency. For example, estimates of losses utilizing appropriate actuarial methodologies meet the definition of liabilities as outlined above and are not loss contingencies.

Loss Contingencies or Impairments of Assets

5. For purposes of implementing the statutory accounting principles of loss contingency or impairment of an asset described below, the following additional definitions shall apply:

a. Probable—The future event or events are likely to occur;

b. Reasonably Possible—The chance of the future event or events occurring is more than remote but less than probable;

c. Remote—The chance of the future event or events occurring is slight.

6. A loss contingency or impairment of an asset is defined as an existing condition, situation, or set of circumstances involving uncertainty as to possible loss to an enterprise that will ultimately be resolved when one or more future event(s) occur or fail to occur (e.g., collection of receivables).

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[1] *FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements*, states:

> Probable is used with its usual general meaning, rather than in a specific accounting or technical sense (such as that in *FASB Statement 5, Accounting for Contingencies*, paragraph 3), and refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.

7. An estimated loss from a loss contingency or the impairment of an asset shall be recorded by a charge to operations if both of the following conditions are met:

a. Information available prior to issuance of the statutory financial statements indicates that it is probable that an asset has been impaired or a liability has been incurred at the date of the statutory financial statements. It is implicit in this condition that it is probable that one or more future events will occur confirming the fact of the loss or incurrence of a liability; and

b. The amount of loss can be reasonably estimated.

8. This accounting shall be followed even though the application of other prescribed statutory accounting principles or valuation criteria may not require, or does not address, the recording of a particular liability or impairment of an asset (e.g., a known impairment of a bond even though the VOS manual has not recognized the impairment).

9. Additionally, in instances where a judgment, assessment or fine has been rendered against a reporting entity, there is a presumption that the criteria in paragraph 7 a. and 7 b. have been met. The amount of the liability shall include the anticipated settlement amount, legal costs, insurance recoveries and other related amounts and shall take into account factors such as the nature of the litigation, progress of the case, opinions of legal counsel, and management's intended response to the litigation, claim, or assessment.

10. When condition 7 a. above is met with respect to a particular loss contingency, and the reasonable estimate of the loss is a range, which meets condition 7 b. above, an amount shall be accrued for the loss. When an amount within management's estimate of the range of a loss appears to be a better estimate than any other amount within the range, that amount shall be accrued. When, in management's opinion, no amount within management's estimate of the range is a better estimate than any other amount, however, the midpoint (mean) of management's estimate in the range shall be accrued. For purposes of this paragraph, it is assumed that management can quantify the high end of the range. If management determines that the high end of the range cannot be quantified, then a range does not exist, and management's best estimate shall be used.

11. The use of the midpoint in a range will be applicable only in the rare instance where there is a continuous range of possible values, and no amount within that range is any more probable than any other. This guidance is not applicable when there are several point estimates which have been determined as equally possible values, but those point estimates do not constitute a range. If there are several point estimates with equal probabilities, management should determine their best estimate of the liability.

Gain Contingencies

12. A gain is defined as an increase in surplus which results from peripheral or incidental transactions of a reporting entity and from all other transactions and other events and circumstances affecting the reporting entity except those that result from revenues or investments by owners. If, on or before the balance sheet date, (a) the transaction or event has been fully completed, and (b) the amount of the gain is determinable, then the transaction or event is considered a gain, and is recognized in the financial statements. The definition of a gain excludes increases in surplus that result from activities that constitute a reporting entity's ongoing major or central operations or activities. Because investment activities are central to an insurer's operations, increases in surplus that result from such investment activities are excluded from the definition of gains. Revenues are inflows or other enhancements of assets of a reporting entity or settlements of its liabilities (or a combination of both) from providing products, rendering services,

or other activities that constitute the reporting entity's ongoing major or central operations. Investments by owners include any type of capital infused into the surplus of the reporting entity.

13. A gain contingency is defined as an existing condition, situation, or set of circumstances involving uncertainty as to possible gain (as defined in the preceding paragraph) to an enterprise that will ultimately be resolved when one or more future events occur or fail to occur (e.g., a plaintiff has filed suit for damages associated with an event occurring prior to the balance sheet, but the outcome of the suit is not known as of the balance sheet date). Gain contingencies shall not be recognized in a reporting entity's financial statements. However, if subsequent to the balance sheet date but prior to the issuance of the financial statements, the gain contingency is realized, the gain shall be disclosed in the notes to financial statements and the unissued financial statements should not be adjusted to record the gain. A gain is generally considered realizable when noncash resources or rights are readily convertible to known amounts of cash or claims to cash.

Guarantees (New Section After Paragraph 13, Subsequent Paragraphs are Renumbered)

14. A guarantee contract is a contract that contingently requires the guarantor to make payments (either in cash, financial instruments, other assets, shares of its stock, or provision of services) to the guaranteed party based on changes in the underlying that is related to an asset, a liability, or an equity security of the guaranteed party. Commercial letters of credit and loan commitments, by definition, are not considered guarantee contracts. Also excluded from the definition are indemnifications or guarantees of an entity's own performance, subordination arrangements or a noncontingent forward contract. This definition could include contingent forward contracts if the characteristics of this paragraph are met.

15. The following guarantee contracts are not subject to the guidance in paragraphs 18-22 and paragraphs 25-26:

a. Guarantees already excluded from the scope of SSAP No. 5;

b. Guarantee contracts accounted for as contingent rent;

c. Insurance contract guarantees, including guarantees embedded in deposit-type contracts;

d. Contracts that provide for payments that constitute a vender rebate by the guarantor based on either the sales revenue or the number of units sold by the guaranteed party;

e. A guarantee or indemnification whose existence prevents the guarantor from being able to either account for a transaction as the sale of an asset that is related to the guarantee's underlying or recognize in earnings the profit from that sale transaction;

f. Registration payment arrangements; and (g) a guarantee that is accounted for as a credit derivative instrument at fair value under SSAP No. 86.

16. The following types of guarantees are exempted from the initial liability recognition in paragraphs 18-22, but are subject to the to the disclosure requirements in paragraphs 25-26:

a. Guarantee that is accounted for as a derivative instrument, other than credit derivatives within SSAP No. 86;

b. Guarantee for which the underlying is related to the performance of nonfinancial assets that are owned by the guaranteed party, including product warranties;

c. Guarantee issued in a business combination that represents contingent consideration;

d. Guarantee in which the guarantor's obligation would be reported as an equity item;

e. Guarantee by an original lessee that has become secondarily liable under a new lease that relieved the original lessee from being the primary obligator;

17. This guidance does not exclude guarantees issued as intercompany transactions or between related parties from the initial liability recognition requirement. However, intercompany and related party guarantees that are considered "unlimited" (e.g., typically in response to a rating agency's requirement to provide a commitment to support) are excluded from the initial liability recognition requirement. Such "unlimited" guarantees are subject to the disclosure requirements in paragraphs 25-26 of this Statement. Thus, unless the guarantee is considered "unlimited", guarantees issued between the following parties are subject to the initial recognition and disclosure requirements:

a. Guarantee issued either between parents and their subsidiaries or between corporations under common control;

b. A parent's guarantee of its subsidiary's debt to a third party; and

c. A subsidiary's guarantee of the debt owed to a third party by either its parent or another subsidiary of that parent.

18. At the inception of a guarantee, the guarantor shall recognize in its statement of financial position a liability for that guarantee. Except as indicated in paragraph 20, the objective of the initial measurement of the liability is the fair value[2] of the guarantee at its inception.

19. The issuance of a guarantee obligates the guarantor (the issuer) in two respects: (a) the guarantor undertakes an obligation to stand ready to perform over the term of the guarantee in the event that the specified triggering events or conditions occur (the noncontingent aspect) and (b) the guarantor undertakes a contingent obligation to make future payments if those triggering events or conditions occur (the contingent aspect). Because the issuance of a guarantee imposes a noncontingent obligation to stand ready to perform in the event that the specified triggering event occurs, the provisions of paragraph 7 should not be interpreted as prohibiting the guarantor from initially recognizing a liability for that guarantee even though it is not probable that payments will be required under that guarantee.

20. In the event that, at the inception of the guarantee, the guarantor is required to recognize a liability under paragraph 7 for the related contingent loss, the liability to be initially recognized for that guarantee shall be the greater of (a) the amount the satisfies the fair value objective as discussed in paragraph 18 or (b) the contingent liability amount required to be recognized at inception of the guarantee by paragraph 7. For many guarantors, it would be unusual for the

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[2] As practical expedients, when a guarantee is issued in a standalone arm's-length transaction, the liability recognized at the inception of the guarantee should be the premium received or receivable by the guarantor. When a guarantee is issued as part of a transaction with multiple elements, the liability recognized at the inception of the guarantee should be an estimate of the guarantee's fair value. In that circumstance, guarantors should consider what premium would be required by the guarantor to issue the same guarantee in a standalone arm's-length transaction.

contingent liability under (b) above to exceed the amount that satisfies the fair value objective at the inception of the guarantee.

21. The offsetting entry pursuant to the liability recognition at the inception of the guarantee depends on the circumstances in which the guarantee was issued. Examples include:

a. If the guarantee was issued in a standalone transaction for a premium, the offsetting entry would the consideration received.

b. If the guarantee was issued in conjunction with the sale of assets, a product, or a business, the overall proceeds would be allocated between the consideration being remitted to the guarantor for issuing the guarantee and the proceeds from that sale. That allocation would affect the calculation of the gain or loss on the sale transaction.

c. If a residual value guarantee were provided by a lessee-guarantor when entering into an operating lease, the offsetting entry would be reflected as prepaid rent, which would nonadmitted under SSAP No. 29.

d. If a guarantee were issued to an unrelated or related party for no consideration on a standalone basis, the offsetting entry would be to expense.

22. This Issue Paper does not describe in detail how the guarantor's liability for its obligations under the guarantee would be measured subsequent to initial recognition. The liability that the guarantor initially recognized in accordance with paragraph 18 would typically be reduced (as a credit to income) as the guarantor is released from risk under the guarantee. Depending on the nature of the guarantee, the guarantor's release from risk has typically been recognized over the term of the guarantee (a) only upon either expiration or settlement of the guarantee, (b) by a systematic and rational amortization method, or (c) as the fair value of the guarantee changes (for example, guarantees accounted for as derivatives). The reduction of liability does not encompass the recognition and subsequent adjustment of the contingent liability recognized under paragraph 7 related to the contingent loss for the guarantee.

Disclosures

23. If a loss contingency or impairment of an asset is not recorded because only one of the conditions 7 a. or 7 b. is met, or if exposure to a loss exists in excess of the amount accrued pursuant to the provisions described above, disclosure of the loss contingency or impairment of the asset shall be made in the financial statements when there is at least a reasonable possibility that a loss or an additional loss may have been incurred. The disclosure shall indicate the nature of the contingency and shall give an estimate of the possible loss or range of loss or state that such an estimate cannot be made.

24. Disclosure is not required of a loss contingency involving an unasserted claim or assessment when there has been no manifestation by a potential claimant of an awareness of a possible claim or assessment unless it is considered probable that a claim will be asserted and there is a reasonable possibility that the outcome will be unfavorable.

25. A guarantor shall disclose the following information about each guarantee, or each group or similar guarantees (except product warranties addressed in paragraph 26), even if the likelihood of the guarantor's having to make any payments under the guarantee is remote:

a. The nature of the guarantee, including the approximate term of the guarantee, how the guarantee arose, and the events and circumstances that would require the guarantor to perform under the guarantee and the current status (that is, as of the date of the statement of financial position) of the payment/performance risk of the guarantee. For example, the current status of the payment/performance risk of a credit-risk-related guarantee could be based on either recently issued external credit ratings or current internal groupings used by the guarantor to manage its risk. An entity that uses internal groupings shall disclose how those groupings are determined and used for managing risk.

b. The potential amount of future payments (undiscounted) the guarantor could be required to make under the guarantee. That maximum potential amount of future payments shall not be reduced by the effect of any amounts that may possibly be recovered under recourse or collateralization provisions in the guarantee (which are addressed under (d) below). If the terms of the guarantee provide for no limitation to the maximum potential future payments under the guarantee, that fact shall be disclosed. If the guarantor is unable to develop an estimate of the maximum potential amount of future payments under its guarantee, the guarantor shall disclose the reasons why it cannot estimate the maximum potential amount.

c. The current carrying amount of the liability, if any, for the guarantor's obligations under the guarantee (including the amount, if any, recognized under paragraph 7), regardless of whether the guarantee is freestanding or embedded in another contract.

d. The nature of (1) any recourse provisions that would enable the guarantor to recover from third parties any of the amounts paid under the guarantee and (2) any assets held either as collateral or by third parties that, upon the occurrence of any triggering event or condition under the guarantee, the guarantor can obtain and liquidate to recover all or a portion of the amounts paid under the guarantee. The guarantor shall indicate, if estimable, the approximate extent to which the proceeds from liquidation of those assets would be expected to cover the maximum potential amount of future payments under the guarantee

26. As product warranties are excluded from the initial recognition and initial measurement requirements for guarantees, a guarantor is not required to disclose the maximum potential amount of future payments. Instead the guarantor is required to disclose for product warranties the following information:

a. The guarantor's accounting policy and methodology used in determining its liability for product warranties (Including any liability associated with extended warranties).

b. A tabular reconciliation of the changes in the guarantor's aggregate product warranty liability for the reporting period. That reconciliation should present the beginning balance of the aggregate product warranty liability, the aggregate reductions in that liability for payments made (in cash or in kind) under the warranty, the aggregate changes in the liability for accruals related to product warranties issued during the reporting period, the aggregate changes in the liability for accruals related to preexisting warranties (including adjustments related to changes in estimates), and the ending balance of the aggregate product warranty liability.

27. The financial statements shall contain adequate disclosure about the nature of any gain contingency. However, care should be exercised to avoid misleading implications as to the likelihood of realization.

28. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

29. This statement adopts *FASB Statement No. 5, Accounting for Contingencies* (FAS 5), *FASB Statement 114, Accounting by Creditors for Impairment of a Loan* only as it amends in part FAS 5 and paragraphs 35 and 36 of *FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements*. *FASB Interpretation No. 14, Reasonable Estimation of the Amount of a Loss, An Interpretation of FASB Statement No. 5 (*FIN No. 14) is adopted with the modification to accrue the loss amount as the midpoint of the range rather than the minimum as discussed in paragraph 3 of FIN No. 14.

30. This statement adopts, with modification, *FASB Interpretation No. 45: Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, and 107 and rescission of FASB Interpretation No. 34* (FIN 45), *FASB Interpretation No. 45-3, Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Grated to a Business or Owner* (FSP FIN 45-3)*, and FASB Staff Position FAS 133-1 and FIN 45-4, Disclosures about Credit Derivatives and Certain Guarantees, An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45* (FSP FAS 133-1 and FIN 45-4)*.* Statutory Modifications to FIN 45 include initial liability recognition for guarantees issued as part of intercompany or related party transactions and to reflect statutory accounting terms and restrictions. Under this issue paper, intercompany and related party guarantees (including guarantees between parents and subsidiaries) should have an initial liability recognition unless the guarantee is considered "unlimited." (An example of an intercompany "unlimited" guarantee would be a guarantee issued in response to a rating agency's requirement to provide a commitment to support.) In instances in which an "unlimited" guarantee exists, this statement requires disclosure, pursuant to the disclosure requirements adopted from FIN 45. The adoption of FIN 45 superseded the previously adopted guidance *in FASB Interpretation No. 34, Disclosure of Indirect Guarantees of Indebtedness of Others, An interpretation of FASB Statement No. 5.*, This statement also adopts Accounting Principles Board Opinion No. 12, Omnibus Opinion—1967, paragraphs 2 and 3 with the modification that AVR, IMR and Schedule F Penalty shall be shown gross. Appropriation of retained earnings discussed in paragraph 15 of FAS 5 is addressed in SSAP No. 72—Surplus and Quasi-reorganizations.

Effective Date and Transition

31. 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.

32. The guidance for guarantees included within paragraphs 14-22 shall be applicable to all guarantees issued or outstanding as of December 31, 2010. The liability recognition for guarantees, as required in accordance with those paragraphs, shall be initially reported in the December 31, 2010 annual financial statements, and then in interim and annual financial statements thereafter. The disclosure requirements in paragraphs 25-26 are applicable for financial statements for interim or annual periods ending after December 31, 2009.

Authoritative Literature

Generally Accepted Accounting Principles

- *FASB Statement No. 5, Accounting for Contingencies*
- *FASB Statement No. 114, Accounting by Creditors for Impairment of a Loan*

- *FASB Statement of Financial Accounting Concepts No. 6, Elements of Financial Statements*

- *FASB Interpretation No. 14, Reasonable Estimation of the Amount of a Loss, An Interpretation of FASB Statement No. 5*

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- *FASB Interpretation No. 45, Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others, an interpretation of FASB Statements No. 5, 57, 107 and rescission of FASB Interpretation No. 35*

- *FASB Interpretation No. 45-3, Application of FASB Interpretation No. 45 to Minimum Revenue Guarantees Grated to a Business or Owner*

- *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees, an Amendment of FASB Statement No. 133 and FASB Interpretation No. 45. and Clarification of the Effective Date of FASB Statement No. 161.*

- *FSP FAS 133-1 and FIN 45-4: Disclosures about Credit Derivatives and Certain Guarantees, An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45 and Clarification of the Effective Date of FASB Statement No. 161.*

- *Accounting Principles Board Opinions No. 12, Omnibus Opinion—1967, paragraphs 2 and 3*

Appendix B: Proposed Nonsubstantive Revisions to paragraph 18e of SSAP No. 25

18. The financial statements shall include disclosures of all material related party transactions. In some cases, aggregation of similar transactions may be appropriate. Sometimes, the effect of the relationship between the parties may be so pervasive that disclosure of the relationship alone will be sufficient. If necessary to the understanding of the relationship, the name of the related party should be disclosed. Transactions shall not be purported to be arm's-length transactions unless there is demonstrable evidence to support such statement. The disclosures shall include:

e. Any guarantees or undertakings, written or otherwise, shall be disclosed in accordance with the requirements in paragraph 25 of SSAP No. 5.;

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Statutory Issue Paper No. 138

Fair Value Measurements

STATUS:
Adopted – Sept. 21, 2009

Type of Issue:
Common Area

SUMMARY OF ISSUE:

1. In September 2006, the Financial Accounting Standards Board (FASB) issued *FAS 157, Fair Value Measurements* (FAS 157) to define fair value, establish a framework for measuring fair value in generally accepted accounting principles (GAAP) and to expand disclosures about fair value measurements. Since the issuance of FAS 157, the FASB has issued four FASB staff positions (FSPs) and one EITF to provide clarification of the guidance under FAS 157.

a. *FSP FAS 157-1: Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement under Statement 13* (FSP FAS 157-1). This FSP revised FAS 157 to exclude accounting pronouncements that address lease accounting. This FSP identifies that the term fair value will be used differently under *FAS 13, Accounting for Leases*, (FAS 13) than under FAS 157.

b. *FSP FAS 157-2: Effective Date of FASB Statement No. 157* (FSP FAS 157-2). This FSP defers the effective date of FAS 157 for nonfinancial assets and nonfinancial liabilities to fiscal years beginning after November 15, 2008.

c. *FSP FAS 157-3: Determining the Fair Value of a Financial Asset When the Market for That Asset is Not Active* (FSP FAS 157-3). This FSP initially clarified the application of FAS 157 for a market that is not active and provided an illustration in determining the fair value of a financial asset when the market for that financial asset is not active. With the issuance of FSP FAS 157-4, FSP FAS 157-3 was superseded, thus all of the amendments to FAS 157 from this FSP were deleted or amended.

d. *FSP FAS 157-4: Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transaction That Are Not Orderly* (FSP FAS 157-4). This FSP provides guidance for estimating fair value in accordance with FAS 157 when the volume and level of activity for the asset and liability have significantly decreased. This FSP also includes guidance on identifying circumstances that indicate a transaction is not orderly.

e. *EITF Issue No. 08-5, Issuer's Accounting for Liabilities Measured at Fair Value with a Third-Party Credit Enhancement* (EITF 08-5). This EITF provides guidance in determining an issuer's unit of accounting for a liability issued with an inseparable third-party credit enhancement when it is measured or disclosed at fair value on a recurring basis. As noted within this EITF, the issuer of a liability with a third-party credit enhancement that is inseparable from the liability shall not include the effect of the credit enhancement in the fair value measurement of the liability. For example, in determining the fair value of debt with a third-party guarantee, the issuer would consider its own credit standing and not that of the third-party guarantor. The issuer should disclose the existence of the third-party credit enhancement.

2. This Issue Paper proposes adoption, with modification, of FAS 157, FSP FAS 157-1 and FSP FAS 157-4. As components of FSP FAS 157-4 have been incorporated within INT 09-04, with the issuance of a final SSAP on fair value measurements INT 09-04 will be nullified. Guidance within FSP FAS 157-2 on the effective date for nonfinancial assets and nonfinancial liabilities is not considered applicable for statutory accounting, as the effective date of a new SSAP on fair value measurements will be after the effective date established by FSP FAS 157-2. FSP FAS 157-3 is considered rejected for statutory accounting purposes as the modifications made to FAS 157 from the issuance of that FSP have been amended or deleted with the issuance of FSP FAS 157-4. EITF 08-5 is considered rejected for statutory accounting purposes as the concept of considering non-performance risk (own credit risk) is inconsistent with the statutory accounting concept of conservatism and the assessment of financial solvency for insurers. Liabilities reported at fair value shall reflect the guidance adopted within FAS 157, as provided within this Issue Paper, without consideration of own-performance risk and without reflection of any third-party guarantee.

3. Current statutory accounting guidance for the definition of 'fair value' is primarily located within the Glossary to the Accounting Practices and Procedures Manual. There are instances throughout the Statements of Statutory Principles (SSAPs) in which guidance on the definition of fair value is located within a specific SSAP. It is intended that all statutory references to "fair value" will be defined in accordance with the provisions established within this Issue Paper, except where specifically excluded.

Summary Conclusion

4. This Issue Paper defines fair value, establishes a framework for measuring fair value in statutory accounting principles, and expands disclosures about fair value measurements. This Issue Paper applies under other accounting pronouncements that require or permit fair value measurements, but this Issue Paper does not require any new fair value amendments. However, the application of this Issue Paper may change current practice. This Issue Paper does not eliminate the practicability exceptions to fair value measurements in accounting pronouncements within the scope of this Issue Paper.

Scope

5. This Issue Paper applies under other statutory accounting pronouncements that require or permit fair value measurements, except as follows

a. This Issue Paper does not eliminate the practicality exceptions to fair value measurements in accounting pronouncements within the scope of this Issue Paper.

b. This Issue Paper does not apply under *SSAP No. 22—Leases* (SSAP No. 22) and other accounting pronouncements that address fair value measurements for purposes of lease classification to measurement under SSAP No. 22. This scope exception does not apply to assets acquired or liabilities assumed in a business combination that are required to be measured at fair value under *SSAP No. 68—Business Combinations and Goodwill* (SSAP No. 68), regardless of whether those assets and liabilities are related to leases.

Definition of Fair Value

6. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

Components of the Fair Value Definition

7. *Asset/Liability* - A fair value measurement is for a particular asset or liability. Therefore, the measurement should consider attributes specific to the asset or liability, for example, the condition and/or location of the asset or liability and restrictions, if any, on the sale or use of the asset at the measurement date. The asset or liability might be a standalone asset or liability (for example, a financial instrument or an operating asset) or a group of assets and/or liabilities (for example, an asset group, a reporting unit, or a business).

8. *Price* - A fair value measurement assumes that the asset or liability is exchanged in an orderly transaction between market participants to sell the asset or transfer the liability at the measurement date. An orderly transaction is a transaction that assumes exposure to the market for a period prior to the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities; it is not a forced transaction (for example, a forced liquidation or distress sale). The transaction to sell the asset or transfer the liability is a hypothetical transaction at the measurement date, considered from the perspective of a market participant that holds the asset or owes the liability. Therefore, the objective of a fair value measurement is to determine the price that would be received to sell the asset or paid to transfer the liability at the measurement date (an exit price).

9. *Principal (or Most Advantageous) Market* **-** A fair value measurement assumes that the transaction to sell the asset or transfer the liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market for the asset or liability. The principal market is the market in which the reporting entity would sell the asset or transfer the liability with the greatest volume and level of activity for the asset or liability. The most advantageous market is the market in which the reporting entity would sell the asset or transfer the liability with the price that maximizes the amount that would be received for the asset or minimizes the amount that would be paid to transfer the liability, considering transaction costs in the respective market(s). In either case, the principal (or most advantageous) market (and thus, market participants) should be considered from the perspective of the reporting entity, thereby allowing for differences between and among entities with different activities. If there is a principal market for the asset or liability, the fair value measurement shall represent the price in that market (whether that price is directly observable or otherwise determined using a valuation technique), even if the price in a different market is potentially more advantageous at the measurement date.

10. The price in the principal (or most advantageous) market used to measure the fair value of the asset or liability shall not be adjusted for transaction costs. Transaction costs represent the incremental direct costs to sell the asset or transfer the liability in the principal (or most advantageous) market for the asset or liability. Transaction costs are not an attribute of the asset or liability; rather, they are specific to the transaction and will differ depending on how the reporting entity transacts. However, transaction costs do not include the costs that would be incurred to transport the asset or liability to (or from) its principal (or most advantageous) market. If location is an attribute of the asset or liability (as might be the case for a commodity), the price in the principal (or most advantageous) market used to measure the fair value of the asset or liability shall be adjusted for the costs, if any, that would be incurred to transport the asset or liability to (or from) its principal (or most advantageous) market.

11. *Market Participants* - Market participants are buyers and sellers in the principal (or most advantageous) market for the asset or liability that are:

a. Independent of the reporting entity; that is, they are not related parties;

b. Knowledgeable, having a reasonable understanding about the asset or liability and the transaction based on all available information, including information that might be obtained through due diligence efforts that are usual and customary;

c. Able to transact for the asset or liability; and

d. Willing to transact for the asset or liability; that is, they are motivated but not forced or otherwise compelled to do so.

12. The fair value of the asset or liability shall be determined based on the assumptions that market participants would use in pricing the asset or liability. In developing those assumptions, the reporting entity need not identify specific market participants. Rather, the reporting entity should identify characteristics that distinguish market participants generally, considering factors specific to (a) the asset or liability, (b) the principal (or most advantageous) market for the asset or liability, and (c) market participants with whom the reporting entity would transact in that market.

13. *Application to Assets* **-** A fair value measurement assumes the highest and best use of the asset by market participants, considering the use of the asset that is physically possible, legally permissible, and financially feasible at the measurement date. In broad terms, highest and best use refers to the use of an asset by market participants that would maximize the value of the asset or the group of assets within which the asset would be used. Highest and best use is determined based on the use of the asset by market participants, even if the intended use of the asset by the reporting entity is different.

14. The highest and best use of the asset establishes the valuation premise used to measure the fair value of the asset. Specifically:

a. <u>In-use</u> - The highest and best use of the asset is in-use if the asset would provide maximum value to market participants principally through its use in combination with other assets as a group (as installed or otherwise configured for use). For example, that might be the case for certain nonfinancial assets. If the highest and best use of the asset is in-use, the fair value of the asset shall be measured using an in-use valuation premise. When using an in-use valuation premise, the fair value of the asset is determined based on the price that would be received in a current transaction to sell the asset assuming that the asset would be used with other assets as a group and that those assets would be available to market participants. Generally, assumptions about the highest and best use of the asset should be consistent for all of the assets of the group within which it would be used.

b. <u>In-exchange</u> - The highest and best use of the asset is in-exchange if the asset would provide maximum value to market participants principally on a standalone basis. For example, that might be the case for a financial asset. If the highest and best use of the asset is in-exchange, the fair value of the asset shall be measured using an in-exchange valuation premise. When using an in-exchange valuation premise, the fair value of the asset is determined based on the price that would be received in a current transaction to sell the asset standalone.

15. Because the highest and best use of the asset is determined based on its use by market participants, the fair value measurement considers the assumptions that market participants would use in pricing the asset, whether using an in-use or an in-exchange valuation premise.

16. *Application to Liabilities* - Consideration of non-performance risk (own credit-risk) should not be reflected in the fair value calculation for liabilities at subsequent measurement. At initial recognition, it is

perceived that the consideration of own-credit risk may be inherent in the contractual negotiations resulting in the liability. The consideration of non-performance risk for subsequent measurement is inconsistent with the conservatism and recognition concepts as well as the assessment of financial solvency for insurers, as a decrease in credit standing would effectively decrease reported liabilities and thus seemingly increase the appearance of solvency. Furthermore, liabilities reported or disclosed at "fair value" shall not reflect any third-party credit guarantee of debt.

Fair Value at Initial Recognition

17. When an asset is acquired or a liability is assumed in an exchange transaction for that asset or liability, the transaction price represents the price paid to acquire the asset or received to assume the liability (an entry price). In contrast, the fair value of the asset or liability represents the price that would be received to sell the asset or paid to transfer the liability (an exit price). Conceptually, entry prices and exit prices are different. Entities do not necessarily sell assets at the prices paid to acquire them. Similarly, entities do not necessarily transfer liabilities at the prices received to assume them.

18. In many cases, the transaction price will equal the exit price and, therefore, represent the fair value of the asset or liability at initial recognition. In determining whether a transaction price represents the fair value of the asset or liability at initial recognition, the reporting entity shall consider factors specific to the transaction and the asset or liability. For example, a transaction price might not represent the fair value of an asset or liability at initial recognition if:

a. The transaction is between related parties.

b. The transaction occurs under duress or the seller is forced to accept the price in the transaction. For example, that might be the case if the seller is experiencing financial difficulty.

c. The market in which the transaction occurs is different from the market in which the reporting entity would sell the asset or transfer the liability, that is, the principal or most advantageous market. For example, those markets might be different if the reporting entity is a securities dealer that transacts in different markets, depending on whether the counterparty is a retail customer (retail market) or another securities dealer (inter-dealer market).

d. For liabilities, differences may exist as non-performance risk (own credit risk) is not reflected in the fair value (i.e., exit price) determination of all liabilities (including derivatives).

Valuation Techniques

19. Valuation techniques consistent with the market approach, income approach, and/or cost approach shall be used to measure fair value. Key aspects of those approaches are summarized below:

a. Market approach. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities (including a business). For example, valuation techniques consistent with the market approach often use market multiples derived from a set of comparables. Multiples might lie in ranges with a different multiple for each comparable. The selection of where within the range the appropriate multiple falls requires judgment, considering factors specific to the measurement (qualitative and quantitative). Valuation techniques consistent with the market approach include matrix pricing. Matrix pricing is a mathematical technique used principally to value debt securities without relying exclusively on quoted prices for the specific securities, but rather by relying on the securities' relationship to other benchmark quoted securities.

b. Income approach. The income approach uses valuation techniques to convert future amounts (for example, cash flows or earnings) to a single present amount (discounted). The measurement is based on the value indicated by current market expectations about those future amounts. Those valuation techniques include present value techniques; option-pricing models, such as the Black-Scholes-Merton formula (a closed-form model) and a binomial model (a lattice model), which incorporate present value techniques; and the multiperiod excess earnings method, which is used to measure the fair value of certain intangible assets.

c. Cost approach. The cost approach is based on the amount that currently would be required to replace the service capacity of an asset (often referred to as current replacement cost). From the perspective of a market participant (seller), the price that would be received for the asset is determined based on the cost to a market participant (buyer) to acquire or construct a substitute asset of comparable utility, adjusted for obsolescence. Obsolescence encompasses physical deterioration, functional (technological) obsolescence, and economic (external) obsolescence and is broader than depreciation for financial reporting purposes (an allocation of historical cost) or tax purposes (based on specified service lives).

20. Valuation techniques that are appropriate in the circumstances and for which sufficient data are available shall be used to measure fair value. In some cases, a single valuation technique will be appropriate (for example, when valuing an asset or liability using quoted prices in an active market for identical assets or liabilities). In other cases, multiple valuation techniques will be appropriate (for example, as might be the case when valuing a reporting unit). If multiple valuation techniques are used to measure fair value, the results (respective indications of fair value) shall be evaluated and weighted, as appropriate, considering the reasonableness of the range indicated by those results. A fair value measurement is the point within that range that is most representative of fair value in the circumstances.

21. Valuation techniques used to measure fair value shall be consistently applied. However, a change in a valuation technique or its application (for example, a change in its weighting when multiple valuation techniques are used) is appropriate if the change results in a measurement that is equally or more representative of fair value in the circumstances. That might be the case if, for example, new markets develop, new information becomes available, information previously used is no longer available, or valuation techniques improve. Revisions resulting from a change in the valuation technique or its application shall be accounted for as a change in accounting estimate pursuant to SSAP No. 3—Accounting Changes and Corrections of Errors (SSAP No. 3). The disclosure provisions of SSAP No. 3 for a change in accounting estimate are not required for revisions resulting from a change in a valuation technique or its application.

Inputs to Valuation Techniques

22. In this Issue Paper, inputs refer broadly to the assumptions that market participants would use in pricing the asset or liability, including assumptions about risk, for example, the risk inherent in a particular valuation technique used to measure fair value (such as a pricing model) and/or the risk inherent in the inputs to the valuation technique. Inputs may be observable or unobservable:

a. Observable inputs are inputs that reflect the assumptions market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the reporting entity.

b. Unobservable inputs are inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

Valuation techniques used to measure fair value shall maximize the use of observable inputs and minimize the use of unobservable inputs.

Fair Value Hierarchy

23. To increase consistency and comparability in fair value measurements and related disclosures, the fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. The fair value hierarchy gives the highest priority to quoted prices (unadjusted) in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). In some cases, the inputs used to measure fair value might fall in different levels of the fair value hierarchy. The level in the fair value hierarchy within which the fair value measurement in its entirety falls shall be determined based on the lowest level input that is significant to the fair value measurement in its entirety. Assessing the significance of a particular input to the fair value measurement in its entirety requires judgment, considering factors specific to the asset or liability.

24. The availability of inputs relevant to the asset or liability and the relative reliability of the inputs might affect the selection of appropriate valuation techniques. However, the fair value hierarchy prioritizes the inputs to valuation techniques, not the valuation techniques. For example, a fair value measurement using a present value technique might fall within Level 2 or Level 3, depending on the inputs that are significant to the measurement in its entirety and the level in the fair value hierarchy within which those inputs fall.

Level 1 Inputs

25. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. An active market for the asset or liability is a market in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis. A quoted price in an active market provides the most reliable evidence of fair value and shall be used to measure fair value whenever available, except as discussed in paragraphs 26 and 27.

26. If the reporting entity holds a large number of similar assets or liabilities (for example, debt securities) that are required to be measured at fair value, a quoted price in an active market might be available but not readily accessible for each of those assets or liabilities individually. In that case, fair value may be measured using an alternative pricing method that does not rely exclusively on quoted prices (for example, matrix pricing) as a practical expedient. However, the use of an alternative pricing method renders the fair value measurement a lower level measurement.

27. In some situations, a quoted price in an active market might not represent fair value at the measurement date. That might be the case if, for example, significant events (principal-to-principal transactions, brokered trades, or announcements) occur after the close of a market but before the measurement date. The reporting entity should establish and consistently apply a policy for identifying

those events that might affect fair value measurements. However, if the quoted price is adjusted for new information, the adjustment renders the fair value measurement a lower level measurement.

28. If the reporting entity holds a position in a single financial instrument (including a block) and the instrument is traded in an active market, the fair value of the position shall be measured within Level 1 as the product of the quoted price for the individual instrument times the quantity held. The quoted price shall not be adjusted because of the size of the position relative to trading volume (blockage factor). The use of a blockage factor is prohibited, even if a market's normal daily trading volume is not sufficient to absorb the quantity held and placing orders to sell the position in a single transaction might affect the quoted price.

Level 2 Inputs

29. Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. If the asset or liability has a specified (contractual) term, a Level 2 input must be observable for substantially the full term of the asset or liability. Level 2 inputs include the following:

a. Quoted prices for similar assets or liabilities in active markets

b. Quoted prices for identical or similar assets or liabilities in markets that are not active, that is, markets in which there are few transactions for the asset or liability, the prices are not current, or price quotations vary substantially either over time or among market makers (for example, some brokered markets), or in which little information is released publicly (for example, a principal-to-principal market)

c. Inputs other than quoted prices that are observable for the asset or liability (for example, interest rates and yield curves observable at commonly quoted intervals, volatilities, prepayment speeds, loss severities, credit risks, and default rates)

d. Inputs that are derived principally from or corroborated by observable market data by correlation or other means (market-corroborated inputs).

30. Adjustments to Level 2 inputs will vary depending on factors specific to the asset or liability. Those factors include the condition and/or location of the asset or liability, the extent to which the inputs relate to items that are comparable to the asset or liability, and the volume and level of activity in the markets within which the inputs are observed. An adjustment that is significant to the fair value measurement in its entirety might render the measurement a Level 3 measurement, depending on the level in the fair value hierarchy within which the inputs used to determine the adjustment fall.

31. The reporting entity should evaluate the following factors to determine whether there has been a significant decrease in the volume and level of activity for the asset or liability when compared with normal market activity for the asset or liability (or similar assets or liabilities). The factors include, but are not limited to:

a. There are few recent transactions.

b. Price quotations are not based on current information.

c. Price quotations vary substantially either over time or among market makers (for example, some brokered markets).

d. Indexes that previously were highly correlated with the fair values of the asset or liability are demonstrably uncorrelated with recent indications of fair value for that asset or liability.

e. There is a significant increase in implied liquidity risk premiums, yields, or performance indicators (such as delinquency rates or loss severities) for observed transactions or quoted prices when compared with the reporting entity's estimate of expected cash flows, considering all available market data about credit and other nonperformance risk for the asset or liability.

f. There is a wide bid-ask spread or significant increase in the bid-ask spread.

g. There is a significant decline or absence of a market for new issuances (that is, a primary market) for the asset or liability or similar assets or liabilities.

h. Little information is released publicly (for example, a principal-to-principal market).

The reporting entity shall evaluate the significance and relevance of the factors to determine whether, based on the weight of the evidence, there has been a significant decrease in the volume and level of activity for the asset or liability.

32. If the reporting entity concludes there has been a significant decrease in the volume and level of activity for the asset or liability in relation to normal market activity for the asset or liability (or similar assets or liabilities), transactions or quoted prices may not be determinative of fair value (for example, there may be increased instances of transactions that are not orderly). Further analysis of the transactions or quoted prices is needed, and a significant adjustment to the transactions or quoted prices may be necessary to estimate fair value in accordance with this Issue Paper. Significant adjustments also may be necessary in other circumstances (for example, when a price for a similar asset requires significant adjustment to make it more comparable to the asset being measured or when the price is stale).

33. This Issue Paper does not prescribe a methodology for making significant adjustments to transactions or quoted prices when estimating fair value. Paragraphs 19-21 discuss the use of valuation techniques in estimating fair value. If there has been a significant decrease in the volume and level of activity for the asset or liability, a change in valuation technique or the use of multiple valuation techniques may be appropriate (for example, the use of a market approach and a present value technique). When weighting indications of fair value resulting from the use of multiple valuation techniques, the reporting entity shall consider the reasonableness of the range of fair value estimates. The objective is to determine the point within that range that is most representative of fair value under current market conditions. A wide range of fair value estimates may be an indication that further analysis is needed.

34. Even in circumstances where there has been a significant decrease in the volume and level of activity for the asset or liability and regardless of the valuation technique(s) used, the objective of a fair value measurement remains the same. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions. Determining the price at which willing market participants would transact at the measurement date under current market conditions if there has been a significant decrease in the volume and level of activity for the asset or liability depends on the facts and circumstances and requires the use of significant judgment. However, the reporting entity's intention to hold the asset or liability is not relevant in estimating fair value. Fair value is a market-based measurement, not an entity-specific measurement.

35. Even if there has been a significant decrease in the volume and level of activity for the asset or liability, it is not appropriate to conclude that all transactions are not orderly (that is, distressed or forced). Circumstances that may indicate that a transaction is not orderly include, but are not limited to:

a. There was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities under current market conditions.

b. There was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant.

c. The seller is in or near bankruptcy or receivership (that is, distressed), or the seller was required to sell to meet regulatory or legal requirements (that is, forced).

d. The transaction price is an outlier when compared with other recent transactions for the same or similar asset or liability.

The reporting entity shall evaluate the circumstances to determine whether the transaction is orderly based on the weight of the evidence.

36. The determination of whether a transaction is orderly (or not orderly) is more difficult if there has been a significant decrease in the volume and level of activity for the asset or liability. Accordingly, the reporting entity shall consider the following guidance:

a. If the weight of the evidence indicates the transaction is not orderly, the reporting entity shall place little, if any, weight (compared with other indications of fair value) on that transaction price when estimating fair value or market risk premiums.

b. If the weight of the evidence indicates the transaction is orderly, the reporting entity shall consider that transaction price when estimating fair value or market risk premiums. The amount of weight placed on that transaction price when compared with other indications of fair value will depend on the facts and circumstances such as the volume of the transaction, the comparability of the transaction to the asset or liability being measured at fair value, and the proximity of the transaction to the measurement date.

c. If the reporting entity does not have sufficient information to conclude that the transaction is orderly or that the transaction is not orderly, it shall consider that transaction price when estimating fair value or market risk premiums. However, that transaction price may not be determinative of fair value (that is, that transaction price may not be the sole or primary basis for estimating fair value or market risk premiums). The reporting entity shall place less weight on transactions on which the reporting entity does not have sufficient information to conclude whether the transaction is orderly when compared with other transactions that are known to be orderly.

In its determinations, the reporting entity need not undertake all possible efforts, but shall not ignore information that is available without undue cost and effort. The reporting entity would be expected to have sufficient information to conclude whether a transaction is orderly when it is party to the transaction.

37. Regardless of the valuation technique(s) used, the reporting entity shall include appropriate risk adjustments. Risk-averse market participants generally seek compensation for bearing the uncertainty inherent in the cash flows of an asset or liability (risk premium). A fair value measurement should include a risk premium reflecting the amount market participants would demand because of the risk (uncertainty)

in the cash flows. Otherwise, the measurement would not faithfully represent fair value. In some cases, determining the appropriate risk premium might be difficult. However, the degree of difficulty alone is not a sufficient basis on which to exclude a risk adjustment. Risk premiums should be reflective of an orderly transaction (that is, not a forced or distressed sale) between market participants at the measurement date under current market conditions.

38. When estimating fair value, this Issue Paper does not preclude the use of quoted prices provided by third parties, such as pricing services or brokers, when the reporting entity has determined that the quoted prices provided by those parties are determined in accordance with this Issue Paper. However, when there has been a significant decrease in the Volume or level of activity for the asset or liability, the reporting entity should evaluate whether those quoted prices are based on current information that reflects orderly transactions or a valuation technique that reflects market participant assumptions (including assumptions about risks). In weighting a quoted price as an input to a fair value measurement, the reporting entity should place less weight (when compared with other indications of fair value that are based on transactions) on quotes that do not reflect the result of transactions. Furthermore, the nature of the quote (for example, whether the quote is an indicative price or a binding offer) should be considered when weighting the available evidence, with more weight given to quotes based on binding offers.

Level 3 Inputs

39. Level 3 inputs are unobservable inputs for the asset or liability. Unobservable inputs shall be used to measure fair value to the extent that relevant observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at the measurement date. However, the fair value measurement objective remains the same, that is, an exit price from the perspective of a market participant that holds the asset or owes the liability. Therefore, unobservable inputs shall reflect the reporting entity's own assumptions about the assumptions that market participants would use in pricing the asset or liability (including assumptions about risk). Unobservable inputs shall be developed based on the best information available in the circumstances, which might include the reporting entity's own data. In developing unobservable inputs, the reporting entity need not undertake all possible efforts to obtain information about market participant assumptions. However, the reporting entity shall not ignore information about market participant assumptions that is reasonably available without undue cost and effort. Therefore, the reporting entity's own data used to develop unobservable inputs shall be adjusted if information is reasonably available without undue cost and effort that indicates that market participants would use different assumptions.

Inputs Based on Bid and Ask Prices

40. If an input used to measure fair value is based on bid and ask prices (for example, in a dealer market), the price within the bid-ask spread that is most representative of fair value in the circumstances shall be used to measure fair value, regardless of where in the fair value hierarchy the input falls (Level 1, 2, or 3). This Issue Paper does not preclude the use of mid-market pricing or other pricing conventions as a practical expedient for fair value measurements within a bid-ask spread.

Disclosures

41. For assets and liabilities that are measured at fair value on a recurring basis in periods subsequent to initial recognition (for example, common stock), the reporting entity shall disclose information that enables users of its financial statements to assess the inputs used to develop those measurements and for recurring fair value measurements using significant unobservable inputs (Level 3), the effect of the measurements on earnings (or changes in net assets) for the period. To meet that objective, the reporting entity shall disclose the following information for each interim and annual period separately for each

major category of assets and liabilities (for equity and debt securities), major category shall be defined as major security type:

a. The fair value measurements at the reporting date and the source of the fair value measurement.

b. The level within the fair value hierarchy in which the fair value measurements in their entirety fall, segregating fair value measurements using quoted prices in active markets for identical assets or liabilities (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3)

c. For fair value measurements using significant unobservable inputs (Level 3), a reconciliation of the beginning and ending balances, separately presenting changes during the period attributable to the following:

(1) Total gains or losses for the period (realized and unrealized), segregating those gains or losses included in earnings (or changes in net assets), and a description of where those gains or losses included in earnings (or changes in net assets) are reported in the statement of income (or activities)

(2) Purchases, sales, issuances, and settlements (net)

(3) Transfers in and/or out of Level 3 (for example, transfers due to changes in the observability of significant inputs)

d. The amount of the total gains or losses for the period in subparagraph (c) (1) above included in earnings (or changes in net assets) that are attributable to the change in unrealized gains or losses relating to those assets and liabilities still held at the reporting date and a description of where those unrealized gains or losses are reported in the statement of income (or activities)

e. The inputs and valuation technique(s) used to measure fair value and a discussion of changes in valuation techniques and related inputs, if any, during the period.

42. For assets and liabilities that are measured at fair value on a nonrecurring basis in periods subsequent to initial recognition (for example, impaired assets), the reporting entity shall disclose information that enables users of its financial statements to assess the inputs used to develop those measurements. To meet that objective, the reporting entity shall disclose the following information for each interim and annual period separately for each major category of assets and liabilities (for equity and debt securities major category shall be defined as major security type):

a. The fair value measurements recorded during the period and the reasons for the measurements

b. The level within the fair value hierarchy in which the fair value measurements in their entirety fall, segregating fair value measurements using quoted prices in active markets for identical assets or liabilities (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3)

c. For fair value measurements using significant unobservable inputs (Level 3), a description of the inputs and the information used to develop the inputs

d. The inputs and valuation technique(s) used to measure fair value and a discussion of changes, if any, in the valuation technique(s) and related inputs used to measure similar assets and/or liabilities in prior periods.

43. The quantitative disclosures required by this Issue Paper shall be presented using a tabular format. (See Exhibit A.)

44. The reporting entity is encouraged, but not required, to combine the fair value information disclosed under this Issue Paper with the fair value information disclosed under other accounting pronouncements (for example, disclosures about fair value of financial instruments) in the periods in which those disclosures are required, if practicable. The reporting entity also is encouraged, but not required, to disclose information about other similar measurements, if practicable.

Disclosures about Fair Value of Financial Instruments *(Copied from SSAP No. 27 and modified to reflect adoption of FSP FAS 107-1 and APB 28-1. This modification would require disclosures for annual and quarter financial statements.)*

45. A reporting entity shall disclose in the notes to the financial statements, as of each date for which a statement of financial position is presented in the quarterly or annual financial statements, the aggregate fair value of all financial instruments, summarized by type of financial instrument, for which it is practicable to estimate fair value, except for certain financial instruments identified in paragraph 46. Fair value disclosed in the notes shall be presented together with the related admitted values in a form that makes it clear whether the fair values and admitted values represent assets or liabilities and to which line items in the Statement of Assets, Liabilities, Surplus and Other Funds they relate. Unless specified otherwise in another SSAP, the disclosures may be made net of encumbrances, if the asset or liability is so reported. A reporting entity shall also disclose the method(s) and significant assumptions used to estimate the fair value of financial instruments.

46. The disclosures about fair value prescribed in paragraph 45 are not required for the following:

a. Employers' and plans' obligations for pension benefits, other postretirement benefits including health care and life insurance benefits, postemployment benefits, employee stock option and stock purchase plans, and other forms of deferred compensation arrangements, as defined in *SSAP No. 12—Employee Stock Ownership Plans* (SSAP No. 12), *Stock Options and Stock Purchase Plans* (SSAP No. 13), *SSAP No. 14—Postretirement Benefits Other Than Pensions* (SSAP No. 14), and *SSAP No. 89—Accounting for Pensions, A Replacement of SSAP No. 8* (SSAP No. 89).)

b. Substantively extinguished debt subject to the disclosure requirements of *SSAP No. 91R—Accounting for Transfer and Servicing of Financial Assets and Extinguishments of Liabilities* (SSAP No. 91R).

c. Insurance contracts, other than financial guarantees and deposit-type contracts

d. Lease contracts as defined in *SSAP No. 22—Leases* (SSAP No. 22).

e. Warranty obligations and rights.

f. Investments accounted for under the equity method.

g. Equity instruments issued by the entity.

47. If it is not practicable for an entity to estimate the fair value of a financial instrument or a class of financial instruments, the following shall be disclosed:

a. Information pertinent to estimating the fair value of that financial instrument or class of financial instruments, such as the carrying amount, effective interest rate, and maturity; and

b. The reasons why it is not practicable to estimate fair value.

48. In the context of this Issue Paper, practicable means that an estimate of fair value can be made without incurring excessive costs. It is a dynamic concept: what is practicable for one entity might not be for another; what is not practicable in one year might be in another. For example, it might not be practicable for an entity to estimate the fair value of a class of financial instruments for which a quoted market price is not available because it has not yet obtained or developed the valuation model necessary to make the estimate, and the cost of obtaining an independent valuation appears excessive considering the materiality of the instruments to the entity. Practicability, that is, cost considerations, also may affect the required precision of the estimate; for example, while in many cases it might seem impracticable to estimate fair value on an individual instrument basis, it may be practicable for a class of financial instruments in a portfolio or on a portfolio basis. In those cases, the fair value of that class or of the portfolio should be disclosed. Finally, it might be practicable for an entity to estimate the fair value only of a subset of a class of financial instruments; the fair value of that subset should be disclosed.

Relevant Literature

49. This Issue Paper adopts with modification *FAS 157, Fair Value Measurements*; (FAS 157) *FSP FAS 157-1, Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement Under Statement 13*, (FSP FAS 157-1) and *FSP FAS 157-4, Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly* (FSP FAS 157-4). Modifications from FAS 157, FSP FAS 157-1 and FSP FAS 157-4 include:

a. This Issue Paper does not adopt the scope exclusion within paragraph 2a of FAS 157 regarding share-based payment transactions. *FASB Statement No. 123, Share-Based Payment*, and its related interpretive accounting pronouncements that address share-based payment transactions are still being considered for statutory accounting. If these GAAP standards are adopted for statutory accounting, consideration will be given to incorporating an exclusion for determining fair value in accordance with the guidance under this Issue Paper. This Issue Paper is considered applicable under *SSAP No. 13—Stock Options and Stock Purchase Plans* (SSAP No. 13)

b. This Issue Paper does not adopt the scope exclusions within paragraph 3 of FAS 157 for accounting pronouncements that require or permit measurements that are similar to fair value but that are not intended to measure fair value, including (a) accounting pronouncements that permit measurements that are based on, or otherwise use, vendor-specific objective evidence of fair value and (b) inventory pricing. These items are excluded as they are not prevalent within statutory accounting.

c. This Issue Paper does not adopt guidance from FAS 157 regarding the consideration of non-performance risk (own credit risk) in determining the fair value measurement of liabilities. The consideration of own credit-risk in the measurement of fair value liabilities is inconsistent with the statutory accounting concept of conservatism and the assessment of financial solvency for insurers. The fair value determination for liabilities should follow the guidance adopted from FAS 157, with the exception of the consideration of own-performance risk.

d. This Issue Paper includes revisions to reference statutory standards or terms instead of GAAP standards or terms.

e. This Issue Paper incorporates the guidance from SSAP No. 27 regarding disclosures about fair value of financial instruments. This incorporated SSAP No. 27 guidance was adopted from *FAS 107, Disclosures about Fair Value of Financial Instruments* (FAS 107) and was revised to adopt *FSP FAS 107-1 and APB-1, Interim Disclosures about Fair Value of Financial Instruments* (FSP FAS 107-1 and APB-1). For statutory purposes, the incorporation of this guidance within one standard results in having one comprehensive standard addressing fair value measurements and disclosures.

50. Paragraphs 42-44 adopt FAS 107 as amended by *FASB Statement No. 119, Disclosure about Derivative Financial Instruments and Fair Value of Financial Instruments* (FAS 119), except that paragraph 15(c) of FAS 119 relating to disclosure of financial instruments held or issued for trading is rejected and *FASB Emerging Issues Task Force No. 85-20, Recognition of Fees for Guaranteeing a Loan*. Financial instruments named within paragraph 8 of FAS 107 that are exempt from disclosure are adopted to the extent applicable for statutory accounting and are reflected in paragraph 46. This Issue Paper also adopts revisions to FAS 107 reflected in *FSP FAS 107-1 and APB-1, Interim Disclosures about Fair Value of Financial Instruments* (FSP FAS 107-1 and APB-1), and thus requires disclosure in both annual and quarterly financial statements. In addition, this Issue Paper rejects FASB Statement No. 126, Exemptions from Certain Required Disclosures about Financial Instruments for Certain Nonpublic Entities, an amendment of FAS 107. FAS 119 is addressed in SSAP No. 31.

Effective Date and Transition

51. This Issue Paper shall be effective for December 31, 2010 annual financial statements, with interim and annual financial statement reporting thereafter. Early adoption is permitted for December 31, 2009 annual financial statements, with interim and annual reporting thereafter.

Exhibit A - Disclosure Illustrations:

52. **Assets Measured at Fair Value on a Recurring Basis:**

(In millions)	**Level 1**	**Level 2**	**Level 3**	**Total**
Assets at fair value:				
	$	$	$	$
Preferred stock				
Common stock				
Sub-total				
	-			
Derivative assets	-	-		
Separate account assets				
Total assets at fair value	**$**	**$**	**$**	**$**
Liabilities at fair value:				
Derivatives liabilities	$ -	$	$ -	$
Total liabilities at fair value	**$ -**	**$**	**$**	**$**

53. **Assets Measured at Fair Value on a Recurring Basis Using Significant Unobservable Inputs (Level 3):**

(In millions)	**Equity Securities**	**Separate Account Assets**	**Derivative Assets**	**Derivative Liabilities**	**Total**
Balance at 1/1/0X:				$	$
Total Gains or losses (realized/unrealized)					
Included in net income		-			
Included in surplus					)
Purchases, issuances and settlements		)			
Transfers in (out) of Level 3				-	-
Balance at 12/31/0X					
Total gains (losses) included in income attributable to instruments held at the reporting date		$		$	$

54. **Assets Measured at Fair Value on a Nonrecurring Basis:**

Description	12/31/0X	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Gains (Losses)
Bonds					
Preferred Stock					

DISCUSSION:

55. In considering FAS 157 for statutory accounting, the Statutory Accounting Principles Working Group agreed that a consistent definition of fair value should be established to address inconsistencies that may exist on the definition and application of fair value within individual statements of statutory accounting principles. Furthermore, the Working Group agreed that the statutory definition and application of fair value should be similar to the GAAP definition of fair value to minimize situations in which “fair value” is calculated differently between GAAP and SAP. By having similar fair value definitions, it is presumed that assets reported at fair value will not vary between GAAP and SAP financial statements. As illustrated within this Issue Paper, for determining the fair value of liabilities, the concept of considering own credit risk has been rejected for statutory accounting. Thus, it is presumed that in some instances fair value measurements under GAAP and SAP for liabilities will differ.

Modifications to Generally Accepted Accounting Principles

56. This Issue Paper does not incorporate the GAAP concept of “unit of account”. This GAAP concept reflects the application of the fair value measurement guidance to assets or liabilities that are based in groups or lots. Statutory accounting has not previously endorsed the concept of “unit of account” as the statutory measurement of financial instruments is calculated in accordance with single securities. Thus, this term has not been reflected within the statutory accounting fair value measurement guidance.

57. This Issue Paper does not adopt the scope exclusion within paragraph 2a of FAS 157 regarding share-based payment transactions. *FASB Statement No. 123R, Share-Based Payment*, and its related interpretive accounting pronouncements that address share-based payment transactions are still being considered for statutory accounting. If these GAAP standards are adopted for statutory accounting, consideration will be given to incorporating an exclusion for determining fair value in accordance with the guidance under this Issue Paper. This Issue Paper is considered applicable under *SSAP No. 13—Stock Options and Stock Purchase Plans* (SSAP No. 13).

58. This Issue Paper does not adopt the scope exclusions within paragraph 3 of FAS 157 for accounting pronouncements that require or permit measurements that are similar to fair value but that are not intended to measure fair value, including (a) accounting pronouncements that permit measurements that are based on, or otherwise use, vendor-specific objective evidence of fair value and (b) inventory pricing. These items are excluded as they are not prevalent within statutory accounting.

59. This Issue Paper does not adopt guidance from FAS 157 regarding the consideration of non-performance risk (own credit risk) in determining the fair value measurement of liabilities. The consideration of own credit-risk in the measurement of fair value liabilities is inconsistent with the statutory accounting concept of conservatism and the assessment of financial solvency for insurers. The

fair value determination for liabilities should follow the guidance adopted from FAS 157, with the exception of the consideration of own-performance risk. This Issue Paper also rejects guidance within *EITF 08-05, Issuer's Accounting for Liabilities Measured at Fair Value with a Third-Party Credit Enhancement* (EITF 08-05). Thus, under statutory accounting, liabilities measured at fair value shall not include the issuer's own credit risk, or reflect any third-party guarantee of debt. The consideration of non-performance risk is considered inconsistent with the recognition concept as protection of the policyholders can only be maintained through continued monitoring of the financial condition of the insurance enterprise. If statutory liabilities reflected the reporting entity's non-performance risk, the balance sheet would ineffectively illustrate the financial condition of the insurer.

60. This Issue Paper includes revisions to reference statutory standards or terms instead of GAAP standards or terms.

61. This Issue Paper incorporates the guidance from SSAP No. 27 regarding disclosures about fair value of financial instruments. This incorporated SSAP No. 27 guidance was adopted from *FAS 107, Disclosures about Fair Value of Financial Instruments* (FAS 107) and was revised to adopt *FSP FAS 107-1 and APB-1, Interim Disclosures about Fair Value of Financial Instruments* (FSP FAS 107-1 and APB-1). For statutory purposes, the incorporation of this guidance within one standard results in having one comprehensive standard addressing fair value measurements and disclosures.

Modifications to Statutory Accounting Principles

62. This Issue Paper proposes the establishment of a singular standard to define fair value, establish a framework for measuring fair value and to address disclosures about fair value measurements. In order to implement a single standard for fair value guidance, with the adoption of the final standard the following corresponding modifications will be incorporated within existing statutory accounting guidance: (Appendix A illustrates these statutory accounting modifications.)

a. *SSAP No. 2—Cash, Drafts, and Short-term Investments* (SSAP No. 2) – Reference to SSAP No. 27 in paragraph 13a will be deleted, and replaced with reference to the SSAP on fair value measurements.

b. *SSAP No. 13—Stock Options and Stock Purchase Plans* (SSAP No. 13) – Paragraph 8 will be deleted with the issuance of the fair value measurements SSAP. (FAS 157 does not apply under any pronouncements that address share-based payment transactions. Thus deleting paragraph 8 may be considered inconsistent with GAAP as references to fair value in this standard would inherently follow the guidance in the new SSAP. However, the determination of fair value currently included within paragraph 8 of SSAP No. 13 does not appear to contradict with the fair value definition proposed within this Issue Paper.) Reference to market price in paragraphs 3d, 6 and 14 will be revised to reflect fair value.

c. *SSAP No. 26—Bonds, excluding Loan-backed and Structured Securities* (SSAP No. 26) - Reference to SSAP No. 27 in paragraph 17a will be replaced with reference to the new SSAP on fair value measurements. Paragraph 4 will be revised to remove the phrase "which cannot exceed the fair value at the date of acquisition". Retention of this phrase would result with a difference between GAAP and SAP if FAS 157 is adopted, as proposed within this Issue Paper, for statutory accounting.

d. *SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments* (SSAP No. 27) – Paragraphs 8-10 and 13-14 will be deleted with the issuance of the fair value measurements standard. Furthermore, all references to fair value disclosures included throughout the standard (including the title) and the reference to adopted FAS 107 GAAP guidance will be deleted. All fair value disclosure requirements, including financial instruments disclosures, and references to adopted GAAP guidance pertaining to fair value will be incorporated within the new SSAP on fair value measurements. (SSAP No. 27 will be retained for the other items addressed within this standard.) The modification proposed is a variation from GAAP as FAS 107 still includes fair value disclosure requirements for financial instruments. However, this Issue Paper concludes that the paragraphs currently included within SSAP No. 27 for statutory financial instrument disclosures would be more appropriately placed, and improve the ease of application, if included in the new SSAP on fair value measurements.

e. *SSAP No. 30—Investments in Common Stock (excluding investments in common stock of subsidiary, controlled or affiliated entities)* (SSAP No. 30) – Reference to SSAP No. 27 in paragraphs 13d and 13f will be revised to reference the new SSAP on fair value measurements. Paragraph 5 will be revised to remove the sentence "Cost shall not exceed fair value." Retention of this sentence would result with a difference between GAAP and SAP if FAS 157 is adopted, as proposed within this Issue Paper, for statutory accounting. In accordance with FAS 157, transaction costs would be initially included in 'cost' at acquisition. For subsequent reporting, unrealized gains/losses would be reflected to illustrate the difference between the acquisition cost and fair value. If the existing SSAP No. 30, paragraph 5 guidance was retained for statutory accounting, the initial recognition of the asset would have an immediate unrecognized loss (assumed to represent transaction costs if purchased at fair value). As at subsequent reporting, the GAAP and SAP valuation of the asset would both reflect fair value, and as transaction costs are typically immaterial, the existing variation from GAAP seems to generate an operational difference between GAAP and SAP that would not provide a significant impact to capital and surplus for statutory purposes.

f. *SSAP No. 32—Investments in Preferred Stock (including investments in preferred stock of subsidiary, controlled or affiliated entities)* (SSAP No. 32) - Reference to SSAP No. 27 in paragraphs 29a and 29f will be revised to reference the new SSAP on fair value measurements. Paragraph 10 will be revised to remove the sentence "Cost shall not exceed fair value." Retention of this sentence would result with a difference between GAAP and SAP if FAS 157 is adopted, as proposed within this Issue Paper, for statutory accounting. In accordance with FAS 157, transaction costs would be initially included in 'cost' at acquisition. For subsequent reporting, unrealized gains/losses would be reflected to illustrate the difference between the acquisition cost and fair value. If the existing SSAP No. 32, paragraph 10 guidance was retained for statutory accounting, the initial recognition of the asset would have an immediate unrecognized loss (assumed to represent transaction costs if purchased at fair value). As at subsequent reporting, the GAAP and SAP valuation of the asset would both reflect fair value, and as transaction costs are typically immaterial, the existing variation from GAAP seems to generate an operational difference between GAAP and SAP that would not provide a significant impact to capital and surplus for statutory purposes.

g. *SSAP No. 36—Troubled Debt Restructuring* (SSAP No. 36) – Revisions are incorporated to paragraphs 10 and 11to clarify the determination of fair value in accordance with the new SSAP on fair value measurements.

h. *SSAP No. 37—Mortgage Loans* (SSAP No. 37) - Reference to SSAP No. 27 in paragraph 20a will be revised to reference the new SSAP on fair value measurements.

i. *SSAP No. 40—Real Estate Investments* (SSAP No. 40) – Guidance in paragraph 11 for the regarding the definition of fair value will be deleted, but the requirement to obtain an appraisal if market quotes are unavailable will be retained. Reference to "market value" in paragraphs 19, 20 and 24b will be deleted and replaced with the term "fair value".

j. *SSAP No. 43R—Loan-backed and Structured Securities-Revised* (SSAP No. 43R) – Reference to SSAP No. 27 in paragraph 48 will be revised to reference the new SSAP on fair value measurements. Paragraph 7 will be revised to remove the sentence "Cost shall not exceed fair value." Retention of this sentence would result with a difference between GAAP and SAP if FAS 157 is adopted, as proposed within this Issue Paper, for statutory accounting. In accordance with FAS 157, transaction costs would be initially included in 'cost' at acquisition. For subsequent reporting, unrealized gains/losses would be reflected to illustrate the difference between the acquisition cost and fair value. If the existing SSAP No. 43, paragraph 6 guidance was retained for statutory accounting, the initial recognition of the asset would have an immediate unrecognized loss (assumed to represent transaction costs if purchased at fair value). As at subsequent reporting, the GAAP and SAP valuation of the asset would both reflect fair value, and as transaction costs are typically immaterial, the existing variation from GAAP seems to generate an operational difference between GAAP and SAP that would not provide a significant impact to capital and surplus for statutory purposes.

k. *SSAP No. 51—Life Contracts* (SSAP No. 51) – The term "market value" included within paragraphs 38a.iii and 38a.iv. will be revised to refer to "fair value".

l. *SSAP No. 52—Deposit-Type Contracts* (SSAP No. 52) – The term "market value" included within paragraphs 17a.iii and 17a.iv will be revised to refer to "fair value".

m. *SSAP No. 56—Separate Accounts* (SSAP No. 56) – The term "market value" included within paragraphs 17, 18, 18a, 20, 22, 26, 31b, 32 and 41 will be revised to refer to "fair value". The use of the term "market value adjusted contracted" as illustrated in paragraphs 20 and 29c will be retained.

n. *SSAP No. 61—Life, Deposit-Type and Accident and Health Reinsurance* (SSAP No. 61) – The term "market value" included within paragraphs 55, 59a.iii and 59 a.iv will be revised to refer to "fair value". The term "market-value adjustments" included within paragraph 59a will be retained.

o. *SSAP No. 73—Health Care Delivery Assets – Supplies, Pharmaceuticals and Surgical Supplies, Durable Medical Equipment, Furniture, Medical Equipment and Fixtures, and Leasehold Improvement in Health Care Facilities* (SSAP No. 73) - The reference to "market" in paragraph 5 will be revised to refer to "fair value".

p. *SSAP No. 74—Accounting for the Issuance of Insurance-Linked Securities Issued by a Property and Casualty Insurer Through a Protected Cell* (SSAP No. 74) – In the glossary to this statement, the term "fair value" will be redefined to reference the new SSAP on fair value measurements.

q. *SSAP No. 86—Accounting for Derivatives, Instruments and Hedging Activities* (SSAP No. 86) – Reference to SSAP No. 27 in paragraph 14 will be revised to reflect the new

SSAP No. 27 title (as modified pursuant to the inclusion of all fair value disclosures within the new SSAP on fair value measurements). Throughout SSAP No. 86, Exhibit C, the term "marked-to-market" will be deleted.

r. *SSAP No. 90—Accounting for the Impairment or Disposal of Real Estate Investments* (SSAP No. 90) – Reference to the definition of fair value included within the Glossary to the AP&P manual in paragraphs 16 and 41d will be revised to refer to the new SSAP on fair value measurements. Additionally, the term "market price" in paragraph 5a will be replaced with the term "fair value".

s. *SSAP No. 91R—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (SSAP No. 91R) – Paragraph 7e will be revised to eliminate the reference to the glossary and instead reference the new SSAP on fair value measurements. Paragraphs 8 and 12 will be revised to remove the parenthetical definition of fair value "presumably, the price paid". Paragraphs 95f.i and 95g.i will be revised to remove the parenthetical instruction on determining fair value and be revised to reference the new SSAP on fair value measurements. The Glossary to SSAP No. 91R will revise the definition of "Derivative Financial Instrument" to update the title of SSAP No. 27 pursuant to the revisions adopted by the new SSAP on fair value measurements.

t. *SSAP No. 93—Accounting for Low Income Housing Tax Credit Property Investments* (SSAP No. 93) – References to "market value" in paragraphs 1c, 1d, 5 and 20b will be revised to refer to "fair value"

u. *SSAP No. 95—Exchanges of Nonmonetary Assets, A Replacement of SSAP No. 28—Nonmonetary Transactions* (SSAP No. 98) – Revisions will be incorporated to paragraph 14 to define fair value in accordance with the new SSAP on fair value measurements. (No revisions will be incorporated to paragraph 7, as the 'fair value' is based on the measurement method used for each type of asset pursuant to SSAP that provides guidance for that asset type. If the SSAP was to prescribe a fair value measurement, then the new SSAP on fair value measurements would be utilized.)

v. *SSAP No. 97—Insurance in Subsidiary, Controlled and Affiliated Entities, A Replacement of SSAP No. 88* (SSAP No. 97) – Reference to "market " in 31a will be revised to refer to "fair value". Reference to "quoted market price" in 31b, will be revised to refer to "quoted price".

w. *Glossary to the Statements of the Statutory Accounting Principles* (Glossary) – The definition of fair value will be revised to refer to the new SSAP on fair value measurements.

x. *INT 99-17: EITF 97-12: Accounting for Increased Share Authorizations in an IRS Section 423 Employee Stock Purchase Plan Under APB Opinion No. 25* (INT 99-17) – Consistent with the proposed revisions to SSAP No. 13, the term "market" in paragraph 2 will be revised to reflect "fair value."

y. *INT 99-29*: *Classification of Step-Up Preferred Stock* (INT 99-29) – The reference to "market" in paragraph 4 will be revised to reflect "fair value"

z. *INT 01-14: EITF 00-16: Recognition and Measurement of Employer Payroll Taxes on Employee Stock-Based Compensation* (INT 01-14) – The reference to "market value" in paragraph 1 will be revised to reflect "fair value". (The reference to "market sectors" within that paragraph will be retained.)

aa. *INT 01-31: Assets Pledged as Collateral* (INT 01-31) – The reference to "market value" in paragraph 6 will be revised to reflect "fair value".

bb. *INT 02-05: Accounting for Zero Coupon Convertible Bonds* (INT 02-05) – The reference to "marked to market" within paragraph 3 will be revised to reflect "fair value". Also in paragraph 3, the term "market" in the last paragraph will be revised to reflect "fair value". In paragraph 4, the statement "Mark AFS and Trading to market" will be revised to read "Mark AFS and Trading to fair value".

cc. *INT 03-03: Admissibility of Investments Recorded Based on the Audited GAAP Equity of the Investee when a Qualified Opinion is Provided* (INT 03-03) – Reference to "market value" in paragraph 2 will be revised to reflect "fair value".

dd. *INT 04-07: EITF 02-15: Determining Whether Certain Conversations of Convertible Debt to Equity Securities Are Within the Scope of FASB Statement No. 84* (INT 04-07) – The term "fair market value" throughout paragraph 4 will be revised to reflect "fair value".

ee. *INT 06-07: Definition of Phrase "Other Than Temporary"* (INT 06-07) – The reference to the definition of fair value within the Glossary will be revised to reflect the new SSAP on fair value measurements.

ff. *INT 09-04, Application of the Fair Value Definition* (INT 09-04) – This interpretation will be nullified with the issuance of this standard. (As this item will be completely nullified, this item has not been included within Appendix A.)

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

63. Statutory accounting guidance for the definition of fair value is primarily included within the Glossary to Statutory Accounting Principles. In limited situations the definition of fair value is further defined within individual SSAPs, but the guidance within the Glossary is the underlying guidance for the previous definition of fair value within statutory accounting statements:

> Fair Value - The fair value of an asset (or liability) is the amount at which that asset (or liability) could be bought (or incurred) or sold (or settled) in a current transaction between willing parties, that is, other than in a forced or liquidation sale. Quoted market prices in active markets are the best evidence of fair value and shall be used as the basis for the measurement, if available. If a quoted market price is available, the fair value is the product of the number of trading units times market price.
>
> If quoted market prices are not available, the estimate of fair value shall be based on the best information available. The estimate of fair value shall consider prices for similar assets and liabilities and the results of valuation techniques to the extent available in the circumstances. Examples of valuation techniques include the present value of estimated expected future cash flows using a discount rate commensurate with the risks involved, option-pricing models, matrix pricing, option-adjusted spread models, and fundamental analysis. Valuation techniques for measuring financial assets and liabilities and servicing assets and liabilities shall be consistent with the objective of measuring fair value. Those techniques shall incorporate assumptions that market participants would use in their estimates of values, future revenues, and future expenses,

including assumptions about interest rates, default, prepayment, and volatility. In measuring financial liabilities and servicing liabilities at fair value by discounting estimated future cash flows, an objective is to use discount rates at which those liabilities could be settled in an arm's-length transaction.

Estimates of expected future cash flows, if used to estimate fair value, shall be the best estimate based on reasonable and supportable assumptions and projections. All available evidence shall be considered in developing estimates of expected future cash flows. The weight given to the evidence shall be commensurate with the extent to which the evidence can be verified objectively. If a range is estimated for either the amount or timing of possible cash flows, the likelihood of possible outcomes shall be considered in determining the best estimate of future cash flows.

64. The guidance incorporated within the Glossary was previously established from GAAP guidance in paragraph 13 of *FAS 15, Accounting for Debtors* (FAS 15). (This guidance has been superseded by FAS 157):

> 13 …The fair value of the assets transferred is the amount that the debtor could reasonably expect to receive for them in a current sale between a willing buyer and a willing seller, that is, other than in a forced or liquidation sale. Fair value of assets shall be measured by their market value if an active market for them exists. If no active market exists for the assets transferred but exists for similar assets, the selling prices in that market may be helpful in estimating the fair value of the assets transferred. If no market price is available, a forecast of expected cash flows may aid in estimating the fair value of assets transferred, provided the expected cash flows are discounted at a rate commensurate with the risk involved.

65. The adoption of a new SSAP, that adopts, with modification, FAS 157 to define fair value, establish a framework for measuring fair value in generally accepted accounting principles (GAAP) and to expand disclosures about fair value measurements will result with continued fair value measurements that are essentially identical for statutory and GAAP purposes. Furthermore, developing a specific statement to address fair value will address the need to have consistent and comparable guidance throughout the SSAPs.

66. The adoption, with modification, of FAS 157 will change the statutory approach to determining fair value. With the guidance proposed under this Issue Paper, the transaction to sell an asset or liability, and determine fair value, is a hypothetical transaction at the measurement date considered from the perspective of a market participant that holds the asset or owes the liability. Thus, the definition focuses on the price that would be received to sell the asset or paid to transfer the liability (an exit price), not the price that would be paid to acquire the asset or received to assume the liability (an entry price).

67. By adopting, with modification, FAS 157, statutory accounting principles will incorporate the following key aspects of FAS 157:

a. Fair value is a market-based measurement, not an entity-specific measurement. Thus, fair value measurements shall be determined based on the assumptions that market participants would use in pricing the asset or liability.

b. The fair value hierarchy distinguishes between (1) market participant assumptions developed based on market data obtained from sources independent of the reporting entity (observable inputs) and (2) the reporting entity's own assumptions about market participant assumptions based on the best information available in the circumstances (unobservable inputs).

c. Market participant assumptions include assumptions about risk. A fair value measurement should include an adjustment for risk if market participants would include one in pricing the related asset or liability, even if the adjustment is difficult to determine. Therefore, a measurement that does not include an adjustment for risk would not represent a fair value measurement if market participants would include one in pricing the related asset or liability.

Generally Accepted Accounting Principles

68. The GAAP guidance for the fair value measurements is included within FAS 157, as modified by FSP FAS 157-1, FSP FAS 157-2 and FSP FAS 157-4: (Note: FSP FAS 157-3 is not reflected in the amended FAS 157, as the modifications included within FSP FAS 157-4 deleted all revisions originally incorporated by FSP FAS 157-3.)

1. This Statement defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. Where applicable, this Statement simplifies and codifies related guidance within generally accepted accounting principles (GAAP).

Scope

2. This Statement applies under other accounting pronouncements 1 that require or permit fair value measurements, except as follows:

a. This Statement does not apply under accounting pronouncements that address share-based payment transactions: FASB Statement No. 123 (revised 2004), Share-Based Payment, and its related interpretive accounting pronouncements that address share-based payment transactions.

b. This Statement does not eliminate the practicability exceptions to fair value measurements in accounting pronouncements within the scope of this Statement.

c. This Statement does not apply under FASB Statement No. 13, Accounting for Leases, and other accounting pronouncements that address fair value measurements for purposes of lease classification or measurement under Statement 13. This scope exception does not apply to assets acquired and liabilities assumed in a business combination that are required to be measured at fair value under Statement 141 or Statement 141(R), regardless of whether those assets and liabilities are related to leases.

3. This Statement does not apply under accounting pronouncements that require or permit measurements that are similar to fair value but that are not intended to measure fair value, including the following:

a. Accounting pronouncements that permit measurements that are based on, or otherwise use, vendor-specific objective evidence of fair value

b. ARB No. 43, Chapter 4, "Inventory Pricing."

4. Appendix D lists pronouncements of the Accounting Principles Board (APB) and the FASB existing at the date of this Statement that are within the scope of this Statement. Appendix E lists those APB and FASB pronouncements that are amended by this Statement.

Measurement

Definition of Fair Value

5. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

The Asset or Liability

6. A fair value measurement is for a particular asset or liability. 4 Therefore, the measurement should consider attributes specific to the asset or liability, for example, the condition and/or location of the asset or liability and restrictions, if any, on the sale or use of the asset at the measurement date. The asset or liability might be a standalone asset or liability (for example, a financial instrument or an operating asset) or a group of assets and/or liabilities (for example, an asset group, a reporting unit, or a business). Whether the asset or liability is a standalone asset or liability or a group of assets and/or liabilities depends on its unit of account. The unit of account determines what is being measured by reference to the level at which the asset or liability is aggregated (or disaggregated) for purposes of applying other accounting pronouncements. The unit of account for the asset or liability should be determined in accordance with the provisions of other accounting pronouncements, except as provided in paragraph 27.

The Price

7. A fair value measurement assumes that the asset or liability is exchanged in an orderly transaction between market participants to sell the asset or transfer the liability at the measurement date. An orderly transaction is a transaction that assumes exposure to the market for a period prior to the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities; it is not a forced transaction (for example, a forced liquidation or distress sale). The transaction to sell the asset or transfer the liability is a hypothetical transaction at the measurement date, considered from the perspective of a market participant that holds the asset or owes the liability. Therefore, the objective of a fair value measurement is to determine the price that would be received to sell the asset or paid to transfer the liability at the measurement date (an exit price).

The Principal (or Most Advantageous) Market

8. A fair value measurement assumes that the transaction to sell the asset or transfer the liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market for the asset or liability. The principal market is the market in which the reporting entity would sell the asset or transfer the liability with the greatest volume and level of activity for the asset or liability. The most advantageous market is the market in which the reporting entity would sell the asset or transfer the liability with the price that maximizes the amount that would be received for the asset or minimizes the amount that would be paid to transfer the liability, considering transaction costs in the respective market(s). In either case, the principal (or most advantageous) market (and thus, market participants) should be considered from the perspective of the reporting entity, thereby allowing for differences between and among entities with different activities. If there is a principal market for the asset or liability, the fair value measurement shall represent the price in that market (whether that price is directly observable or otherwise determined using a valuation technique), even if the price in a different market is potentially more advantageous at the measurement date.

9. The price in the principal (or most advantageous) market used to measure the fair value of the asset or liability shall not be adjusted for transaction costs. 5 Transaction costs represent the incremental direct costs to sell the asset or transfer the liability in the principal (or most advantageous) market for the asset or liability. 6 Transaction costs are not an attribute of the asset or liability; rather, they are specific to the transaction and will differ depending on how the reporting entity transacts. However, transaction costs do not include the costs that would be incurred to transport the asset or liability to (or from) its principal (or most advantageous) market. If location is an attribute of the asset or liability (as might be the case for a commodity), the price in the principal (or most advantageous) market used to measure the fair value of the asset or liability shall be adjusted for the costs, if any, that would be incurred to transport the asset or liability to (or from) its principal (or most advantageous) market.

Market Participants

10. Market participants are buyers and sellers in the principal (or most advantageous) market for the asset or liability that are:

a. Independent of the reporting entity; that is, they are not related parties

b. Knowledgeable, having a reasonable understanding about the asset or liability and the transaction based on all available information, including information that might be obtained through due diligence efforts that are usual and customary

c. Able to transact for the asset or liability

d. Willing to transact for the asset or liability; that is, they are motivated but not forced or otherwise compelled to do so.

11. The fair value of the asset or liability shall be determined based on the assumptions that market participants would use in pricing the asset or liability. In developing those assumptions, the reporting entity need not identify specific market participants. Rather, the reporting entity should identify characteristics that distinguish market participants generally, considering factors specific to (a) the asset or liability, (b) the principal (or most advantageous) market for the asset or liability, and (c) market participants with whom the reporting entity would transact in that market.

Application to Assets

12. A fair value measurement assumes the highest and best use of the asset by market participants, considering the use of the asset that is physically possible, legally permissible, and financially feasible at the measurement date. In broad terms, highest and best use refers to the use of an asset by market participants that would maximize the value of the asset or the group of assets within which the asset would be used. Highest and best use is determined based on the use of the asset by market participants, even if the intended use of the asset by the reporting entity is different.

13. The highest and best use of the asset establishes the valuation premise used to measure the fair value of the asset. Specifically:

a. In-use. The highest and best use of the asset is in-use if the asset would provide maximum value to market participants principally through its use in combination with other assets as a group (as installed or otherwise configured for use). For example, that might be the case for certain nonfinancial assets. If the highest and best use of the asset is in-use, the fair value of the asset shall be measured using an in-use valuation premise. When using an in-use valuation premise, the fair value of the asset is determined based on the price that would be received in a current transaction to sell the asset assuming that the asset would be used with other assets as a group and that those assets would be available to market participants. Generally, assumptions about the highest and best use of the asset should be consistent for all of the assets of the group within which it would be used.

b. In-exchange. The highest and best use of the asset is in-exchange if the asset would provide maximum value to market participants principally on a standalone basis. For example, that might be the case for a financial asset. If the highest and best use of the asset is in-exchange, the fair value of the asset shall be measured using an in-exchange valuation premise. When using an in-exchange valuation premise, the fair value of the asset is determined based on the price that would be received in a current transaction to sell the asset standalone.

14. Because the highest and best use of the asset is determined based on its use by market participants, the fair value measurement considers the assumptions that market participants would use in pricing the asset, whether using an in-use or an in-exchange valuation premise.

Application to Liabilities

15. A fair value measurement assumes that the liability is transferred to a market participant at the measurement date (the liability to the counterparty continues; it is not settled) and that the nonperformance risk relating to that liability is the same before and after its transfer. Nonperformance risk refers to the risk that the obligation will not be fulfilled and affects the value at which the liability is transferred. Therefore, the fair value of the liability shall reflect the nonperformance risk relating to that liability. Nonperformance risk includes but may not be limited to the reporting entity's own credit risk. The reporting entity shall consider the effect of its credit risk (credit standing) on the fair value of the liability in all periods in which the liability is measured at fair value. That effect may differ depending on the liability, for example, whether the liability is an obligation to deliver cash (a financial liability) or an obligation to deliver goods or services (a nonfinancial liability), and the terms of credit enhancements related to the liability, if any.

Fair Value at Initial Recognition

16. When an asset is acquired or a liability is assumed in an exchange transaction for that asset or liability, the transaction price represents the price paid to acquire the asset or received to assume the liability (an entry price). In contrast, the fair value of the asset or liability represents the price that would be received to sell the asset or paid to transfer the liability (an exit price). Conceptually, entry prices and exit prices are different. Entities do not necessarily sell assets at the prices paid to acquire them. Similarly, entities do not necessarily transfer liabilities at the prices received to assume them.

17. In many cases, the transaction price will equal the exit price and, therefore, represent the fair value of the asset or liability at initial recognition. In determining whether a transaction price represents the fair value of the asset or liability at initial recognition, the reporting entity shall consider factors specific to the transaction and the asset or liability. For example, a transaction price might not represent the fair value of an asset or liability at initial recognition if:

a. The transaction is between related parties.

b. The transaction occurs under duress or the seller is forced to accept the price in the transaction. For example, that might be the case if the seller is experiencing financial difficulty.

c. The unit of account represented by the transaction price is different from the unit of account for the asset or liability measured at fair value. For example, that might be the case if the asset or liability measured at fair value is only one of the elements in the transaction, the transaction includes unstated rights and privileges that should be separately measured, or the transaction price includes transaction costs.

d. The market in which the transaction occurs is different from the market in which the reporting entity would sell the asset or transfer the liability, that is, the principal or most advantageous market. For example, those markets might be different if the reporting entity is a securities dealer that transacts in different markets, depending on whether the counterparty is a retail customer (retail market) or another securities dealer (inter-dealer market).

Valuation Techniques

18. Valuation techniques consistent with the market approach, income approach, and/or cost approach shall be used to measure fair value. Key aspects of those approaches are summarized below:

a. Market approach. The market approach uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities (including a business). For example, valuation techniques consistent with the market approach often use market multiples derived from a set of comparables. Multiples might lie in ranges with a different multiple for each comparable. The selection of where within the range the appropriate multiple falls requires judgment, considering factors specific to the measurement (qualitative and quantitative). Valuation techniques consistent with the market approach include matrix pricing. Matrix pricing is a mathematical technique used principally to value debt securities without relying exclusively on quoted prices for the specific securities, but rather by relying on the securities' relationship to other benchmark quoted securities.

b. Income approach. The income approach uses valuation techniques to convert future amounts (for example, cash flows or earnings) to a single present amount (discounted). The measurement is based on the value indicated by current market expectations about those future amounts. Those valuation techniques include present value techniques; option-pricing models, such as the Black-Scholes-Merton formula (a closed-form model) and a binomial model (a lattice model), which incorporate present value techniques; 9 and the multiperiod excess earnings method, which is used to measure the fair value of certain intangible assets.

c. Cost approach. The cost approach is based on the amount that currently would be required to replace the service capacity of an asset (often referred to as current replacement cost). From the perspective of a market participant (seller), the price that would be received for the asset is determined based on the cost to a market participant (buyer) to acquire or construct a substitute asset of comparable utility, adjusted for obsolescence. Obsolescence encompasses physical deterioration, functional (technological) obsolescence, and economic (external) obsolescence and is broader than depreciation for financial reporting purposes (an allocation of historical cost) or tax purposes (based on specified service lives).

19. Valuation techniques that are appropriate in the circumstances and for which sufficient data are available shall be used to measure fair value. In some cases, a single valuation technique will be appropriate (for example, when valuing an asset or liability using quoted prices in an active market for identical assets or liabilities). In other cases, multiple valuation techniques will be appropriate (for example, as might be the case when valuing a reporting unit). If multiple valuation techniques are used to measure fair value, the results (respective indications of fair value) shall be evaluated and weighted, as appropriate, considering the reasonableness of the range indicated by those results. A fair value measurement is the point within that range that is most representative of fair value in the circumstances.

20. Valuation techniques used to measure fair value shall be consistently applied. However, a change in a valuation technique or its application (for example, a change in its weighting when multiple valuation techniques are used) is appropriate if the change results in a measurement that is equally or more representative of fair value in the circumstances. That might be the case if, for example, new markets develop, new information becomes available, information previously used is no longer available, or valuation techniques improve. Revisions resulting from a change in the valuation technique or its application shall be accounted for as a change in accounting estimate (FASB Statement No. 154, Accounting Changes and Error Corrections, paragraph 19). The disclosure provisions of Statement 154 for a change in accounting estimate are not required for revisions resulting from a change in a valuation technique or its application.

Inputs to Valuation Techniques

21. In this Statement, inputs refer broadly to the assumptions that market participants would use in pricing the asset or liability, including assumptions about risk, for example, the risk inherent in a particular valuation technique used to measure fair value (such as a pricing model) and/or the risk inherent in the inputs to the valuation technique. Inputs may be observable or unobservable:

a. Observable inputs are inputs that reflect the assumptions market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the reporting entity.

b. Unobservable inputs are inputs that reflect the reporting entity's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

Valuation techniques used to measure fair value shall maximize the use of relevant observable inputs (that is Level 1 and Level 2 inputs that do not require significant adjustment) and minimize the use of unobservable inputs.

Fair Value Hierarchy

22. To increase consistency and comparability in fair value measurements and related disclosures, the fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. The fair value hierarchy gives the highest priority to quoted prices (unadjusted) in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). In some cases, the inputs used to measure fair value might fall in different levels of the fair value hierarchy. The level in the fair value hierarchy within which the fair value measurement in its entirety falls shall be determined based on the lowest level input that is significant to the fair value measurement in its entirety. Assessing the significance of a particular input to the fair value measurement in its entirety requires judgment, considering factors specific to the asset or liability.

23. The availability of inputs relevant to the asset or liability and the relative reliability of the inputs might affect the selection of appropriate valuation techniques. However, the fair value hierarchy prioritizes the inputs to valuation techniques, not the valuation techniques. For example, a fair value measurement using a present value technique might fall within Level 2 or Level 3, depending on the inputs that are significant to the measurement in its entirety and the level in the fair value hierarchy within which those inputs fall.

Level 1 Inputs

24. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. An active market for the asset or liability is a market in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis. A quoted price in an active market provides the most reliable evidence of fair value and shall be used to measure fair value whenever available, except as discussed in paragraphs 25 and 26.

25. If the reporting entity holds a large number of similar assets or liabilities (for example, debt securities) that are required to be measured at fair value, a quoted price in an active market might be available but not readily accessible for each of those assets or liabilities individually. In that case, fair value may be measured using an alternative pricing method that does not rely exclusively on quoted prices (for example, matrix pricing) as a practical expedient. However, the use of an alternative pricing method renders the fair value measurement a lower level measurement.

26. In some situations, a quoted price in an active market might not represent fair value at the measurement date. That might be the case if, for example, significant events (principal-to-

principal transactions, brokered trades, or announcements) occur after the close of a market but before the measurement date. The reporting entity should establish and consistently apply a policy for identifying those events that might affect fair value measurements. However, if the quoted price is adjusted for new information, the adjustment renders the fair value measurement a lower level measurement.

27. If the reporting entity holds a position in a single financial instrument (including a block) and the instrument is traded in an active market, the fair value of the position shall be measured within Level 1 as the product of the quoted price for the individual instrument times the quantity held. The quoted price shall not be adjusted because of the size of the position relative to trading volume (blockage factor). The use of a blockage factor is prohibited, even if a market's normal daily trading volume is not sufficient to absorb the quantity held and placing orders to sell the position in a single transaction might affect the quoted price.

Level 2 Inputs

28. Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. If the asset or liability has a specified (contractual) term, a Level 2 input must be observable for substantially the full term of the asset or liability. Level 2 inputs include the following:

a. Quoted prices for similar assets or liabilities in active markets

b. Quoted prices for identical or similar assets or liabilities in markets that are not active. (Paragraph 29A includes example factors that may indicate that a market is not active or that there has been a significant decrease in the volume and level of activity for the asset or liability when compared to normal market activity for the asset or liability (or similar assets or liabilities), depending on the degree to which the factors exist.)

c. Inputs other than quoted prices that are observable for the asset or liability (for example, interest rates and yield curves observable at commonly quoted intervals, volatilities, prepayment speeds, loss severities, credit risks, and default rates)

d. Inputs that are derived principally from or corroborated by observable market data by correlation or other means (market-corroborated inputs).

29. Adjustments to Level 2 inputs will vary depending on factors specific to the asset or liability. Those factors include the condition and/or location of the asset or liability, the extent to which the inputs relate to items that are comparable to the asset or liability, and the volume and level of activity in the markets within which the inputs are observed. An adjustment that is significant to the fair value measurement in its entirety might render the measurement a Level 3 measurement, depending on the level in the fair value hierarchy within which the inputs used to determine the adjustment fall.

29A. The reporting entity should evaluate the following factors to determine whether there has been a significant decrease in the volume and level of activity for the asset or liability when compared with normal market activity for the asset or liability (or similar assets or liabilities). The factors include, but are not limited to:

a. There are few recent transactions.

b. Price quotations are not based on current information.

c. Price quotations vary substantially either over time or among market makers (for example, some brokered markets).

d. Indexes that previously were highly correlated with the fair values of the asset or liability are demonstrably uncorrelated with recent indications of fair value for that asset or liability.

e. There is a significant increase in implied liquidity risk premiums, yields, or performance indicators (such as delinquency rates or loss severities) for observed transactions or quoted prices when compared with the reporting entity's estimate of expected cash flows, considering all available market data about credit and other nonperformance risk for the asset or liability.

f. There is a wide bid-ask spread or significant increase in the bid-ask spread.

g. There is a significant decline or absence of a market for new issuances (that is, a primary market) for the asset or liability or similar assets or liabilities.

h. Little information is released publicly (for example, a principal-to-principal market).

The reporting entity shall evaluate the significance and relevance of the factors to determine whether, based on the weight of the evidence, there has been a significant decrease in the volume and level of activity for the asset or liability.

29B. If the reporting entity concludes there has been a significant decrease in the volume and level of activity for the asset or liability in relation to normal market activity for the asset or liability (or similar assets or liabilities), transactions or quoted prices may not be determinative of fair value (for example, there may be increased instances of transactions that are not orderly). Further analysis of the transactions or quoted prices is needed, and a significant adjustment to the transactions or quoted prices may be necessary to estimate fair value in accordance with this Statement. Significant adjustments also may be necessary in other circumstances (for example, when a price for a similar asset requires significant adjustment to make it more comparable to the asset being measured or when the price is stale).

29C. This Statement does not prescribe a methodology for making significant adjustments to transactions or quoted prices when estimating fair value. Paragraphs 18–20 discuss the use of valuation techniques in estimating fair value. If there has been a significant decrease in the volume and level of activity for the asset or liability, a change in valuation technique or the use of multiple valuation techniques may be appropriate (for example, the use of a market approach and a present value technique). When weighting indications of fair value resulting from the use of multiple valuation techniques, the reporting entity shall consider the reasonableness of the range of fair value estimates. The objective is to determine the point within that range that is most representative of fair value under current market conditions. A wide range of fair value estimates may be an indication that further analysis is needed.

29D. Even in circumstances where there has been a significant decrease in the volume and level of activity for the asset or liability and regardless of the valuation technique(s) used, the objective of a fair value measurement remains the same. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction (that is, not a forced liquidation or distressed sale) between market participants at the measurement date under current market conditions. Determining the price at which willing market participants would transact at the measurement date under current market conditions if there has been a significant decrease in the volume and level of activity for the asset or liability depends on the facts and circumstances and requires the use of significant judgment. However, the reporting entity's intention to hold the asset or liability is not relevant in estimating fair value. Fair value is a market-based measurement, not an entity-specific measurement.

29E. Even if there has been a significant decrease in the volume and level of activity for the asset or liability, it is not appropriate to conclude that all transactions are not orderly (that is, distressed or forced). Circumstances that may indicate that a transaction is not orderly include, but are not limited to:

a. There was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities under current market conditions.

b. There was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant.

c. The seller is in or near bankruptcy or receivership (that is, distressed), or the seller was required to sell to meet regulatory or legal requirements (that is, forced).

d. The transaction price is an outlier when compared with other recent transactions for the same or similar asset or liability.

The reporting entity shall evaluate the circumstances to determine whether the transaction is orderly based on the weight of the evidence.

29F. The determination of whether a transaction is orderly (or not orderly) is more difficult if there has been a significant decrease in the volume and level of activity for the asset or liability. Accordingly, the reporting entity shall consider the following guidance:

a. If the weight of the evidence indicates the transaction is not orderly, the reporting entity shall place little, if any, weight (compared with other indications of fair value) on that transaction price when estimating fair value or market risk premiums.

b. If the weight of the evidence indicates the transaction is orderly, the reporting entity shall consider that transaction price when estimating fair value or market risk premiums. The amount of weight placed on that transaction price when compared with other indications of fair value will depend on the facts and circumstances such as the volume of the transaction, the comparability of the transaction to the asset or liability being measured at fair value, and the proximity of the transaction to the measurement date.

c. If the reporting entity does not have sufficient information to conclude that the transaction is orderly or that the transaction is not orderly, it shall consider that transaction price when estimating fair value or market risk premiums. However, that transaction price may not be determinative of fair value (that is, that transaction price may not be the sole or primary basis for estimating fair value or market risk premiums). The reporting entity shall place less weight on transactions on which the reporting entity does not have sufficient information to conclude whether the transaction is orderly when compared with other transactions that are known to be orderly.

In its determinations, the reporting entity need not undertake all possible efforts, but shall not ignore information that is available without undue cost and effort. The reporting entity would be expected to have sufficient information to conclude whether a transaction is orderly when it is party to the transaction.

29G. Regardless of the valuation technique(s) used, the reporting entity shall include appropriate risk adjustments. Paragraph B5 of this Statement indicates that “risk-averse market participants generally seek compensation for bearing the uncertainty inherent in the cash flows of an asset or liability (risk premium). A fair value measurement should include a risk premium reflecting the amount market participants would demand because of the risk (uncertainty) in the cash flows. Otherwise, the measurement would not faithfully represent fair value. In some cases, determining the appropriate risk premium might be difficult. However, the degree of difficulty alone is not a sufficient basis on which to exclude a risk adjustment." Risk premiums should be reflective of an orderly transaction (that is, not a forced or distressed sale) between market participants at the measurement date under current market conditions.

29H. When estimating fair value, this Statement does not preclude the use of quoted prices provided by third parties, such as pricing services or brokers, when the reporting entity has determined that the quoted prices provided by those parties are determined in accordance with this Statement. However, when there has been a significant decrease in the Volume or level of activity for the asset or liability, the reporting entity should evaluate whether those quoted prices are based on current information that reflects orderly transactions or a valuation technique that reflects market participant assumptions (including assumptions about risks). In weighting a quoted price as an input to a fair value measurement, the reporting entity should place less weight (when compared with other indications of fair value that are based on transactions) on quotes that do not reflect the result of transactions. Furthermore, the nature of the quote (for example, whether the quote is an indicative price or a binding offer) should be considered when weighting the available evidence, with more weight given to quotes based on binding offers.

Level 3 Inputs

30. Level 3 inputs are unobservable inputs for the asset or liability. Unobservable inputs shall be used to measure fair value to the extent that relevant observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at the measurement date. However, the fair value measurement objective remains the same, that is, an exit price from the perspective of a market participant that holds the asset or owes the liability. Therefore, unobservable inputs shall reflect the reporting entity's own assumptions about the assumptions that market participants would use in pricing the asset or liability (including assumptions about risk). Unobservable inputs shall be developed based on the best information available in the circumstances, which might include the reporting entity's own data. In developing unobservable inputs, the reporting entity need not undertake all possible efforts to obtain information about market participant assumptions. However, the reporting entity shall not ignore information about market participant assumptions that is reasonably available without undue cost and effort. Therefore, the reporting entity's own data used to develop unobservable inputs shall be adjusted if information is reasonably available without undue cost and effort that indicates that market participants would use different assumptions.

Inputs Based on Bid and Ask Prices

31. If an input used to measure fair value is based on bid and ask prices (for example, in a dealer market), the price within the bid-ask spread that is most representative of fair value in the circumstances shall be used to measure fair value, regardless of where in the fair value hierarchy the input falls (Level 1, 2, or 3). This Statement does not preclude the use of mid-market pricing or other pricing conventions as a practical expedient for fair value measurements within a bid-ask spread.

Disclosures

32. For assets and liabilities that are measured at fair value on a recurring basis in periods subsequent to initial recognition (for example, trading securities), the reporting entity shall disclose information that enables users of its financial statements to assess the inputs used to develop those measurements and for recurring fair value measurements using significant unobservable inputs (Level 3), the effect of the measurements on earnings (or changes in net assets) for the period. To meet that objective, the reporting entity shall disclose the following information for each interim and annual period separately for each major category of assets and liabilities (for equity and debt securities *major category* shall be defined as *major category type* as

described in paragraph 19 of *FASB Statement No. 115, Accounting for Certain Investments in Debt and Equity Securities* even if the equity securities or debt securities are not within the scope of Statement 115):

a. The fair value measurements at the reporting date

b. The level within the fair value hierarchy in which the fair value measurements in their entirety fall, segregating fair value measurements using quoted prices in active markets for identical assets or liabilities (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3)

c. For fair value measurements using significant unobservable inputs (Level 3), a reconciliation of the beginning and ending balances, separately presenting changes during the period attributable to the following:

   (1) Total gains or losses for the period (realized and unrealized), segregating those gains or losses included in earnings (or changes in net assets), and a description of where those gains or losses included in earnings (or changes in net assets) are reported in the statement of income (or activities)

   (2) Purchases, sales, issuances, and settlements (net)

   (3) Transfers in and/or out of Level 3 (for example, transfers due to changes in the observability of significant inputs)

d. The amount of the total gains or losses for the period in subparagraph (c)(1) above included in earnings (or changes in net assets) that are attributable to the change in unrealized gains or losses relating to those assets and liabilities still held at the reporting date and a description of where those unrealized gains or losses are reported in the statement of income (or activities)

e. The inputs and valuation technique(s) used to measure fair value and a discussion of changes in valuation techniques and related inputs, if any, during the period.

33. For assets and liabilities that are measured at fair value on a nonrecurring basis in periods subsequent to initial recognition (for example, impaired assets), the reporting entity shall disclose information that enables users of its financial statements to assess the inputs used to develop those measurements. To meet that objective, the reporting entity shall disclose the following information for each interim and annual period separately for each major category of assets and liabilities (for equity and debt securities *major category* shall be defined as *major category type* as described in paragraph 19 of Statement 115 even if the equity securities or debt securities are not within the scope of Statement 115)::

a. The fair value measurements recorded during the period and the reasons for the measurements

b. The level within the fair value hierarchy in which the fair value measurements in their entirety fall, segregating fair value measurements using quoted prices in active markets for identical assets or liabilities (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3)

c. For fair value measurements using significant unobservable inputs (Level 3), a description of the inputs and the information used to develop the inputs

d. The inputs and valuation technique(s) used to measure fair value and a discussion of changes, if any, in the valuation technique(s) and related inputs used to measure similar assets and/or liabilities in prior periods.

34. The quantitative disclosures required by this Statement shall be presented using a tabular format.

35. The reporting entity is encouraged, but not required, to combine the fair value information disclosed under this Statement with the fair value information disclosed under other accounting pronouncements (for example, FASB Statement No. 107, Disclosures about Fair Value of Financial Instruments) in the periods in which those disclosures are required, if practicable. The reporting entity also is encouraged, but not required, to disclose information about other similar measurements (for example, inventories measured at market value under ARB 43, Chapter 4), if practicable.

Effective Date and Transition

36. Except as provided in subparagraphs 36(a) and 36(b) below, this Statement shall be effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. Earlier application is encouraged, provided that the reporting entity has not yet issued financial statements for that fiscal year, including any financial statements for an interim period within that fiscal year.

a. Delayed application of this Statement is permitted for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually), until fiscal years beginning after November 15, 2008, and interim periods within those fiscal years.

b. An entity that has issued interim or annual financial statements reflecting the application of the measurement and disclosure provisions of this Statement prior to the issuance of FSP FAS 157-2, Effective Date of FASB Statement No. 157, must continue to apply all of the provisions of this Statement.

37. This Statement shall be applied prospectively as of the beginning of the fiscal year in which this Statement is initially applied, except as follows. This Statement shall be applied retrospectively to the following financial instruments as of the beginning of the fiscal year in which this Statement is initially applied (a limited form of retrospective application):

a. A position in a financial instrument that trades in an active market held by a broker-dealer or investment company within the scope of the AICPA Audit and Accounting Guides for those industries that was measured at fair value using a blockage factor prior to initial application of this Statement

b. A financial instrument that was measured at fair value at initial recognition under Statement 133 using the transaction price in accordance with the guidance in footnote 3 of t EITF Issue No. 02-3, "Issues Involved in Accounting for Derivative Contracts Held for Trading Purposes and Contracts Involved in Energy Trading and Risk Management Activities," prior to initial application of this Statement

c. A hybrid financial instrument that was measured at fair value at initial recognition under Statement 133 using the transaction price in accordance with the guidance in Statement 133 (added by FASB Statement No. 155, Accounting for Certain Hybrid Financial Instruments) prior to initial application of this Statement.

38. At the date this Statement is initially applied to the financial instruments in paragraph 37(a)–(c), a difference between the carrying amounts and the fair values of those instruments shall be recognized as a cumulative-effect adjustment to the opening balance of retained earnings (or other appropriate components of equity or net assets in the statement of financial position) for that fiscal year, presented separately. The disclosure requirements of Statement 154 for a change in accounting principle do not apply.

39. The disclosure requirements of this Statement (paragraphs 32–35), including those disclosures that are required in annual periods only, shall be applied in the first interim period of the fiscal year in which this Statement is initially applied. The disclosure requirements of this Statement need not be applied for financial statements for periods presented prior to initial application of this Statement.

Appendix A - Illustrations of Modifications to Statutory Accounting Guidance:

SSAP No. 2—Cash, Drafts and Short-Term Investments:

13. The following disclosures shall be made for short-term investments in the financial statements:

a. Fair values in accordance with SSAP No. __—Fair Value Measurements);

SSAP No. 13—Stock Options and Stock Purchase Plans:

3. A reporting entity recognizes no compensation expense for services received in return for stock issued through noncompensatory plans. The following four characteristics are essential in a noncompensatory plan:

d. The discount from the fair value of the stock is no greater than would be reasonable in an offer of stock to stockholders or others.

6. The measurement date for determining compensation cost in stock option, purchase, and award plans is the first date on which are known both (a) the number of shares that an individual employee is entitled to receive and (b) the option or purchase price, if any. That date for many or most plans is the date an option or purchase right is granted or stock is awarded to an individual employee. However, the measurement date may be later than the date of grant or award in plans with variable terms that depend on events after the date of grant or award. Thus, a reporting entity recognizes compensation cost for stock issued through compensatory plans unless the employee pays an amount that is at least equal to the quoted fair value of the stock at the measurement date.

8.

14. Compensation expense related to stock appreciation rights and other variable stock option or award plans shall be measured at the end of each period as the amount by which the quoted fair value of the shares of the enterprise's stock covered by a grant exceeds the option price or value specified under the plan and should be accrued as a charge to expense over the periods the employee performs the related services. Changes in the quoted fair value should be reflected as an adjustment of accrued compensation and compensation expense in the periods in which the changes occur until the date the number of shares and purchase price, if any, are both known.

SSAP No. 26—Bonds, excluding Loan-Backed and Structured Securities:

4. A bond acquisition or disposal shall be recorded on the trade date, not the settlement date, except for the acquisition of private placement bonds which shall be recorded on the funding date. At acquisition, bonds shall be reported at their cost, including brokerage and other related fees.

17. The financial statements shall include the following disclosures:

a. Fair value disclosures in accordance with SSAP No, ___—Fair Value Measurements

SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments

SSAP No. 30—Investments in Common Stock (excluding investments in common stock of subsidiary, controlled, or affiliated entities)

5. At acquisition, common stocks shall be reported at their cost, including brokerage and other related fees. Common stock acquisitions and dispositions shall be recorded on the trade date. Private placement stock transactions shall be recorded on the funding date.

13. The following disclosures regarding common stocks shall be made in the financial statements:

    d. The disclosures in (i) and (ii) above should be segregated by those common stocks that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance withSSAP No. ___—Fair Value Measurements.

    f. When it is not practicable to estimate fair value, the investor should disclose the following additional information, if applicable, as of each date for which a statement of financial position is presented in its annual financial statements:

SSAP No. 32—Investments in Preferred Stock (including investments in preferred stock of subsidiary, controlled, or affiliated entities)

10. At acquisition, preferred stock shall be reported at cost, including brokerage and other related fees. PIK stock received as dividends shall be recorded at fair value. Acquisitions and dispositions shall be recorded on the trade date. Private placement stock transactions shall be recorded on the funding date.

29. The following disclosures regarding preferred stocks shall be made in the financial statements:

    a. *Fair values* in accordance with SSAP No. ___—Fair Value Measurements;

    f. The disclosures in (i) and (ii) above should be segregated by those preferred stocks that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. __—Fair Value Measurements.

    h. When it is not practicable to estimate fair value, the investor should disclose the following additional information, if applicable, as of each date for which a statement of financial position is presented in its annual financial statements:
       i. The aggregate carrying value of the investments not evaluated for impairment, and
       ii. The circumstances that may have a significant adverse effect on the fair value.

SSAP No. 36—Troubled Debt Restructuring

10. A creditor shall account for a troubled debt restructuring according to the type of the restructuring (receipt of assets in full satisfaction, modification of terms, combination of types). Generally, troubled debt restructuring involving the transfer of assets shall be accounted for at the fair value of the assets received. Troubled debt restructuring involving modification of terms shall be accounted for at fair value (as determined by acceptable appraisal methodologies) in accordance with SSAP No. ___—Fair Value Measurements. If the restructured loan is collateral dependent, fair value shall be the fair value of the collateral. If the restructured loan is not collateral dependent, fair value shall be determined in accordance with SSAP No. ____(reference new SSAP). If the determined fair value of the loan is less than the recorded investment in the loan (including accrued interest, net deferred loan fees or costs, and unamortized premium or discount), a new cost basis shall be established at the fair value with the difference being

recorded as a realized loss in the statement of operations. After the troubled debt restructuring, a creditor shall account for the assets consistent with the statutory guidance for such assets.

11. A creditor shall account for assets, including foreclosed property and equity interests in corporations, joint ventures, or partnerships, received in satisfaction of the loan at their fair value (as determined by acceptable appraisal methodologies) at the time of restructuring or at the book value of the loan if lower. If the fair value is less than the book value, the required writedown shall be recognized as a realized capital loss. The creditor shall reclassify the asset from loans to the appropriate asset account, such as real estate or other invested assets, at the time that the creditor obtains clear title to the asset except for mortgage loans which shall be reclassified at the beginning of the redemption period unless it is probable that the mortgage loan will be redeemed. After the troubled debt restructuring, a creditor shall account for the assets received in satisfaction of the loan consistent with the statutory guidance for similar assets.

SSAP No. 37—Mortgage Loans

20. The following disclosures shall be made in the financial statements:

    a. Fair values in accordance with SSAP No. __—Fair Value Measurement;

SSAP No. 40—Real Estate Investments

11. The current fair value of real estate shall be determined on a property by property basis (i.e., increases in the fair value of one property shall not be used to offset declines in fair value of another). If market quotes are unavailable, estimates of fair value shall be determined by an appraisal (internal or third party), which is based upon an evaluation of all relevant data about the market, considering the following:

    a. A physical inspection of the premises;
    b. The present value of future cash flows generated by the property (Discounted Cash Flows), or capitalization of stabilized net operating income (Direct Capitalization);
    c. Current sales prices of similar properties with adjustments for differences in the properties (Sales Comparison Approach);
    d. Costs to sell the property if the reporting entity does not have the intent or ability to hold the real estate as an investment; and
    e. Replacement costs of the improvements, less depreciation, plus the value of the land (Cost Approach).

19. A participating mortgage loan is established when the lender is entitled to participate in appreciation of the fair value of mortgaged real estate, the results of operations of the mortgaged real estate project, or in both. Mortgage loan participation features should be recorded at fair value at inception of the loan. The borrower should recognize a participation liability for the determined fair valued amount, with a corresponding debit to a debt discount account. The debt discount should be amortized by the interest method, using the effective interest rate. After inception, adjustment of the participation liability should occur at each reporting date to current fair value. The corresponding debit or credit should be to the related debt discount account. The revised debt discount should be amortized prospectively, using the effective interest rate method.

20. The real estate investment with the participating mortgage loan should be reported in accordance with paragraph 4, with no adjustment for appreciation of fair value.

24. An entity that holds real estate investments with participating mortgage loan features should disclose:

a. Aggregate amount of participating mortgage obligations at the balance-sheet date, with separate disclosure of the aggregate participation liabilities and related debt discounts.

b. Terms of participations by the lender in either the appreciation in the fair value of the mortgaged real estate project or the results of operations of the mortgaged real estate project, or both.

SSAP No. 43R—Loan-backed and Structured Securities - Revised

6. At acquisition, loan-backed securities, except for loan-backed or structured securities that are beneficial interests that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount[1] (see paragraphs 20 through 24), shall be reported at cost, including brokerage and related fees.. Acquisitions and dispositions shall be recorded on the trade date, not the settlement date, except for the acquisition of private placement loan-backed securities which shall be recorded on the funding date. For securities where all information is not known as of the trade date (e.g., actual payment factors and specific pools), a reporting entity shall make its best estimate based on known facts.

48. In addition to the disclosures required for invested assets in general, the following disclosures regarding loan-backed securities shall be made in the financial statements:.

a. Fair values in accordance with SSAP No. __—Fair Value Measurements.);

i. The disclosures in (i) and (ii) above should be segregated by those securities that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. __.

k. When it is not practicable to estimate fair value, the investor should disclose the following additional information, if applicable, as of each date for which a statement of financial position is presented in its annual financial statements:
i. The aggregate carrying value of the investments not evaluated for impairment, and
ii. The circumstances that may have a significant adverse effect on the fair value.

SSAP No. 51—Life Contracts

38. Disclose the amount of annuity actuarial reserves and deposit liabilities by withdrawal characteristics as follows:

a. Subject to discretionary withdrawal:

iii. At fair value, where the withdrawal of funds is payable at current fair value of the assets supporting the liabilities, the assets are stated at current fair value, and the liabilities are stated at the current fair value or per unit value of the assets supporting the liabilities. These liabilities are for contracts where the customer bears the entire investment risk;

iv. Total with adjustment or at fair value;

SSAP No. 52—Deposit-Type Contracts

17. Disclose the amount of annuity actuarial reserves and deposit liabilities by withdrawal characteristics as follows:

a. Subject to discretionary withdrawal:

[1] As referenced in the Relevant Literature section, this Statement adopts EITF 99-20, including the scope requirements of that guidance.

iii. At fair value, where the withdrawal of funds is payable at current fair value of the assets supporting the liabilities, the assets are stated at current fair value, and the liabilities are stated at the current fair value or per unit value of the assets supporting the liabilities. These liabilities are for contracts where the customer bears the entire investment risk;

iv. Total with adjustment or at fair value;

SSAP No. 56—Separate Accounts

17. Assets supporting fund accumulation contracts (GICs), which do not participate in underlying portfolio experience, with a fixed interest rate guarantee, purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, will be recorded as if the assets were held in the general account. Assets supporting all other contractual benefits shall be recorded at fair value on the date of valuation, or if there is no readily available market, then in accordance with the valuation procedures in the applicable contract.

18. An AVR is generally required for separate accounts when the insurer, rather than the policyholder/contractholder, suffers the loss in the event of asset default or fair value loss. An AVR is required unless:

    a. The asset default or fair value risk is borne directly by the policyholders; or

20. Assets supporting typical modified guaranteed contracts, market value adjusted contracts, and contracts with book value guarantees similar to contracts generally found in the general account do require an AVR because the insurer is responsible for credit related asset or fair value loss.

22. An IMR is required for separate accounts with assets recorded at book value, but is not required for separate accounts with assets recorded at fair value. For example, separate accounts for traditional variable annuities or variable life insurance do not require an IMR because assets and liabilities are valued at fair value.

26. Where separate account contracts have guaranteed elements, the basis for determining the value of the liability shall be consistent with the basis used for asset values (i.e., valuation interest rates as defined in Appendix A-820 shall be used when assets are recorded as if held in the general account and current interest rates based on market rates shall be used when assets are recorded at fair value). Further, policy reserves shall be in compliance with those Actuarial Standards of Practice promulgated by the Actuarial Standards Board.

31. For each risk-based capital grouping (as detailed in paragraph 32), the following shall be disclosed:

    a. Premiums, considerations or deposits received during the year;

    b. Reserves by the valuation basis of the investments supporting the reserves at the financial statement date. List reserves for separate accounts whose assets are carried at fair value separately from those whose assets are carried at amortized cost/book value;

    c. Reserves by withdrawal characteristics, i.e., whether or not the separate account is subject to discretionary withdrawal or market value adjustment, or to withdrawal at book value with or without surrender charge;

32. For the disclosures required in paragraph 31, separate accounts shall be addressed in the following groupings (which are the same as those used for risk-based capital):

b. Nonguaranteed Separate Accounts-Variable separate accounts, where the benefit is determined by the performance and/or fair value of the investments held in the separate account. Include variable accounts with incidental risks, nominal expense, and minimum death benefit guarantees.

41. This statement is effective for years beginning January 1, 2001. Contracts with assets held in a Separate Account that were issued in accordance with applicable state laws and regulations and issued prior to that effective date, for which assets and liabilities have been recorded using a consistent basis since issue, i.e., both assets and liabilities are recorded either as if in the general account ("book value") or as at fair value (current interest rates based on market rates shall be used for liabilities when assets are recorded at fair value), shall continue to be recorded using such basis until such time as the applicable contract terms or provisions are substantially changed, such as by a contract amendment modifying interest rate or withdrawal provisions. State laws and regulations shall be understood to include anything considered authoritative by the domiciliary state under the individual state's statutory authority and due process procedures. Changes that do not require change in the basis of recording would include: address changes, continued deposits, and other non-substantive changes such as these. For example, additional funds received after January 1, 2001 under contracts issued prior to January 1, 2001 may continue to be recorded using the basis in effect prior to January 1, 2001 until such time as a triggering change is made. 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.

SSAP No. 61—Life, Deposit-Type and Accident and Health Reinsurance

55. The assuming entity is to value the assets acquired at the date of acquisition at their fair values, and the reserves are to be established according to statutory requirements based on the benefits in the individual policies reinsured. If the liabilities exceed the assets, the difference represents goodwill that must be amortized into operations using the interest method over the life of the policies, but for a period not to exceed 10 years. Goodwill resulting from assumption reinsurance transactions shall be included in the total goodwill of an entity when calculating the amount of goodwill that is a nonadmitted asset pursuant to SSAP No. 68—Business Combinations and Goodwill. If the assets exceed the liabilities, the assuming entity shall record a deferred liability and amortize the amount into operations using the interest method over the expected life of the business but not to exceed ten years.

59. Disclose the amount of annuity actuarial reserves and deposit liabilities by withdrawal characteristics as follows:

a. Subject to discretionary withdrawal:

iii. At fair value, where the withdrawal of funds is payable at current market value of the assets supporting the liabilities, the assets are stated at current fair value, and the liabilities are stated at the current fair value or per unit value of the assets supporting the liabilities. These liabilities are for contracts where the customer bears the entire investment risk;

iv. Total with adjustment or at fair value;

SSAP No. 73—Health Care Delivery Assets – Supplies, Pharmaceuticals and Surgical Supplies, Durable Medical Equipment, Furniture, Medical Equipment and Fixtures, and Leasehold Improvements in Health Care Facilities

5. The reporting entity shall maintain a control system that provides for identification of quantities on hand and appropriate valuation (lower of cost or fair value) of supplies, pharmaceuticals and surgical supplies, and durable medical equipment.

SSAP No. 74—Accounting for Issuance of Insurance-Linked Securities Issued by a Property and Casualty Insurer through a Protected Cell

Glossary:

Fair value - See SSAP No. ____—Fair Value Measurements.

SSAP No. 86—Accounting for Derivative Instruments and Hedging, Income Generation, and Replication (Synthetic Asset) Transactions (Note – 106 hits of 'fair' and 15 hits of 'market')

14. Derivative instruments represent rights or obligations that meet the definitions of assets (SSAP No. 4—Assets and Nonadmitted Assets) or liabilities (SSAP No. 5) and shall be reported in financial statements. In addition, derivative instruments also meet the definition of financial instruments as defined in SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk. (SSAP No. 27). 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 8 through 10 of SSAP No. 27. Derivative instruments are admitted assets to the extent they conform to the requirements of this statement.

Exhibit C – SSAP No. 86

1.b.i.(e) - If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, valuation at amortized cost ceases and the derivative or the designated portion of the derivative shall be valued at its current fair value with gains and losses recognized in unrealized gains or unrealized losses to the extent it ceased to be an effective hedge.

1.b.ii(a) - Options, warrants, caps, or floors purchased or written shall be valued at current fair value with changes in fair value recognized currently consistent with the hedged item; this will result in unrealized gain/loss treatment with adjustment to unassigned funds (surplus).

1.b.iii. - Open derivatives hedging items recorded at fair value, where gains and losses on the hedged item are recognized currently in earnings: options, warrants, caps, or floors purchased or written shall be valued at current fair value with changes in fair value recognized currently in earnings together with the gains and losses on the hedged item.

1.b.iii.(b) - If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, recognition of changes in fair value through earnings ceases. The derivative or the designated portion of the derivative shall continue to be valued at its current fair value, but thereafter gains or losses shall be recognized in unrealized gains or unrealized losses to the extent it ceased to be an effective hedge.

2.b.i.(5) - If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, valuation at amortized cost ceases and the derivative or a designated portion of the derivative shall be valued at its current fair value with gains and losses recorded in unrealized gains or unrealized losses to the extent that it ceased to be an effective hedge. Upon redesignation into an effective hedging relationship, the derivative's mark to fair value through unrealized gain or loss shall be reversed.

2.b.ii(a) - Swaps, collars, or forwards shall be valued at current fair value with changes in fair value recognized currently consistent with the hedged item; this will result in unrealized gain/loss treatment with adjustment to unassigned funds (surplus);

2.b.iv. - Open derivatives hedging items recorded at fair value, where gains and losses on the hedged item are recognized currently in earnings: swaps, collars and forwards shall be valued at current fair value with changes in fair value recognized currently in earnings together with the gains and losses on the hedged item.

(a) If during the life of the derivative it or a designated portion of the derivative is no longer effective as a hedge, recognition of changes in fair value through earnings ceases. The derivative shall continue to be valued at its current fair value, but thereafter gains or losses shall be recognized in unrealized gains or unrealized losses to the extent it ceased to be an effective hedge.

iv. Open futures hedging items recorded at fair value, where gains and losses on the hedging item are recognized currently in earnings shall be valued at current fair value with changes in fair value recognized currently in earnings.

SSAP No. 90—Accounting for the Impairment of Disposal of Real Estate Investments

5. A long-lived asset shall be tested for recoverability whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. The following are examples of such events or changes in circumstances:
   a. A significant decrease in the fair value of a long-lived asset

Fair Value

16. A discussion of fair value is contained in SSAP No. ___—Fair Value Measurement. This statement requires properties occupied by the company, that are determined to be subject to recoverability testing as discussed in paragraphs 6 and 7, to follow the guidance in SSAP No. 40, paragraph 11.

41. The modifications to FAS 144 were made in order to maintain consistency with current statutory accounting principles and the Statement of Concepts:

   d. Paragraphs 22 through 24 which discuss fair value, are rejected. The definition of fair value is in SSAP No. ___—Fair Value Measurements.

SSAP No. 91—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities

7. Upon completion of a transfer of assets that satisfies the conditions to be accounted for as a sale (see paragraph 5), the transferor (seller) shall:

   e. Initially measure such additional assets obtained and liabilities incurred in the sale at fair value (see SSAP No. __—Fair Value Measurements), or if it is not practicable to estimate the fair value of an asset or a liability, apply alternative measures (paragraph 49); and

8. The transferee shall recognize all assets obtained and any liabilities incurred, and initially measure them at fair value.

12. If distinct servicing rights exist in accordance with the above guidelines, the reporting entity shall recognize a servicing asset or liability. When the servicing fees to be received exceed the cost of servicing the transferred assets, a servicing asset is recognized and nonadmitted. When the cost of servicing the transferred assets is greater than the servicing fees to be received, a liability shall be recorded for the excess to recognize this obligation. A corresponding loss shall be recorded through the Summary of Operations in other income. Servicing assets and servicing liabilities shall be measured initially at fair value. Servicing assets or liabilities shall be measured subsequently at fair value at each reporting date with fluctuations in fair value reported as unrealized gains and losses. Declines in fair value which are determined to be other than temporary shall be recorded as realized losses. shall be amortized into income in proportion to, and over the period of estimated servicing income

95. A reporting entity shall disclose the following:

f. If the entity has securitized financial assets during any period presented and accounts for that transfer as a sale, for each major asset type (for example, mortgage loans):

i. Its accounting policies for initially measuring the interests that continue to be held by a transferor, if any, used in determining their fair value. (Fair value shall be determined in accordance with SSAP No. ___—Fair Value Measurements); and

g. If the entity has interests that continue to be held by a transferor in securitized financial assets at the date of the latest statement of financial position presented, for each major asset type (for example, mortgage loans):

i. Its accounting policies for subsequently measuring those interests that continue to be held by a transferor, including the methodology (used in determining their fair value. (Fair value shall be determined in accordance with SSAP No. __—Fair Value Measurements);

Glossary: Derivative financial instrument - A derivative instrument (as defined in *SSAP No. 86—Accounting for Derivative Instruments and Hedging, Income Generation, and Replication (Synthetic Asset) Transactions*) that is a financial instrument (refer to *SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit*, paragraph 2).

SSAP No. 93—Accounting for Low Income Housing Tax Credit Property Investments

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

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

5. 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.

20. 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:

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

SSAP No. 95—Exchanges of Nonmonetary Assets, A Replacement of SSAP No. 28—Nonmonetary Transactions

14. Fair value of a nonmonetary asset transferred to or from a reporting entity in a nonmonetary transaction should be determined in accordance with SSAP No. ___—Fair Value Measurements. If one of the parties in a nonmonetary transaction could have elected to receive cash instead of the nonmonetary asset, the amount of cash that could have been received may be evidence of the fair value of the nonmonetary assets exchanged.

SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities, A Replacement of SSAP No. 88

31. 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 investee. The following disclosures shall be made for all investments in SCA entities that exceed 10% of the total admitted assets of the reporting entity:

a. Financial statements of a reporting entity shall disclose (i) the name of each SCA entity and percentage of ownership of common stock, (ii) the accounting policies of the reporting entity with respect to investments in SCA entities, and (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., goodwill, other nonadmitted assets, fair value or discounted fair value adjustments) and the accounting treatment of the difference;

b. For those SCA entities for which a quoted market price is available, the aggregate value of each SCA investment based on the quoted price and the difference, if any, between the amount at which the investment is carried and the quoted price shall be disclosed;

Glossary to the Statements of Statutory Accounting Principles

Fair Value – Fair value is defined in SSAP No. ___—Fair Value Measurements.

INT 99-17: EITF 97-12: Accounting for Increased Share Authorizations in an IRS Section 423 Employee Stock Purchase Plan under APB Opinion No. 25.

2. The working group reached a consensus that EITF 97-12 should be adopted to require that additional shares granted in a stock purchase plan be classified as compensatory or noncompensatory at the grant date of the additional shares. If the discount at that date does not meet the fair value discount criterion in paragraph 3(d) of SSAP No. 13, then the new grant would be treated as a compensatory award under SSAP No. 13, which would result in compensation cost.

INT 99-29: Classification of Step-up Preferred Stock

4. A strict reading of the perpetual preferred stock definition further complicates the issue in that step-ups do not have redemption features: thus, they meet the definition of perpetual preferred stock. The valuation of step-up preferred stock would not be consistent with the economic substance of the security if it were valued at fair value.

INT 01-14: EITF 00-16: Recognition and Measurement of Employer Payroll Taxes on Employee Stock-Based Compensation

1. *Topic No. D-83, Accounting for Payroll Taxes Associated with Stock Option Exercises* requires that payroll taxes incurred in connection with stock-based compensation be recognized as an expense, but it does not address the timing of that expense recognition. Costs incurred by companies for employer payroll taxes on employee stock-based compensation have become more significant for U.S. companies as a result of the increased use of options as a form of employee compensation and the rapid growth in the fair value of underlying stocks in certain market sectors. Consequently, the predominant current practice of recognizing those costs when the event that triggers payment to the taxing authority occurs (for an option, that event is employee exercise), has been called into question.

INT 01-31: Assets Pledged as Collateral

6. The working group reached a consensus that if the collateral had not been pledged in the examples described above, it is assumed the underlying asset would be recorded as an admitted asset under SSAP No. 4 (e.g. they are readily marketable assets available to meet both current and future policyholder obligations). In addition, it is assumed that the asset would not be considered impaired under SSAP No. 5 due to a default, fair value decline, or other loss contingency.

INT 02-05: Accounting for Zero Coupon Convertible Bonds

3. A convertible bond really consists of a bond and an embedded derivative in the form of a warrant. Under GAAP, the holder accounts for the two components separately. The bond and warrants are fair valued at date of purchase. The bond is typically classified as available for sell (AFS) or held to maturity (HTM) and the scientific method of amortization is used on any premium or discount. This amortization of the premium or discount produces a market yield when combined with the coupon rate. In addition, the available for sale is recorded at fair value with the unrealized gains and losses recorded as a component of equity in other comprehensive income. The warrant is fair valued at each reporting date and classified as trading with adjustments to fair value recorded through the income statement, as it is considered a derivative (no hedge).

4. For GAAP, assuming a purchase price was $900,000 at 1/1/x1 and the fair value of the warrants was $150,000 at 1/1/x1, the following entries would be recorded during the year:

At 1/1/X1:		
Purchase Price		$900,000
Bond Fair Value		$750,000
Yield	8.87%	
Warrant Fair Value	$150,000	
At 12/31/X1:		
Bond Fair Value		$780,000
Warrant Fair Value	$200,000	
Entries 1/1/X1:		
Bonds-AFS	$750,000	
Warrants-Trading	$150,000	
Cash		($900,000)
Entries 12/31/X1:		
Cash (coupon rate)	$50,000	
Bonds-AFS (amortization)	$16,554	
Investment income		($66,554)
Record discount accretion and cash from coupon rate		
Bonds-AFS	13,446	
Warrants-Trading	50,000	
Unrealized gains-OCI		(13,446)
Realized gains		(50,000)

Mark AFS and Trading tofair value

INT 03-03: Admissibility of Investments Recorded Based on the Audited GAAP Equity of the Investee When a Qualified Opinion is Provided

2. Certain situations may exist in which a qualified opinion is provided due to a GAAP departure, while information is available to determine the appropriate balances under a GAAP basis of accounting. For example, a qualified opinion would be given if a cost sharing agreement requires the cost basis of accounting to be used to value investments in a limited partnership in which the reporting entity owned more than a 5% interest, as GAAP requires such investments to be recorded based upon the GAAP equity method. Since the notes to the financial statements disclose the fair value of investments held by the limited partnership, information is readily available to allocate the unrealized appreciation on investments to determine what the appropriate GAAP equity balance would be. A qualified opinion could also result if the unrealized appreciation on investments is not allocated in accordance with a partnership agreement. Another example occurs when a qualified opinion is issued due to a departure from GAAP and the departure is related to the valuation of an U.S. insurance entity on the basis of U.S. statutory accounting principles.

INT 04-07: EITF 02-15: Determining Whether Certain Conversions of Convertible Debt to Equity Securities Are Within the Scope of FASB Statement No. 84

3. The following is excerpted from EITF 02-15:

> 3. Statement 84 was issued to amend Opinion 26, to exclude from its scope convertible debt that is converted to equity securities of the debtor pursuant to conversion privileges different from those included in the terms of the debt at issuance, and the change in conversion privileges is effective for a limited period of time, involves additional consideration, and is made to induce conversion. That Statement applies only to conversions that both (a) occur pursuant to changed conversion privileges that are exercisable only for a limited period of time and (b) include the issuance of all of the equity securities issuable pursuant to conversion privileges included in the terms of the debt at issuance for each debt instrument that is converted. When convertible debt is converted to equity securities of the debtor pursuant to an inducement offer (described above), the debtor shall recognize an expense equal to the excess of the fair value of all securities and other consideration transferred in the transaction over the fair value of securities issuable pursuant to the original conversion terms.
>
> 4. A question has arisen as to whether Statement 84 applies to conversions of convertible debt when the "offer" for consideration in excess of the original conversion terms was made by the debt holder rather than the debtor. In certain circumstances, for example, a bondholder may be a third party that purchased the bonds in the open market (often at a significant discount from face value) and approached the debtor to increase the conversion terms of the notes. In many of those circumstances, the offer to induce conversion is not extended to all debt holders; rather, the conversion involves only the specific debt holder that approached the debtor. The following example is provided:
>
> Company A issued publicly traded convertible bonds (the Bonds) during a prior period. Currently, the Bonds are trading at a price that is significantly less than the carrying value (possibly due to a decline in Company A's stock price or credit rating or both). The original conversion price of the Bonds is $50 (20 shares of common stock per bond), and Company A's common stock is currently trading at $25 per share. On an individual basis, bondholders approach Company A with an offer for Company A to purchase the Bonds by providing consideration in excess of the conversion terms. Assume that on the date of the exchange, each Bond has the following values:

Company A's carrying value of the Bonds	$1,000
Current fair value of the Bonds	$ 750

> A bondholder approaches Company A with the following two independent offers that are exercisable by Company A for a limited period of time:

1. Company A may purchase the Bonds in exchange for the Bonds' original conversion of 20 shares of Company A common stock ($500 fair value) and $300 cash.

2. Company A may purchase the Bonds in exchange for 32 shares of Company A common stock ($800 fair value).

INT 06-07: Definition of Phrase "Other Than Temporary"

2. The decision for determining when an investment is considered impaired is dictated by the applicable SSAP and the respective impairment indicators included in each of the SSAPs. If an impairment indicator is present, the determination of an impairment shall be assessed at the individual security or investment level as reported in the annual statement and supporting schedules. For those SSAPs that require the reporting entity to use the fair value to determine if an impairment has occurred, the determination of that value shall be consistent with how the term fair value is defined within SSAP No. ___—Fair Value Measurements. Once a reporting entity has determined that an impairment indicator is present, the reporting entity shall continue to evaluate whether the investment is impaired each subsequent reporting period until either (a) the investment experiences a recovery of the fair value up to (or beyond) its carrying value or (b) the investor recognizes an other-than-temporary impairment loss.

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Statement of Statutory Accounting Principles No. 56

Separate Accounts

STATUS

Type of Issue:	Life and Accident and Health
Issued:	Finalized March 13, 2000
Effective Date:	January 1, 2001 - Revised disclosures adopted September 2009 are required within the 2010 annual financial statements.
Affects:	No other pronouncements
Affected by:	Paragraphs 26 and 33 superseded by SSAP No. 80
Interpreted by:	INT 00-03

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Separate Accounts

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for accounting and reporting for separate accounts in both the general account and separate account statements.

SUMMARY CONCLUSION

Introduction

2. Separate accounts are used to fund variable life insurance, variable annuities, modified guaranteed annuities and modified guaranteed life insurance, or various group contracts under pension or other employee benefit plans where funds are held in a separate account to support a liability. When separate accounts are established and filed accordingly, they may be used to fund guaranteed benefits. Separate account contracts may also be used to accumulate funds which are intended to be applied at some later time to provide life insurance or to accumulate proceeds applied under settlement or dividend options.

3. Assets held in separate accounts are owned by the insurer. All investment income and realized and unrealized capital gains and losses from assets allocated to a separate account, net of related investment expenses, are generally reflected in the separate account and, except for modified guaranteed annuities, modified guaranteed life insurance, and separate accounts established and filed to provide guaranteed benefits, investment performance is generally not guaranteed by the insurer. Charges relating to contract guarantees, administration, and investment management are deducted from separate accounts.

General Account Reporting

4. Insurance activities such as sales, underwriting and contract administration, premium collection and payment of premium taxes, claims, and benefits are functions of the insurance company distinct from the separate account and shall be accounted for as transactions of the general account.

5. For those separate account contracts classified as life contracts under *SSAP No. 50—Classification and Definitions of Insurance or Managed Care Contracts In Force,* premiums and annuity considerations shall be recorded as income in the Summary of Operations of the general account, and as transfers to premiums and considerations in the separate account statement. Deposit-type contracts shall be recorded in the general account in accordance with *SSAP No. 52—Deposit-Type Contracts*. Charges (e.g., fees associated with investment management, administration, and contract guarantees) assessed on the separate accounts, as well as the net gain from operations of the separate account, shall be recorded as income in the Summary of Operations of the general account. Expenses relating to investment management, administration, and contract guarantees pertaining to separate account operations, as well as benefits and surrenders incurred on behalf of separate account contracts classified as life contracts, net transfers between separate accounts, commissions, and premium taxes (if any) shall be recorded as expenses in the Summary of Operations of the general account.

6. The general account shall include the total assets and liabilities, including transfers due or accrued, of any separate accounts business which it maintains and, therefore, the surplus, if any, of its separate accounts business. Transfers to the general account due or accrued shall be reported on a net basis so that the asset and the liability totals of the general account are not overstated. Changes in the surplus of the separate accounts business of an insurer, except for changes resulting from the net gain from operations of the separate account, shall be charged or credited directly to the unassigned funds (surplus) of the general account.

7. Where a variable annuity contract or variable life insurance contract contains a guaranteed minimum death benefit, any reserve liability for such death benefit provision shall be recorded and held in the general account based on the reserving guidance in paragraphs 25 and 26. Any differences between the benefit paid and the separate account asset value of the contract shall be charged against or credited to the general account in its net gain from operations.

8. Separate account surplus may not become negative. For example, for separate account contracts which have annuitized (i.e., contracts in the payout stage), lower than expected mortality on variable annuity contracts containing mortality guarantees may cause a deficiency in the investment funds underlying the contract reserves. Thus the general account incurs an expense and the separate account realizes revenue to cover the deficiency, if necessary. Conversely, excess funds from higher than expected mortality will result in mortality gains, which are included in the Summary of Operations of the separate account and are ultimately recorded as equity in net income from separate account operations as discussed in paragraph 5.

9. Separate account surplus created through the use of the commissioners' reserve valuation method (CRVM), commissioners' annuity reserve valuation method (CARVM), or other reserving methods, shall be reported by the general account as an unsettled transfer from the separate account. The net change on such transfers shall be included as a part of the net gain from operations in the general account.

10. Surplus funds transferred from the general account to the separate account, commonly referred to as seed money, and earnings accumulated thereon shall be reported as surplus in the separate accounts until transferred or repatriated to the general account. The transfer of such funds between the separate account and the general account shall be reported as surplus contributed or withdrawn during the year.

11. If an Asset Valuation Reserve (AVR) is required for investments held by separate accounts, it is combined with the general account AVR and accounted for in the general account financial statements (see *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*). The criteria for determining when an AVR is required for separate accounts are described in paragraph 18 of this statement.

12. Reporting entities collect fees for managing Separate Account Guaranteed Investment Contracts (GICs), Synthetic GICs, as well as participating separate account group annuities. These are in the form of administrative fees, risk fees and some investment management fees. For defined contribution business, these are in the form of fees related to mutual fund management. These fees are meant to offset expenses and generate some profit.

13. Amounts receivable from contractholders for separate account management fees meet the definition of assets as set forth in *SSAP No. 4—Assets and Nonadmitted Assets*.

14. An evaluation shall be made of the amounts receivable to determine any nonadmitted amounts. Next, an evaluation shall be made in accordance with *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5), to determine whether there is an impairment. This two step process is set forth below:

a. Uncollected separate account management fees receivable over ninety days due shall be accounted for as a nonadmitted asset. Reporting entities shall begin aging the receivable when it is contractually required to be billed, or in the absence of contract specifications, when the reporting entity actually sends the bill to the contractholder;

b. Remaining amounts determined to be uncollectible shall be written off. If in accordance with SSAP No. 5, it is "probable" the amount receivable is uncollectible, any uncollectible amount receivable shall be written off against operations in the period such determination is made. If it is "reasonably possible" the amount receivable is uncollectible, the disclosure requirements outlined in SSAP No. 5 paragraph 14 shall be made.

Separate Account Reporting

15. The separate accounts annual statement is concerned with the flow of funds related to investment activities and obligations of the separate accounts and with the transfer of funds between the separate account and the general account. As a result, the separate account statement shall report only the assets, liabilities, and operations of the separate account and shall not include general account expenses related to investment management, administration, or contract guarantees pertaining to separate account operations which are recorded in the general account.

16. The separate account records premiums, considerations (net of loading for sales charges such as commissions and premium taxes) and receipts (other than for net investment income and realized capital gains and losses) as income transfers from the general account. Net investment income and realized and unrealized capital gains and losses relating to the investment operations of the separate account are recorded as income in the Summary of Operations. When the contract provides for such, expenses and taxes associated with the separate account investment operations shall be deducted in the determination of net investment income. Deposits and withdrawals on deposit-type contracts shall be recorded in the Summary of Operations. Benefits and surrenders, reserve transfers, policy loans, policyholder charges (e.g., fees associated with investment management, administration, and contract guarantees), and federal income taxes relating to the separate account are recorded as expense transfers to the general account in the Summary of Operations. The net change in aggregate reserves relating to separate account contracts is reported as an expense in the Summary of Operations.

17. Assets supporting fund accumulation contracts (GICs), which do not participate in underlying portfolio experience, with a fixed interest rate guarantee, purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, will be recorded as if the assets were held in the general account. Assets supporting all other contractual benefits shall be recorded at market value on the date of valuation, or if there is no readily available market, then in accordance with the valuation procedures in the applicable contract.

Separate Account AVR and IMR Reporting

18. An AVR is generally required for separate accounts when the insurer, rather than the policyholder/contractholder, suffers the loss in the event of asset default or market value loss. An AVR is required unless:

a. The asset default or market value risk is borne directly by the policyholders; or

b. The regulatory authority for such separate accounts already explicitly provides for a reserve for asset default risk, where such reserves are essentially equivalent to the AVR.

19. Assets supporting traditional variable annuities and variable life insurance generally do not require an AVR because the policyholders/contractholders bear the risk of change in the value of the assets. However, an AVR is required for that portion of the assets representing the insurer's equity interest in the investments of the separate account (e.g., seed money).

20. Assets supporting typical modified guaranteed contracts, market value adjusted contracts, and contracts with book value guarantees similar to contracts generally found in the general account do require an AVR because the insurer is responsible for credit related asset or market value loss.

21. Certain separate accounts are also required to maintain an Interest Maintenance Reserve (IMR). The IMR requirements for investments held in separate accounts are applied on an account by account basis. If an IMR is required for a separate account, all of the investments in that separate account are subject to the requirement. If an IMR is not required for a separate account, none of the investments in that separate account are subject to the requirement.

22. An IMR is required for separate accounts with assets recorded at book value, but is not required for separate accounts with assets recorded at market value. For example, separate accounts for traditional variable annuities or variable life insurance do not require an IMR because assets and liabilities are valued at market value.

23. If an IMR is required for investments held by separate accounts, it is kept separate from the general account IMR and accounted for in the separate accounts statement.

24. The AVR and IMR shall be calculated and reported in accordance with the NAIC *Annual Statement Instructions for Life, Accident and Health Insurance Companies*.

Policy Reserves

25. Statutory policy reserves shall be established for all contractual obligations of the insurer arising out of the provisions of the insurance contract. Where separate benefits are included in a contract, a reserve for each benefit shall be established as required in Appendix A-820. These statutory policy reserves are generally calculated as the excess of the present value of future benefits to be paid to or on behalf of policyholders less the present value of future net premiums. Statutory policy reserves meet the definition of liabilities as defined in *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5). The actuarial methodologies referred to in the following paragraph meet the criteria required for reasonable estimates in SSAP No. 5.

26. The reserving methodologies and assumptions used in computation of policy reserves shall also meet the provisions of Appendices A-250, A-270, A-255, A-585, A-588, A-620, A-820, A-822, and the actuarial guidelines found in Appendix C of this Manual. Where separate account contracts have guaranteed elements, the basis for determining the value of the liability shall be consistent with the basis used for asset values (i.e., valuation interest rates as defined in Appendix A-820 shall be used when assets are recorded as if held in the general account and current interest rates based on market rates shall be used when assets are recorded at market). Further, policy reserves shall be in compliance with those Actuarial Standards of Practice promulgated by the Actuarial Standards Board.

Other Liabilities

27. The separate account shall accrue as a liability, subject to contractual provisions, amounts payable, including, but not limited to:

a. Fees associated with investment management,administration, and contract guarantees;

b. Investment expenses;

c. Investment taxes, licenses, and fees (Investment taxes such as real estate taxes, licenses and fees (excluding federal income taxes) are usually paid directly by the separate account but may be transferred to the general account for payment);

d. Federal income taxes;

e. Unearned investment income;

f. Net transfer due to (from) the general account;

g. Remittances and items not allocated;

h. Payable for investments purchased;

i. Net adjustments in assets and liabilities due to foreign exchange rates.

Seed Money

28. When a new separate account is initiated, the insurer may make a temporary transfer of surplus funds commonly referred to as seed money to the separate account. Such funds and earnings accumulated thereon shall be reported as surplus in the separate accounts statement until transferred or repatriated to the general account. The transfer of such funds to and from the separate account shall be reported as surplus contributed or withdrawn during the year.

Disclosures

29. Paragraphs 30-32 detail the separate account disclosure requirements that shall be included within the Life and Health Annual Statement Blank. Paragraphs 32-35 detail the separate account disclosure requirements that shall be included within the Separate Account Annual Statement Blank.

30. The general account financial statement shall include detailed information on the reporting entity's separate account activity. These disclosures shall include:

a. A narrative of the general nature of the reporting entity's separate account business.

b. Identification of the separate account assets that are legally insulated from the general account claims.

c. Identification of the separate account products that have guarantees backed by the general account. This shall include:

i Identification of the total maximum guarantee for separate account products as of the reporting date;

ii. Amount of risk charges paid by the separate account to the general account for the past five (5) years[1] as compensation for the risk taken by the general account; and

iii. Amount paid by the general account due to separate account guarantees during the past five (5) years.

d. Discussion of securities lending transactions within the separate account, separately including the amount of an loaned securities within the separate account, and if policy and procedures for the separate account differ from the general account:

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[1] Reporting entities are permitted to prospectively 'build' the five-year disclosure. Thus, upon the first year of application of the disclosure requirements, reporting entities should illustrate one year of the disclosure requirement. In the second year, the reporting entity would disclosure two-years, and so forth until the disclosure includes five-years of disclosures.

31. For each risk-based capital grouping (as detailed in paragraph 32), the following shall be disclosed:

a. Premiums, considerations or deposits received during the year;

b. Reserves by the valuation basis of the investments supporting the reserves at the financial statement date. List reserves for separate accounts whose assets are carried at market value separately from those whose assets are carried at amortized cost/book value;

c. Reserves by withdrawal characteristics, i.e., whether or not the separate account is subject to discretionary withdrawal or market value adjustment, or to withdrawal at book value with or without surrender charge;

d. Reserves for asset default risk, as described in paragraph 18 b., that are recorded in lieu of AVR.

32. For the disclosures required in paragraph 31, separate accounts shall be addressed in the following groupings (which are the same as those used for risk-based capital):

a. Separate Accounts with Guarantees:

i. Indexed separate accounts, which are invested to mirror an established index which is the basis of the guarantee;

ii. Nonindexed separate accounts, with reserve interest rate at no greater than 4% and/or fund long-term interest guarantee in excess of a year that does not exceed 4%;

iii. Nonindexed separate accounts, with reserve interest rate at greater than 4% and/or fund long-term interest guarantee in excess of a year that exceeds 4%.

b. Nonguaranteed Separate Accounts—Variable separate accounts, where the benefit is determined by the performance and/or market value of the investments held in the separate account. Include variable accounts with incidental risks, nominal expense, and minimum death benefit guarantees.

33. Provide a reconciliation of the amount reported as transfers to and from separate accounts in the Summary of Operations of the separate accounts statement and the amount reported as net transfers to or from separate accounts in the Summary of Operations of the general accounts statement.

34. The Separate Account Annual Statement Blank shall include detailed information on the characteristics of the separate account assets, specifically categorizing separate accounting assets in accordance with the following characteristics:

a. Identification of separate account assets that are legally insulated from the general account and those which are not legally insulated.

b. Identification of the separate account assets in which the investment directive is not determined by a contractholder. (In most instances, having multiple investment choices at the option of a contractholder would be considered a situation in which the investment directive is determined by a contractholder. This is not true for situations in which the asset is invested in a manner that mirrors the investment directives of the general account.) Situations in which the investment directive is not determined by the contractholder (and situations in which the reporting entity is the contractholder) shall include disclosure regarding whether the investments of the respective separate account assets, if included within the general account investments, would have resulted with the reporting entity exceeding any investment limitations imposed on the general account.

c. Identification of the separate account assets in which less than 100% of investment proceeds are attributed to a contractholder. This shall include identification of the separate account investment income attributed to the reporting entity during the reporting period and whether such income was transferred to the general account or reinvested within the separate account. Instances in which such income is reinvested within the separate account shall include disclosure on whether the subsequent investments, if categorized with investments in the general account, would have exceeded investment limitations imposed on the general account.

35. For all separate account assets not reported at fair value, indicate the measurement basis (amortized cost or other method) for each asset (or asset class) and whether the measurement method was grandfathered in under the transition guidance in this SSAP, or whether the measurement method is allowed under a prescribed or permitted practice. This disclosure shall include a comparison of the assets' reported value to fair value with identification of the resulting unrealized gain/loss that would have been recorded if the assets had been reported at fair value.

36. For all separate accounts that include securities lending transactions, disclose the reporting entity's use and policy of securities lending within the separate account, including the amount of loaned securities from the separate account at the reporting date, the percentage of separate account assets lent as of that date, a description for which type of accounts (e.g., book value accounts, market value account accounts) are lent, if the separate account policyholder is notified or approves of such practices, the policy for requiring collateral, whether the collateral is restricted and the amount of collateral for transactions that extend beyond one year from the reporting date. This disclosure requires the entity to provide the following information as of the date of the statement of financial position: (1) the aggregate amount of contractually obligated open collateral positions (aggregate amount of securities at current fair value or cash received for which the borrower may request the return of on demand) and the aggregate amount of contractually obligated collateral positions under 30-day, 60-day, 90-day, and greater than 90-day terms, (2) the aggregate fair value of all securities acquired from the sale, trade and use of the accepted collateral (reinvested collateral), and (3) information about the sources and uses of that collateral.

37. Identify all products reported as a separate account product under statutory accounting principles and identify whether each product was classified differently under GAAP. For products that resulted with different classifications between GAAP and SAP, identify the characteristic(s) of the product that prevented it from receiving a separate account classification under GAAP. This disclosure is applicable for all reporting entities. Thus, if GAAP financial statements were not filed, the reporting entity should complete this disclosure as if GAAP financials had been completed.38. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

39. This statement rejects AICPA *Statement of Position 03-1, Accounting and Reporting by Insurance Enterprises for Certain Nontraditional Long-Duration Contracts and for Separate Accounts* (SOP 03-1). The disclosure elements included within this SSAP are derived from the criteria for separate account reporting under SOP 03-1; however, this SSAP does not restrict separate account reporting pursuant to the criteria established in SOP 03-1.

40. This statement incorporates the requirements of Appendices A-250, A-255, A-270, A-585, A-588, A-620, A-812, A-820, A-821, A-822, A-825, and the Actuarial Standards Board *Actuarial Standards of Practice*.

Effective Date and Transition

41. This statement is effective for years beginning January 1, 2001. Contracts with assets held in a Separate Account that were issued in accordance with applicable state laws and regulations and issued prior to that effective date, for which assets and liabilities have been recorded using a consistent basis since issue, i.e., both assets and liabilities are recorded either as if in the general account ("book value") or as at market value (current interest rates based on market rates shall be used for liabilities when assets are recorded at market value), shall continue to be recorded using such basis until such time as the applicable contract terms or provisions are substantially changed, such as by a contract amendment modifying interest rate or withdrawal provisions. State laws and regulations shall be understood to include anything considered authoritative by the domiciliary state under the individual state's statutory authority and due process procedures. Changes that do not require change in the basis of recording would include: address changes, continued deposits, and other non-substantive changes such as these. For example, additional funds received after January 1, 2001 under contracts issued prior to January 1, 2001 may continue to be recorded using the basis in effect prior to January 1, 2001 until such time as a triggering change is made. 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.*

42. Disclosure revisions adopted in September 2009 to paragraphs 29-37 shall initially be reported within the 2010 annual financial statements, with annual reporting thereafter.

AUTHORITATIVE LITERATURE

Statutory Accounting

NAIC Financial Examiners Handbook

Actuarial Standards Board Actuarial Standards of Practice

RELEVANT ISSUE PAPERS

Issue Paper No. 89—Separate Accounts

SSAP No. 56 – GLOSSARY

Guarantee

Represents an insurance company's general account contractual obligation to reimburse life insurance and annuity policyholders for their separate account investment losses including the return of principal, minimum crediting rates, minimum death, withdrawal, accumulation or income benefits and no-lapse guarantees and for separate account mortality losses.

Total Maximum Guarantee

Is the difference between the total amount of liability the general account is subject to reimbursing as at the balance sheet date and the policyholder's contract value referenced by the guarantee (e.g., account value). For guarantees in the event of death, it is the minimum guaranteed amount available to the contract holder upon death in excess of the contract holder's contract value referenced by the guarantee (e.g., account balance) at the balance sheet date. For guarantees of amounts at annuitization, it is the present value of the minimum guaranteed annuity payments available to the contract holder determined in accordance with the terms of the contract in excess of the contract value referenced by the guarantee (e.g., account balance).

Insulation

The legal protection of separate account assets equal to the reserves and supporting contract liabilities from the general account liabilities of the insurance enterprise ensuring that the separate account contract holder is not subjected to insurer default risk to the extent of their assets held in the separate account.

Risk Charge

The contractual amount the general account charges the separate account policyholders’ account value for compensation relating to the general accounts guarantee on separate account asset or contract performance.

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SSAP No. 56—Separate Accounts
Annual Statement Instructions and Illustrations

General Account Disclosures (paragraph 30 of Proposed SSAP No. 56)

1. Separate Account Activity

Instruction:

The general account financial statement shall include detailed information on the reporting entity's separate account activity. These disclosures shall include:

A. A narrative of the general nature of the reporting entity's separate account business.

B. Identification of the separate account assets that are legally insulated from the general account claims.

C. Identification of the separate account products that have guarantees backed by the general account. This shall include.

i. Identification of the total maximum guarantee for separate account products as of the reporting date;

ii. Amount of risk charges paid by the separate account to the general account for the past five (5) years as compensation for the risk taken by the general account; and

iii. Amount paid by the general account due to separate account guarantees during the past five (5) years.

D. Discussion of securities lending transactions within the separate account, separately including the amount of loaned securities within the separate account, and if policies and procedures for the separate account differ from the general account.

Illustration:

Separate Account Activity

A. XYZ Company utilizes separate accounts to record and account for assets and liabilities for particular lines of business and/or transactions. For the current reporting year, XYZ reported assets and liabilities from the following product lines/transactions into a separate account:

- Variable Life Insurance Products
- Variable Annuities
- Modified Guaranteed Annuities
- Funding Agreements
- Employee Benefit Plans
- Etc…

In accordance with the domiciliary state procedures are approving items within the separate account, the separate account classification of the following items are supported by a specific state statute (cite reference):

- Product Identifier (Variable Life) – State Statute Reference

The following items are supported by direct approval by the commissioner:

- Product Identifier (Funding Agreements) – Commissioner Approval

The following items are not supported by state statute or direct approval, but are permitted for separate account reporting in accordance with the following guidance:

- Product Identifier (Employee Benefit Plans) – Cite Guidance

(Include additional information regarding the general nature of the entity's separate account business as necessary.)

B. In accordance with the products/transactions recorded within the separate account, some assets are considered legally insulated whereas others are not legally insulated from the general account. (The legal insulation of the separate account assets prevents such assets from being generally available to satisfy claims resulting from the general account.)

As of December 31, 20___ and 20___ the Company separate account statement included legally insulated assets of $________ and $______, respectively The assets legally insulated from the general account as of December 31, 20___ are attributed to the following products/transactions:

Product/Transaction	Legally Insulated Assets	Separate Account Assets (Not Legally Insulated)
	$	$

C. In accordance with the products/transaction recorded within the separate account, some separate account liabilities are guaranteed by the general account. (In accordance with the guarantees provided, if the investment proceeds are insufficient to cover the rate of return guaranteed for the product, the policyholder proceeds will be remitted by the general account.)

As of December 31, 20___, the general account of XYZ Company had a maximum guarantee for separate account liabilities of $________. To compensate the general account for the risk taken, the separate account has paid risk charges as follows for the past five (5) years[1]:

20___, $___________;
20___, $___________;
20___, $___________;
20___, $___________;
20___, $___________.

As of December 31, 20___, the general account of XYZ Company had paid $______ towards separate account guarantees. The total separate account guarantees paid by the general account for the preceding four years[1] ending December 31, 20__, 20__, 20__, and 20___ was $_______, $________, $________, and $________, respectively.

D. XYZ Company engages in securities lending transactions within the separate account. In accordance with such transactions conducted from the separate account, XYZ Company follows the same policies and procedures from the general account, except as follows:

- Description of deviation from general account policies/procedures

For the year-ended December 31, 20___, XYZ Company loaned securities attributable to the following products/transactions in accordance with securities lending transactions:

- Variable Life Insurance Products (product identifier)
- Variable Annuities (product identifier)

[1] Per SSAP No. 56, reporting entities are permitted to prospectively "build" the five-year disclosure. Upon the first year application of the disclosure requirements, reporting entities should illustrate one year of the disclosure. In the second year, the reporting entity would disclose two-years, and so forth until the disclosure includes the most recent five-year's worth of disclosure information.

Pursuant to the policies and procedures, XYZ Company is required to obtain approval and or otherwise notify the contract holders that assets backing their investments may be loaned in securities lending transactions.

Remaining disclosures shall follow the security lending disclosures included within the general account.

<u>Separate Account Disclosures (paragraphs 34-37 of Proposed SSAP No. 56)</u>

1. The Separate Account Annual Statement Blank shall include detailed information on the characteristics of the separate account assets, specifically categorizing separate accounting assets in accordance with the following characteristics:

    A. Identification of separate account assets that are legally insulated from the general account and those which are not legally insulated.

    B. Identification of the separate account assets in which the investment directive is not determined by a contract holder. (In most instances, having multiple investment choices at the option of a contract holder would be considered a situation in which the investment directive is determined by a contract holder. This is not true for situations in which the asset is invested in a manner that mirrors the investment directives of the general account.) Situations in which the investment directive is not determined by the contract holder (and situations in which the reporting entity is the contract holder) shall include disclosure regarding whether the investments of the respective separate account assets, if included within the general account investments, would have resulted with the reporting entity exceeding any investment limitations imposed on the general account.

    C. Identification of the separate account assets in which less than 100% of investment proceeds are attributed to a contractholder. This shall include identification of the separate account investment income attributed to the reporting entity during the reporting period and whether such income was transferred to the general account or reinvested within the separate account. Instances in which such income is reinvested within the separate account shall include disclosure on whether the subsequent investments, if categorized with investments in the general account, would have exceeded investment limitations imposed on the general account.

2. Identification of Separate Account Assets Not Reported at Fair Value

    A. For all separate account assets not reported at fair value, indicate the measurement basis (amortized cost or other method) for each asset (or asset class) and whether the measurement method was grandfathered in under the transition guidance in this SSAP, or whether the measurement method is allowed under a prescribed or permitted practice. This disclosure shall include a comparison of the assets' reported value to fair value with identification of the resulting unrealized gain/loss that would have been recorded if the assets had been reported at fair value.

3. Separate Account Securities Lending Transactions

    A. For all separate accounts that include securities lending transactions, disclose the reporting entity's use and policy of securities lending within the separate account, including the amount of loaned securities from the separate account at the reporting date, the percentage of separate account assets lent as of that date, a description for which type of accounts (e.g., book value accounts, market value account accounts) are lent, if the separate account policyholder is notified or approves of such practices, the policy for requiring collateral, whether the collateral is restricted and the amount of collateral for transactions that extend beyond one year from the reporting date. This disclosure requires the entity to provide the following information as of the date of the statement of financial position: (1) the aggregate amount of contractually obligated open collateral positions (aggregate amount of securities at current fair value or cash received for which the borrower may request the return of on demand) and the aggregate amount of contractually obligated collateral positions under 30-day, 60-day, 90-day, and greater than 90-day terms, (2) the aggregate fair value of all securities acquired from the sale, trade and use of the accepted collateral (reinvested collateral), and (3) information about the sources and uses of that collateral.

4. Separate Account Products Reported Differently Under GAAP

    A. Identify all products reported as a separate account product under statutory accounting principles and identify whether each product was classified differently under GAAP. For products that resulted with different classifications between GAAP and SAP, identify the characteristic(s) of the product that prevented it from receiving a separate account classification under GAAP. This disclosure is applicable for all reporting entities. Thus, if GAAP financial statements were not filed, the reporting entity should complete this disclosure as if GAAP financials had been completed.

5. Securities Lending Transactions within Separate Accounts (SSAP No. 91, paragraph 88)

A. Include separately, the amount of any loaned securities within the separate account and if the policy and procedures for the separate account differ from the general account.

6. FHLB Disclosures (SSAP No. 52, paragraph 18)

A. Whether FHLB funding agreements assets and liabilities are classified within the general account or in a separate account; the elements that support this classification and the amounts in each category (i.e., general or separate account).

Illustration – General Interrogatories – Characteristics of Separate Account Assets:

Legal Insulation of Assets

1.1 Does the reporting entity have separate account assets that are legally insulated from the general account? Yes [ ] No [ ]

1.2 If yes, identify the product with insulated assets and quantify the assets that are legally insulated from general account claims:

1 Product Identifier	2 Separate Account Assets	3 Legally Insulated Assets
	$	$
Total		

Separate Account Products with General Account Guarantees

2.1 Does the reporting entity have products with guarantees provided by the general account? Yes [ ] No [ ]

2.2 If yes, what is the current total maximum guarantee the general account would provide to the separate account? $______________________

2.3 Has the separate account collected amounts from the general account within the past five years related to separate account guarantees? Yes [ ] No [ ]

2.4 If yes, provide detail on these guarantees paid by the general account:

As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________

2.5 To compensate the general account for the risk taken, for any separate account products with general account guarantees, does the separate account remit risk charges to the general account related to separate account guarantees? Yes [ ] No [ ]

2.6 If yes, identify the separate account products with risk charges that are remitted to the general account and whether the risk charge for that product is reviewed and opined upon:

1 Product Identifier with Risk Charges	2 Risk Charge Reviewed and Opined Upon	3 Name and Title of Individual who Provided Opinion on Risk Charges

2.7 Provide detail on the risk charges paid to the general account related to separate account guarantees for the past five years:

As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________
As of December 31, 20___ $________________

Investment Directive of Separate Account Activity

3.1 Does the reporting entity have products classified within the separate account for which the investment directive is not determined by the contract holder? (Situations in which the investments directive mirrors the general account would not be considered determined by the contract holder, however, having the contract holder select an investment direction from multiple options would meet this criteria.) Yes [ ] No [ ]

3.2 If yes, if these investments would have been included in the general account, would the reporting entity have exceeded the investment limitations imposed on the general account? Yes [ ] No [ ] N/A [ ]

3.2 Provide detail on the separate account investment portfolio and state investment limitations. (This includes the combined separate account and general investments, excluding separate account assets with investment direction determined by the contract holder):

1 Investment Type	2 State Investment Limitation	3 Combined Investment (Separate and General Account)

Allocation of Investment Proceeds of Separate Account Activity

4.1 Does the reporting entity have separate account assets in which less than 100% of investment proceeds (net of contract fees and assessments) are attributed to a contract holder? (This should identify any situations where there is a ceiling on investment performance results.) Yes [ ] No [ ]

4.2 If yes, provide detail on the net investment proceeds that were attributed to the contract holder, transferred to the general account and reinvested within the separate account:

1 Product Identifier	2 Net Investment Proceeds	3 Attributed to Contract Holder	4 Transferred to General Account	5 Reinvested Within the Separate Account

4.3 For items reinvested within the Separate Account, does the reporting entity invest these assets in accordance with investment directives of the general account? Yes [ ] No [ ] N/A [ ]

4.4 If no, does the reporting entity have a stated policy and procedure for the reinvestment of investment proceeds within the separate account? Yes [ ] No [ ] N/A [ ]

4.5 Did the reinvestment of investment proceeds within the separate account result with the company having a combined investment portfolio that exceeded the state investment limitations imposed on the general account? Yes [ ] No [ ] N/A [ ]

Measurement of Separate Account Assets

5.1 Does the reporting entity report all separate account assets at fair value? Yes [ ] No [ ]

5.2 For items not reported at fair value, does the reporting entity report separate account assets at amortized cost, and/or under different measurement methods?

Amortized Cost…………………………………. Yes [ ] No [ ]

Other Measurement Methods………………… Yes [ ] No [ ]

5.3 If other measurement methods are used, provide explanation on these measurement methods ....
....

5.4 Identify the assets measured at fair value, amortized cost or another measurement methods and the percentage of separate account assets measured under each measurement method:

Fair Value $____________________ _________%

Amortized Cost $____________________ _________%

Other Measurement Methods $____________________ _________%

5.5 For the assets not measured at fair value, provide a comparison of the reported value to current fair value and identify the unrealized gain or loss that would have been recorded if the assets had been reported at fair value:

1 Assets Held at Amortized Cost	2 Fair Value	3 Unrecorded Unrealized Gain/Loss

1 Assets Held at Other Measurement Method	2 Fair Value	3 Unrecorded Unrealized Gain/Loss

Securities Lending Transactions Within Separate Accounts

6.1 Does the reporting entity engage in securities lending transactions with separate account assets? Yes [ ] No [ ]

6.2 If yes, does the reporting entity have written policies and procedures for such transactions? Yes [ ] No [ ] N/A [ ]

6.3 Does the reporting entity obtain approval, or otherwise provide notification to contract holders, regarding securities lending transactions that occur with separate account assets? Yes [ ] No [ ] N/A [ ]

6.4 Are all securities lending transactions reported on balance sheet? Yes [ ] No [ ] N/A [ ]

6.5 Provide a description of the reporting entity's securities lending transaction program, specifically identifying any variations from the securities lending transaction program administered by the general account..

6.6 Provide detail on the current status of separate account transactions by separate account product:

a. Amount of any loaned securities within the separate account and the percentage of separate account assets lent $_____________________

_____________%

b. Identify whether the securities lent are reported at book value or market value $______________ BV

$______________ MV

c. Detail on collateral received:

1. Aggregate Amount Collateral Received	
Open	$
30 Days or Less	
31 to 60 Days	
61 to 90 Days	
Greater Than 90 Days	
Total Collateral Received	$
2. The aggregate fair value of all securities acquired from the sale, trade or use of the accepted collateral (reinvested collateral)	$

3. Narrative discussion about sources and use of collateral: ....

4. collateral for transactions that extend beyond one year from the reporting date $______________

FHLB Funding Agreements

7.1 Does the reporting entity report Federal Home Loan Bank (FHLB) funding agreements within the separate account? Yes [ ] No [ ]

7.2 Provide detail on the elements that support the classification of FHLB funding agreements within the separate account……………………..

7.3 Provide detail regarding the FHLB funding agreements classified within the separate account:

1 Amount of FHLB Stock Purchased or Owned	1 Amount of Collateral Pledged to the FHLB	2 Total Borrowing or Funding Capacity Currently Available	3 Total Reserves Related to FHLB Agreements

7.4 For funding agreements within the separate account, provide a general description on the nature of the agreement, type of funding (lines of credit, borrowed money, etc) and intended use of funding…………………………….:

Reporting Differences Between GAAP and SAP Financial Statements (This disclosure is applicable to all reporting entities regardless if they file GAAP financial statements)

8.1 Does the reporting entity file GAAP financial statements? Yes [ ] No [ ]

8.2 In accordance with the different separate account reporting requirements between GAAP (SOP 03-1) and statutory accounting, does the reporting entity have products that are classified within the separate account that were, or would have been if GAAP financial statements had been completed, required to be reported within the general account under GAAP financials? Pursuant to SOP 03-1, all of the following conditions must be met to receive separate account reporting classification under GAAP: Yes [ ] No [ ] N/A [ ]

a. Legal Recognition - The separate account is legally recognized. That is, the separate account is established, approved, and regulated under special rules such as state insurance laws, federal securities laws, or similar foreign laws.

b. Legally Insulated - The separate account assets supporting the contract liabilities are legally insulated from the general account liabilities of the insurance enterprise (that is, the contract holder is not subject to insurer default risk to the extent of the assets held in the separate account).

c. Investment Directive - The insurer must, as a result of contractual, statutory, or regulatory requirements, invest the contract holder's funds within the separate account as directed by the contract holder in designated investment alternatives or in accordance with specific investment objectives or policies.

d. Investment Performance - All investment performance, net of contract fees and assessments, must as a result of contractual, statutory, or regulatory requirements be passed through to the individual contract holder. Contracts may specify conditions under which there may be a minimum guarantee, but not a ceiling, as a ceiling would prohibit all investment performance from being passed through to the contract holder

8.3 Identify all separate account products and identify whether each product was classified within a separate account for GAAP reporting purposes. (For non-GAAP filers, this disclosure should reflect whether the GAAP classification would have been the same if GAAP financials had been completed.) For products that were (or would have been) reported differently, identify which SOP 03-1 condition prevented separate account GAAP classification for that particular product.

1 Product Identifier	2 Same as GAAP / Condition that Requires GAAP General Account Reporting

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Statutory Issue Paper No. 137

Transfer of Property and Casualty Reinsurance Agreements in Run-off

STATUS:
Finalized September 21, 2009

Type of Issue:
Common Area

SUMMARY OF ISSUE

1. Current statutory guidance relating to property and casualty reinsurance agreements is found in *Statement of Statutory Accounting Principle No. 62—Property and Casualty Reinsurance* (SSAP No. 62). SSAP No. 62 currently requires that property and casualty reinsurance agreements which transfer insurance risk, but cover liabilities which occurred prior to the effective date of the agreement receive retroactive accounting treatment unless specified exceptions are met.

2. SSAP No. 62 currently allows four specified exceptions to retroactive reinsurance accounting including: structured settlements; novations; termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business; or intercompany reinsurance agreements, provided there is no gain in surplus as a result of the transaction.

3. The purpose of this issue paper is to amend SSAP No. 62 to expand the exceptions to retroactive accounting treatment to include property and casualty reinsurance run-off agreements which meet specified criteria. Reinsurance agreements and retrocession agreements which meet insurance risk transfer requirements and meet the specified criteria will receive prospective accounting treatment.

SUMMARY CONCLUSION

4. This issue paper shall amend SSAP No. 62 to insert the following subparagraph e into paragraph 31:

> 31. The accounting principles for retroactive reinsurance agreements in paragraph 29 shall not apply to the following types of agreements (which shall be accounted for as prospective reinsurance agreements unless otherwise provided in this statement):
>
> a. Structured settlement annuities for individual claims purchased to implement settlements of policy obligations;
>
> b. Novations, (i.e., (i) transactions in which the original direct insurer's obligations are completely extinguished, resulting in no further exposure to loss arising on the business novated or (ii) transactions in which the original assuming entity's obligations are completely extinguished) resulting in no further exposure to loss arising on the business novated, provided that (1) the parties to the transaction are not affiliates (or if

affiliates, that the transaction has the prior approval of the domiciliary regulators of the parties) and (2) the accounting for the original reinsurance agreement will not be altered from retroactive to prospective;

c. The termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business;

d. Intercompany reinsurance agreements and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction; or

e. Reinsurance and or retrocession agreements that meet the criteria of property and casualty run-off agreements described in paragraphs 68-71.

5. This issue paper shall amend SSAP No. 62 to insert and renumber the remaining paragraphs of the statement:

Accounting for the Transfer of Property and Casualty Run-off Agreements

68. Property and casualty run-off agreements are reinsurance or retrocession agreements that are intended to transfer essentially all of the risks and benefits of a specific line of business or market segment that is no longer actively marketed by the transferring insurer or reinsurer. A property and casualty run-off agreement is not a novation as the transferring insurer or reinsurer remains primarily liable to the policyholder or ceding entity (in the case of a retrocession) under the original contracts of insurance or reinsurance. Reinsurance agreements between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) are not eligible for the exception for property and casualty run-off agreements in subparagraph 31.e. of SSAP No. 62.

Criteria

69. The accounting treatment for property and casualty run-off agreements must be approved by the domiciliary regulators of the transferring entity (either the original direct insurer in the case of a reinsurance agreement or the original assuming reinsurer in the case of a retrocession agreement) and the assuming entity. If the transferring entity and assuming entity are domiciled in the same state, then the regulator of the state where the majority of the transferred liabilities is located shall be asked to approve the accounting treatment. In determining whether to approve an agreement for this accounting treatment, the regulators shall require the following:

a. Assuming Entity Properly Licensed – The entity assuming the run-off agreement must have the appropriate authority or license to write the business being assumed.

b. Limits and Coverages – the reinsurance or retrocession agreement shall provide the same limits and coverages that were afforded in the original insurance or reinsurance agreement.

c. Non-recourse – The reinsurance or retrocession agreement shall not contain any adjustable features or profit share or retrospective rating, and there shall be no recourse (other than normal representations and warranties that would be associated with a purchase and sale agreement) directly or indirectly against the transferring entity.

d. Risk Transfer – the reinsurance or retrocession agreement must meet the requirements of risk transfer as described in this statement.

e. Financial Strength of Reinsurer – the assuming reinsurer shall have a financial strength rating from at least two independent rating agencies (from NAIC acceptable rating agencies) which is equal to or greater than the current ratings of the transferring entity. The lowest financial strength rating received from an NAIC acceptable rating organization rating agency will be used to compare the financial strength ratings of the transferring and assuming entities.

f. Assessments – the assuming reinsurer or retrocessionaire (if required in the original reinsurance contract) shall be financially responsible for any and all assessments, including guaranty fund assessments, that are assessed against the transferring entity related to the insurance business being assumed.

g. Applicable Only to "Run-off" Business – the reinsurance or retrocession agreement shall only cover liabilities relating to a line(s) of business or specific market segments no longer actively marketed by the transferring entity.

h. Non-cancelable Reinsurance – the reinsurance or retrocession agreement shall provide that the reinsurance or retrocessional coverage provided by the proposed agreement cannot be cancelable by either party for any reason. (However, this provision will not override standard contract law and principles and will not prevent any remedies, including rescission or termination that might be available for breach, misrepresentation, etc.)

Statutory Schedules and Exhibits

70. At the inception of the transaction, the transferring entity shall record the consideration paid to the assuming entity as a paid loss. If the consideration paid by the transferring entity is less than the loss reserves transferred, the difference shall be recorded by the ceding entity as a decrease in losses incurred. The assuming entity shall record the consideration received as a negative paid loss. In addition, the transferring entity shall record an increase to ceded reinsurance recoverable for the amount of the transferred reserve. Journal entries illustrating these transactions, including situations in which the transaction includes an unearned premium reserve, are included in Exhibit B of this Statement.

71. The assuming entity will report the business in the same line of business as reported by the original insurer or reinsurer. The assuming entity will report the business at the same level of detail using the appropriate statutory schedules and exhibits.

Disclosures

6. This issue paper amends the disclosures section of SSAP No. 62 to add new paragraph 86 requiring additional disclosures and renumbering subsequent paragraphs:

86. Disclosures for the Transfer of Property and Casualty Run-off Agreements

a. Disclose if the reporting entity has entered into any agreements which have been approved by their domiciliary regulator and have qualified pursuant to SSAP No. 62, subparagraph 31.e., Accounting for the Transfer of Property and Casualty Run-off Agreements.

b. If affirmative, provide a description of the agreement and the amount of consideration paid and liabilities transferred.

Effective Date and Transition

7. After adoption of this issue paper, the NAIC will release an amended Statement of Statutory Accounting Principle (SSAP) for comment. The initial draft of the amended SSAP will contain the adopted Summary Conclusion of this issue paper. 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 SSAP has been adopted by the Plenary of the NAIC. It is expected that the SSAP will be effective for reporting periods beginning on or after January 1, 2010.

DISCUSSION

8. This issue paper will expand the exceptions to retroactive reinsurance to more easily allow property and casualty reinsurers to transfer existing blocks of business that the company is no longer actively writing and marketing. Although paragraph 28 of SSAP No. 62 notes that reinsurance of existing liabilities is subject to abuse, the Statutory Accounting Principles Working Group determined that the requirements in this statement were sufficient to mitigate the concerns which would otherwise require retroactive accounting treatment.

9. It is contemplated that insurers and reinsurers would primarily use this option to exit unprofitable lines or products or as a way to cede off business the company is no longer writing. As it is possible that circumstances that might have made the product unattractive can change, this guidance is not intended to permanently prevent a company from reentering a line that was previously ceded in run-off. If questioned, the reporting entity shall be able to explain to the satisfaction of the affected states the change in circumstances regarding why a product that was previously considered a run-off product is now actively marketed.

10. Reinsurance between affiliates can result in abuse that retroactive reinsurance accounting is designed to prevent. The subparagraph 31.e. exception for property and casualty run-off agreements is not intended to be applied to agreements between affiliated reinsurers or reinsurers under common control. There is a currently existing exception to retroactive reinsurance accounting for intercompany reinsurance agreements and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction in subparagraph 31.d. This issue paper does not affect or modify that guidance.

11. Retroactive reinsurance agreements between affiliates that result in surplus gain to the ceding entity, receive an accounting penalty under SSAP No. 62, paragraph 32. This issue paper does not affect or modify that guidance.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

12. As noted above existing property and casualty reinsurance accounting guidance is in SSAP No. 62. Tracked changes to SSAP No. 62 proposed by this statement are shown in appendix A. The exceptions to retroactive reinsurance accounting are a statutory accounting concept.

RELEVANT LITERATURE

Statutory Accounting

- *SSAP No. 62—Property and Casualty Reinsurance*
- *Issue Paper No. 75—Property and Casualty Reinsurance*

Generally Accepted Accounting Principles

- *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts* (FAS 113) with modification and FASB Emerging Issues Task Force No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises is adopted with modification in SSAP No. 62 and discussed in Issue Paper No. 75. This issue paper does not change the previous review of GAAP statements.

State Regulations

- No additional guidance obtained from state statutes or regulations.

Initial Transaction
Paid Loss or Ceded Premium?

Illustration of the rationale for treating the initial transaction as a paid loss by the Cedent/Transferor and a negative paid loss by the Reinsurer/Transferee.

Rationale:

1. This is a transfer of an existing block of business in which typically all premiums have been earned. The cedent is essentially transferring the reserves on an existing block of runoff business for a final negotiated premium.
2. Treating the initial transaction as ceded premium would distort the income statement and standard ratios of the cedent.
3. Additionally, Schedule P for the Cedent/Transferor would be distorted since existing loss reserves would never be paid, resulting in favorable reserve development in Schedule P.
4. Treating the initial transaction as a paid loss is consistent with similar transactions like assumption reinsurance and LPTs (when there is no surplus gain) and better presents the true economics of the transaction.
5. Treating the initial transaction as a paid loss preserves the logical data flow in all of the underwriting and investment exhibits, Schedule P and Schedule F.

Illustration: Assume $110,000 of earned premiums and the transfer of a runoff block of business representing $50,000 in reserves for $50,000 cash

Cedent I/S	Before Transaction	Recorded As Paid Loss	Recorded As Ceded Premium
Premiums Earned	110,000	110,000	**60,000**
Losses Incurred	85,000	85,000	**35,000**
Other U/W Expenses	30,000	30,000	30,000
Net U/W Gain (Loss)	(5,000)	(5,000)	(5,000)
Investment Income	7,000	7,000	7,000
Other Income	1,000	1,000	1,000
Net income	3,000	3,000	3,000
Loss Ratio	77%	77%	**58%**
Expense Ratio	27%	27%	**50%**
Combined Ratio	104%	104%	**108%**

Cedent B/S	Before Transaction	Recorded As Paid Loss	Recorded As Ceded Premium
Cash & Invested Assets	445,000	**395,000**	**395,000**
Reinsurance Recoverable on Unpaid Losses	45,000	45,000	45,000
EDP Equipment	1,000	1,000	1,000
Other Assets	9,000	9,000	9,000
Total Assets	500,000	450,000	450,000
Unpaid Losses and LAE	175,000	**125,000**	**125,000**
Unearned Premium	45,000	45,000	45,000
A/P and Accrued Expenses	3,000	3,000	3,000
Other Liabilities	2,000	2,000	2,000
Total Liabilities	225,000	175,000	175,000
Common Stock	10,000	10,000	10,000
PIC	90,000	90,000	90,000
Unassigned Surplus	175,000	175,000	175,000
Total Capital & Surplus	275,000	275,000	275,000
Total Liab., Capital & Surplus	500,000	450,000	450,000

Conclusion:

1. If you report the consideration paid by the Cedent/Transferor as a Paid Loss, there is no net effect on the balance sheet or income statement or key underwriting ratios.
2. If you report the consideration paid by the Cedent/Transferor as a Ceded Premium, the effect on the income statement and underwriting ratios is dramatic.
3. Additionally, Schedule P for the Cedent/Transferor would be distorted since existing loss reserves would never be paid, resulting in favorable reserve development in Schedule P.

EXHIBIT A: Illustration of Marked Changes to Amended SSAP No. 62 R

The following depicts the amendments this issue paper as “marked changes”: (new text underlined):

STATEMENT OF STATUTORY ACCOUNTING PRINCIPLES NO. 62 R
PROPERTY AND CASUALTY REINSURANCE

Status

Type of Issue:	Common Area
Issued:	Finalized March 13, 2000
Effective Date:	January 1, 2001, Substantive revisions in paragraphs 31.e., 68-71 and 86 are effective January 1, 2010
Affects:	No other pronouncements
Affected by:	Paragraph 35 superseded by SSAP No. 75, Substantively revised in TBD 2009 (Detail of revisions are included within Issue Paper No. 137)
Interpreted by:	INT 01-33, INT 02-01, INT 02-06, INT 02-09, INT 02-22, INT 03-02

Property and Casualty Reinsurance

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for property and casualty reinsurance. A wide range of methods for structuring reinsurance arrangements can be employed depending on the requirements of individual companies. This statement deals with the more commonly employed methods.

SUMMARY CONCLUSION

General

2. Reinsurance is the assumption by an insurer of all or part of a risk undertaken originally by another insurer. The transaction whereby a reinsurer cedes all or part of the reinsurance it has assumed to another reinsurer is known as a retrocession.

3. Reinsurance has many beneficial purposes. Among them are that it enables an insurance entity to (a) expand its capacity, (b) share large risks with other insurers, (c) spread the risk of potential catastrophes and stabilize its underwriting results, (d) finance expanding volume by sharing the financial burden of reserves, (e) withdraw from a line or class of business, and (f) reduce its net liability to amounts appropriate to its financial resources.

4. Reinsurance agreements are generally classified as treaty or facultative. Treaty reinsurance refers to an arrangement involving a class or type of business written, while facultative reinsurance involves individual risks offered and accepted.

5. Reinsurance coverage can be pro rata (i.e., proportional reinsurance) where the reinsurer shares a pro rata portion of the losses and premium of the ceding entity or excess of loss (i.e., non-proportional) where the reinsurer, subject to a specified limit, indemnifies the ceding entity against the amount of loss in excess of a specified retention. Most reinsurance agreements fall into one of the following categories:

I. Treaty Reinsurance Contracts—Pro Rata:

A. Quota Share Reinsurance—The ceding entity is indemnified against a fixed percentage of loss on each risk covered in the agreement;

B. Surplus Share Reinsurance—The ceding entity establishes a retention or "line" on the risks to be covered and cedes a fraction or a multiple of that line on each policy subject to a specified maximum cession;

II. Treaty Reinsurance Contracts—Excess of Loss:

A. Excess Per Risk Reinsurance—The ceding entity is indemnified, subject to a specified limit, against the amount of loss in excess of a specified retention with respect to each risk covered by a treaty;

B. Aggregate Excess of Loss Reinsurance—The ceding entity is indemnified against the amount by which the ceding entity's net retained losses incurred during a specific period exceed either a predetermined dollar amount or a percentage of the entity's subject premiums for the specific period subject to a specified limit;

III. Treaty Reinsurance Contracts—Catastrophe: The ceding entity is indemnified, subject to a specified limit, against the amount of loss in excess of a specified retention with respect to an accumulation of losses resulting from a catastrophic event or series of events;

IV. Facultative Reinsurance Contracts—Pro Rata: The ceding entity is indemnified for a specified percentage of losses and loss expenses arising under a specific insurance policy in exchange for that percentage of the policy's premium;

V. Facultative Reinsurance Contracts—Excess of Loss: The ceding entity is indemnified, subject to a specified limit, for losses in excess of its retention with respect to a particular risk.

Characteristics of Reinsurance Agreements

6. Common contract provisions that may affect accounting practices include:

a. Reporting responsibility of the ceding entity—Details required and time schedules shall be established;

b. Payment terms—Time schedules, currencies intended, and the rights of the parties to withhold funds shall be established;

c. Payment of premium taxes—Customarily the responsibility of the ceding entity, a recital of nonliability of the reinsurer may be found;

d. Termination—May be on a cut-off or run-off basis. A cut-off provision stipulates that the reinsurer shall not be liable for loss as a result of occurrences taking place after the date of termination. A run-off provision stipulates that the reinsurer shall remain liable for loss under reinsured policies in force at the date of termination as a result of occurrences taking place after the date of termination until such time as the policies expire or are canceled; and

e. Insolvency clause—Provides for the survival of the reinsurer's obligations in the event of insolvency of the ceding entity, without diminution because of the insolvency.

7. Reinsurance contracts shall not permit entry of an order of rehabilitation or liquidation to constitute an anticipatory breach by the reporting entity, nor grounds for retroactive revocation or retroactive cancellation of any contracts of the reporting entity.

Required Terms for Reinsurance Agreements

8. In addition to credit for reinsurance requirements applicable to reinsurance transactions generally, no credit or deduction from liabilities shall be allowed by the ceding entity for reinsurance recoverable where the agreement was entered into after the effective date of these requirements (see paragraphs 90 and 91) unless each of the following conditions is satisfied:

a. The agreement must contain an acceptable insolvency clause;

b. Recoveries due the ceding entity must be available without delay for payment of losses and claim obligations incurred under the agreement, in a manner consistent with orderly payment of incurred policy obligations by the ceding entity;

c. The agreement shall constitute the entire contract between the parties and must provide no guarantee of profit, directly or indirectly, from the reinsurer to the ceding entity or from the ceding entity to the reinsurer;

d. The agreement must provide for reports of premiums and losses, and payment of losses, no less frequently than on a quarterly basis, unless there is no activity during the period. The report of premiums and losses shall set forth the ceding entity's total loss and loss expense reserves on the policy obligations subject to the agreement, so that the respective obligations of the ceding entity and reinsurer will be recorded and reported on a basis consistent with this statement; and

e. With respect to retroactive reinsurance agreements, the following additional conditions apply:

   i. The consideration to be paid by the ceding entity for the retroactive reinsurance must be a sum certain stated in the agreement;

   ii. Direct or indirect compensation to the ceding entity or reinsurer is prohibited;

   iii. Any provision for subsequent adjustment on the basis of actual experience in regard to policy obligations transferred, or on the basis of any other formula, is prohibited in connection with a retroactive reinsurance transaction, except that provision may be made for the ceding entity's participation in the reinsurer's ultimate profit, if any, under the agreement;

   iv. A retroactive reinsurance agreement shall not be canceled or rescinded without the approval of the commissioner of the domiciliary state of the ceding entity.

Reinsurance Agreements with Multiple Cedents

9. Reinsurance agreements with multiple cedents require allocation agreements. The allocation agreement can be part of the reinsurance agreement or a separate agreement. If the agreement has multiple cedents:

a. The allocation must be in writing and

b. The terms of the allocation agreement must be fair and equitable.

Reinsurance Contracts Must Include Transfer of Risk

10. The essential ingredient of a reinsurance contract is the transfer of risk. The essential element of every true reinsurance agreement is the undertaking by the reinsurer to indemnify the ceding entity, i.e., reinsured entity, not only in form but in fact, against loss or liability by reason of the original insurance. Unless the agreement contains this essential element of risk transfer, no credit shall be recorded.

11. Insurance risk involves uncertainties about both (a) the ultimate amount of net cash flows from premiums, commissions, claims, and claims settlement expenses (underwriting risk) and (b) the timing of the receipt and payment of those cash flows (timing risk). Actual or imputed investment returns are not an element of insurance risk. Insurance risk is fortuitous—the possibility of adverse events occurring is outside the control of the insured.

12. Determining whether an agreement with a reinsurer provides indemnification against loss or liability (transfer of risk) relating to insurance risk requires a complete understanding of that contract and

other contracts or agreements between the ceding entity and related reinsurers. A complete understanding includes an evaluation of all contractual features that (a) limit the amount of insurance risk to which the reinsurer is subject (e.g., experience refunds, cancellation provisions, adjustable features, or additions of profitable lines of business to the reinsurance contract) or (b) delay the timely reimbursement of claims by the reinsurer (e.g., payment schedules or accumulating retentions from multiple years).

13. Indemnification of the ceding entity against loss or liability relating to insurance risk in reinsurance requires both of the following:

a. The reinsurer assumes significant insurance risk under the reinsured portions of the underlying insurance agreements; and

b. It is reasonably possible that the reinsurer may realize a significant loss from the transaction.

14. A reinsurer shall not have assumed significant insurance risk under the reinsured contracts if the probability of a significant variation in either the amount or timing of payments by the reinsurer is remote. Implicit in this condition is the requirement that both the amount and timing of the reinsurer's payments depend on and directly vary with the amount and timing of claims settled by the ceding entity. Contractual provisions that delay timely reimbursement to the ceding entity prevent this condition from being met.

15. The ceding entity's evaluation of whether it is reasonably possible for a reinsurer to realize a significant loss from the transaction shall be based on the present value of all cash flows between the ceding and assuming companies under reasonably possible outcomes, without regard to how the individual cash flows are described or characterized. An outcome is reasonably possible if its probability is more than remote. The same interest rate shall be used to compute the present value of cash flows for each reasonably possible outcome tested. A constant interest rate shall be used in determining those present values because the possibility of investment income varying from expectations is not an element of insurance risk. Judgment is required to identify a reasonable and appropriate interest rate.

16. Significance of loss shall be evaluated by comparing the present value of all cash flows, determined as described in paragraph 15, with the present value of the amounts paid or deemed to have been paid to the reinsurer. If, based on this comparison, the reinsurer is not exposed to the reasonable possibility of significant loss, the ceding entity shall be considered indemnified against loss or liability relating to insurance risk only if substantially all of the insurance risk relating to the reinsured portions of the underlying insurance agreements has been assumed by the reinsurer. In this narrow circumstance, the reinsurer's economic position is virtually equivalent to having written the insurance contract directly. This condition is met only if insignificant insurance risk is retained by the ceding entity on the retained portions of the underlying insurance contracts, so that the reinsurer's exposure to loss is essentially the same as the reporting entity's.

17. Payment schedules and accumulating retentions from multiple years are contractual features inherently designed to delay the timing of reimbursement to the ceding entity. Regardless of what a particular feature might be called, any feature that can delay timely reimbursement violates the conditions for reinsurance accounting. Transfer of insurance risk requires that the reinsurer's payment to the ceding entity depend on and directly vary with the amount and timing of claims settled under the reinsured contracts. Contractual features that can delay timely reimbursement prevent this condition from being met. Therefore, any feature that may affect the timing of the reinsurer's reimbursement to the ceding entity shall be closely scrutinized.

Accounting for Reinsurance

18. Reinsurance recoverables shall be recognized in a manner consistent with the liabilities (including estimated amounts for claims incurred but not reported) relating to the underlying reinsured contracts. Assumptions used in estimating reinsurance recoverables shall be consistent with those used in estimating the related liabilities. Certain assets and liabilities are created by entities when they engage in reinsurance contracts. Reinsurance assets meet the definition of assets as defined by *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted to the extent they conform to the requirements of this statement.

19. Accounting for members of a reinsurance pool shall follow the accounting for the pool member which issued the underlying policy. Specific accounting rules for underwriting pools and associations are addressed in SSAP No. 63—Underwriting Pools and Associations Including Intercompany Pools.

20. Reinsurance recoverable on loss payments is an admitted asset. Notwithstanding the fact that reinsurance recoverables on paid losses may meet the criteria for offsetting under the provisions of SSAP No. 64—Offsetting and Netting of Assets and Liabilities (SSAP No. 64), reinsurance recoverables on paid losses shall be reported as an asset without any available offset. Unauthorized reinsurance is included in this asset and reflected separately as a liability to the extent required. Penalty for overdue authorized reinsurance shall be reflected as a liability.

21. Funds held or deposited with reinsured companies, whether premiums withheld as security for unearned premium and outstanding loss reserves or advances for loss payments, are admitted assets provided they do not exceed the liabilities they secure and provided the reinsured is solvent. Those funds which are in excess of the liabilities, and any funds held by an insolvent reinsured shall be nonadmitted.

22. Prospective reinsurance is defined as reinsurance in which a reinsurer agrees to reimburse a ceding entity for losses that may be incurred as a result of future insurable events covered under contracts subject to the reinsurance. Retroactive reinsurance is defined as reinsurance in which a reinsurer agrees to reimburse a ceding entity for liabilities incurred as a result of past insurable events covered under contracts subject to the reinsurance. A reinsurance agreement may include both prospective and retroactive reinsurance provisions.

23. The distinction between prospective and retroactive reinsurance agreements is based on whether the agreement reinsures future or past insured events covered by the underlying insurance policies. For example, in occurrence-based insurance, the insured event is the occurrence of a loss covered by the insurance contract. In claims-made insurance, the insured event is the reporting to the insurer, within the period specified by the policy, of a claim for a loss covered by the insurance agreement. A claims-made reinsurance contract that reinsures claims asserted to the reinsurer in a future period as a result of insured events that occurred prior to entering into the reinsurance agreement is a retroactive agreement. (However, a reinsurance agreement that reinsures claims reported to an insurer that are covered under currently effective claims-made insurance policies is a prospective reinsurance agreement.)

24. It is not uncommon for a reinsurance arrangement to be initiated before the beginning of a policy period but not finalized until after the policy period begins. Whether there was agreement in principle at the beginning of the policy period and, therefore, the agreement is substantively prospective shall be determined based on the facts and circumstances. However, except as respects business assumed by a U.S. reinsurer from ceding companies domiciled outside the U.S. and not affiliated with such reinsurer, or business assumed by a U.S. reinsurer where either the lead reinsurer or a majority of the capacity on the agreement is domiciled outside the U.S. and is not affiliated with such reinsurer, if an agreement entered into, renewed or amended on or after January 1, 1994 has not been finalized, reduced to a written form and signed by the parties within nine months after the commencement of the policy period covered by the reinsurance arrangement, then the arrangement is presumed to be retroactive and shall be accounted for as

a retroactive reinsurance agreement. This presumption shall not apply to: (a) facultative reinsurance contracts, nor to (b) reinsurance agreements with more than one reinsurer which are signed by the lead reinsurer (i.e., the reinsurer setting the terms of the agreement for the reinsurers) within nine months after the commencement of the policy period covered by the reinsurance agreement, nor to (c) reinsurance agreements with more than one reinsurer (whether signed by the lead reinsurer or not) which were entered into, renewed or amended on or before December 31, 1996, (and which were not renewed or amended after that date) if reinsurers representing more than 50% of the capacity on the agreement have signed cover notes, placement slips or similar documents describing the essential terms of coverage and exclusions within nine months after the commencement of the policy period covered by the reinsurance arrangement. Also exempt from this presumption are reinsurance agreements where one of the parties is in conservation, rehabilitation, receivership or liquidation proceedings.

25. Prospective and retroactive provisions included within a single agreement shall be accounted for separately. If separate accounting for prospective and retroactive provisions included within a single agreement is impracticable, the agreement shall be accounted for as a retroactive agreement provided the conditions for reinsurance accounting are met.

Accounting for Prospective Reinsurance Agreements

26. Amounts paid for prospective reinsurance that meet the conditions for reinsurance accounting shall be reported as a reduction of written and earned premiums by the ceding entity and shall be earned over the remaining contract period in proportion to the amount of reinsurance protection provided or, if applicable, until the reinsurer's maximum liability under the agreement has been exhausted. If the amounts paid are subject to adjustment and can be reasonably estimated, the basis for amortization shall be the estimated ultimate amount to be paid. Reinstatement premium, if any, shall be earned over the period from the reinstatement of the limit to the expiration of the agreement.

27. Changes in amounts of estimated reinsurance recoverables shall be recognized as a reduction of gross losses and loss expenses incurred in the current period statement of income. Reinsurance recoverables on paid losses shall be reported as an asset, reinsurance recoverables on loss and loss adjustment expense payments, in the balance sheet. Reinsurance recoverables on unpaid case-basis and incurred but not reported losses and loss adjustment expenses shall be netted against the liability for gross losses and loss adjustment expenses.

Accounting for Retroactive Reinsurance Agreements

28. Certain reinsurance agreements which transfer both components of insurance risk cover liabilities which occurred prior to the effective date of the agreement. Due to potential abuses involving the creation of surplus to policyholders and the distortion of underwriting results, special accounting treatment for these agreements is warranted.

29. All retroactive reinsurance agreements entered into, renewed or amended on or after January 1, 1994 (including subsequent development of such transactions) shall be accounted for and reported in the following manner:

a. The ceding entity shall record, without recognition of the retroactive reinsurance, loss and loss expense reserves on a gross basis on the balance sheet and in all schedules and exhibits;

b. The assuming entity shall exclude the retroactive reinsurance from loss and loss expense reserves and from all schedules and exhibits;

c. The ceding entity and the assuming entity shall report by write-in item on the balance sheet, the total amount of all retroactive reinsurance, identified as retroactive reinsurance reserve ceded or assumed, recorded as a contra-liability by the ceding entity and as a liability by the assuming entity;

d. The ceding entity shall, by write-in item on the balance sheet, restrict surplus resulting from any retroactive reinsurance as a special surplus fund, designated as special surplus from retroactive reinsurance account;

e. The surplus gain from any retroactive reinsurance shall not be classified as unassigned funds (surplus) until the actual retroactive reinsurance recovered exceeds the consideration paid;

f. The special surplus from retroactive reinsurance account for each respective retroactive reinsurance agreement shall be reduced at the time the ceding entity begins to recover funds from the assuming entity in amounts exceeding the consideration paid by the ceding entity under such agreement, or adjusted as provided in subparagraph 29.j.;

g. For each agreement, the reduction in the special surplus from retroactive reinsurance account shall be limited to the lesser of (i) the actual amount recovered in excess of consideration paid or (ii) the initial surplus gain resulting from the respective retroactive reinsurance agreement. Any remaining balance in the special surplus from retroactive reinsurance account derived from any such agreement shall be returned to unassigned funds (surplus) upon elimination of all policy obligations subject to the retroactive reinsurance agreement;

h. The ceding entity shall report the initial gain arising from a retroactive reinsurance transaction (i.e., the difference between the consideration paid to the reinsurer and the total reserves ceded to the reinsurer) as a write-in item on the statement of income, to be identified as Retroactive Reinsurance Gain and included under Other Income;

i. The assuming entity shall report the initial loss arising from a retroactive reinsurance transaction, as defined in the preceding subparagraph 29.g., as a write-in item on the statement of income, to be identified as Retroactive Reinsurance Loss and included under Other Income;

j. Any subsequent increase or reduction in the total reserves ceded under a retroactive reinsurance agreement shall be reported in the manner described in the preceding subparagraphs 29.h. and 29.i., in order to recognize the gain or loss arising from such increase or reduction in reserves ceded. The Special Surplus from Retroactive Reinsurance Account write-in entry on the balance sheet shall be adjusted, upward or downward, to reflect such increase or reduction in reserves ceded. The Special Surplus from Retroactive Reinsurance Account write-in entry shall be equal to or less than the total ceded reserves under all retroactive reinsurance agreements in-force as of the date of the financial statement. Special surplus arising from a retroactive reinsurance transaction shall be considered to be earned surplus (i.e., transferred to unassigned funds (surplus)) only when cash recoveries from the assuming entity exceed the consideration paid by the ceding entity as respects such retroactive reinsurance transaction; and

k. The consideration paid for a retroactive reinsurance agreement shall be reported as a decrease in ledger assets by the ceding entity and as an increase in ledger assets by the assuming entity.

(For an illustration of ceding entity accounting entries see Question 33 in Exhibit A.)

30. Portfolio reinsurance is the transfer of an insurer's entire liability for in force policies or outstanding losses, or both, of a segment of the insurer's business. Loss portfolio transactions are to be accounted for as retroactive reinsurance.

31. The accounting principles for retroactive reinsurance agreements in paragraph 29 shall not apply to the following types of agreements (which shall be accounted for as prospective reinsurance agreements unless otherwise provided in this statement):

a. Structured settlement annuities for individual claims purchased to implement settlements of policy obligations;

b. Novations, (i.e., (i) transactions in which the original direct insurer's obligations are completely extinguished, resulting in no further exposure to loss arising on the business novated or (ii) transactions in which the original assuming entity's obligations are completely extinguished) resulting in no further exposure to loss arising on the business novated, provided that (1) the parties to the transaction are not affiliates (or if affiliates, that the transaction has the prior approval of the domiciliary regulators of the parties) and (2) the accounting for the original reinsurance agreement will not be altered from retroactive to prospective;

c. The termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business;

d. Intercompany reinsurance agreements, and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction; or

e. Reinsurance/retrocession agreements that meet the criteria of property/casualty run-off agreements described in paragraphs 68-71.

32. Retroactive reinsurance agreements resulting in surplus gain to the ceding entity (with or without risk transfer) entered into between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) shall be reported as follows:

a. The consideration paid by the ceding entity shall be recorded as a deposit and reported as a nonadmitted asset; and

b. No deduction shall be made from loss and loss adjustment expense reserves on the ceding entity's balance sheet, schedules, and exhibits.

33. The accounting and reporting provisions applicable to retroactive reinsurance apply to all transactions transferring liabilities in connection with a court-ordered rehabilitation, liquidation, or receivership. The requirement to include stipulated contract provisions in the reinsurance agreements shall not apply to these transactions, with written approval of the ceding entity's domiciliary commissioner.

34. Novations meeting the requirements of subparagraph 31.b. shall be accounted for as prospective reinsurance agreements. The original direct insurer, or the original assuming insurer, shall report amounts paid as a reduction of written and earned premiums, and unearned premiums to the extent that premiums

have not been earned. Novated balances (e.g., loss and loss adjustment expense reserves) shall be written off through the accounts, exhibits, and schedules in which they were originally recorded. The assuming insurer shall report amounts received as written and earned premiums, and obligations assumed as incurred losses in the statement of income.

Deposit Accounting

35. To the extent that a reinsurance agreement does not, despite its form, transfer both components of insurance risk, all or part of the agreement shall be accounted for and reported as deposits in the following manner:

a. At the outset of the reinsurance agreement the net consideration paid by the ceding entity (premiums less commissions or other allowances) shall be recorded as a deposit by the ceding entity and as a liability by the assuming entity. The deposit shall be reported as an admitted asset by the ceding entity if (i) the assuming entity is licensed, accredited or otherwise qualified in the ceding entity's state of domicile as described in Appendix A-785 or (ii) there are funds held by or on behalf of the ceding entity as described in Appendix A-785;

b. Throughout the life of the agreement, receipts and disbursements shall be recorded through the deposit/liability accounts;

c. When individual case reserves are the basis for the deposit and the assuming entity pays in excess of the amount transferred by the ceding entity, the amount paid in excess of the deposit received shall be recognized as a loss by the assuming entity and as a gain by the ceding entity as Other Income in the statement of income;

d. When the agreement is completed, or when there is a loss payment in excess of the deposit, any difference between consideration and recoveries shall be recorded in the Other Income or Loss account as a loss to the reinsurer and as a gain in the Other Income or Loss account by the reinsured;

e. With regard to bulk reserves,(i.e., IBNR) it shall be assumed that any cash transactions for the settlement of losses will reduce the asset/liability accounts by the amount of the cash transferred. When the remaining losses are revalued upward, an increase in the liability shall be recorded as a loss recognized by the assuming entity. Conversely, the ceding entity shall increase its deposit (asset) and outstanding loss liability;

f. No deduction shall be made from the loss and loss adjustment expense reserves on the ceding entity's balance sheet, schedules, and exhibits; and

g. The assuming entity shall record net consideration to be returned to the ceding entity as liabilities.

Assumed Reinsurance

36. Reinsurance premiums receivable at the end of the accounting period are combined with direct business receivables and reported as agents' balances or uncollected premiums. Where the ceding entity withholds premium funds pursuant to the terms of the reinsurance agreement, such assets shall be shown by the assuming entity as funds held by or deposited with reinsured companies. Reporting entities shall record any interest earned or receivable on the funds withheld as a component of aggregate write-ins for miscellaneous income.

37. If the assuming entity receives reinsurance premium prior to the effective date of the reinsurance contract, consistent with *SSAP No. 53—Property Casualty Contracts-Premiums*, paragraph 14, advance premiums shall be reported as a liability in the statutory financial statement and not considered income until the effective date of the coverage. Such amounts are not included in written premium or the unearned premium reserve. If the assuming entity receives reinsurance premium after the effective date of the reinsurance contract but prior to the due date, the amount received shall be reported as a reduction of the asset for deferred but not yet due (earned but unbilled premiums).

38. Reinsurance premiums more than 90 days overdue shall be nonadmitted except (a) to the extent the assuming entity maintains unearned premium and loss reserves as to the ceding entity, under principles of offset accounting as discussed in SSAP No. 64, or (b) where the ceding entity is licensed and in good standing in assuming entity's state of domicile. Reinsurance premiums are due pursuant to the original contract terms (as the agreement stood on the date of execution). In the absence of a specific contract date, reinsurance premiums will be deemed due thirty (30) days after the date on which (i) notice or demand of premium due is provided to the ceding entity or (ii) the assuming entity books the premium (see SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers).

39. A lag will develop between the time of the entry of the underlying policy transaction on the books of the ceding entity and the transmittal of information and entry on the books of the assuming entity. Assuming companies shall estimate unreported premiums and related costs to the extent necessary to prevent material distortions in the loss development contained in the assuming entity's annual statement schedules where calendar year premiums are compared to accident year losses.

40. Proportional reinsurance (i.e., first dollar pro rata reinsurance) premiums shall be allocated to the appropriate annual statement lines of business in the Underwriting and Investment exhibits. Non-proportional assumed reinsurance premiums shall be classified as reinsurance under the appropriate subcategories.

41. Assumed retroactive reinsurance premiums shall be excluded from all schedules and exhibits as addressed in subparagraph 29.k.

42. Amounts payable by reinsurers on losses shall be classified as unpaid losses. Assumed reinsurance payable on paid losses shall be classified as a separate liability item on the balance sheet. IBNR losses on assumed reinsurance business shall be netted with ceded losses on the balance sheet and listed separately by annual statement line of business in the Underwriting and Investment exhibits.

Ceded Reinsurance

43. Ceded reinsurance premiums payable (net of ceding commission) shall be classified as a liability. Consistent with SSAP No. 64, ceded reinsurance premiums payable may be deducted from amounts due from the reinsurer, such as amounts due on assumed reinsurance, when a legal right of offset exists.

44. With regard to reinsurance premium paid prior to the effective date of the contract, the ceding entity shall reflect the prepaid item as a write-in admitted asset and it should not be recognized in the income statement until the effective date of the coverage. Such amounts are not included in ceded written premiums or ceded unearned premium but should be subject to impairment analysis. With regard to reinsurance premium paid by ceding entity after the reinsurance contract is in effect but prior to the due date, the ceding entity shall treat this item as a reduction to the liability for ceded reinsurance premiums payable. That liability reflects not only premiums unpaid but also amounts booked but deferred and not yet due.

45. Amounts withheld by the ceding entity that would otherwise be payable under the reinsurance agreement shall be reported as funds held by entity under reinsurance treaties. Reporting entities shall record any interest due or payable on the amounts withheld as a component of aggregate write-ins for miscellaneous income.

46. Ceded reinsurance transactions shall be classified in the annual statement line of business which relates to the direct or assumed transactions creating the cession or retrocession.

47. Ceded retroactive reinsurance premiums shall be excluded from all schedules and exhibits as addressed in subparagraph 29.k.

Adjustable Features/Retrospective Rating

48. Reinsurance treaties may provide for adjustment of commission, premium, or amount of coverage, based on loss experience. The accounting for common examples is outlined in the following paragraphs:

Commission Adjustments

49. An accrual shall be maintained for the following adjustable features based upon the experience recorded for the accounting period:

a. Contingent or Straight Profit—The reinsurer returns to the ceding entity a stipulated percentage of the profit produced by the business assumed from the ceding entity. Profit may be calculated for any specified period of time, but the calculation is often based on an average over a period of years; and

b. Sliding Scale—A provisional rate of commission is paid over the course of the agreement, with a final adjustment based on the experience of the business ceded under the agreement.

Premium Adjustments

50. If the reinsurance agreement incorporates an obligation on the part of the ceding entity to pay additional premium to the assuming entity based upon loss experience under the agreement, a liability in the amount of such additional premium shall be recognized by the ceding entity during the accounting period in which the loss event(s) giving rise to the obligation to pay such additional premium occur(s). The assuming entity shall recognize an asset in a consistent manner. If the reinsurance agreement incorporates an obligation on the part of the assuming entity to refund to the ceding entity any portion of the consideration received by the assuming entity based upon loss experience under the agreement, an asset in the amount of any such refund shall be recognized by the ceding entity during the accounting period in which the loss event(s) giving rise to the obligation to make such refund occur(s). The initial provisional or deposit premium is recalculated retrospectively, based on loss experience under the agreement during a specified period of time; the calculation is often based on an average over a period of years. The assuming entity shall recognize a liability in a consistent manner.

Adjustments in the Amount of Coverage

51. The amount of coverage available for future periods is adjusted, upward or downward, based on loss experience under the agreement during a specified period of time. If the reinsurance agreement incorporates a provision under which the reinsurance coverage afforded to the ceding entity may be increased or reduced based upon loss experience under the agreement, an asset or a liability shall be

recognized by the ceding entity in an amount equal to that percentage of the consideration received by the assuming entity which the increase or reduction in coverage represents of the amount of coverage originally afforded. The asset or liability shall be recognized during the accounting period in which the loss event(s) (or absence thereof) giving rise to the increase or decrease in reinsurance coverage occur(s), and shall be amortized over all accounting periods for which the increased or reduced coverage is applicable. The term "consideration" shall mean, for this purpose, the annualized deposit premium for the period used as the basis for calculating the adjustment in the amount of coverage to be afforded thereafter under the agreement.

Impairment

52. Include as a nonadmitted asset, amounts accrued for premium adjustments on retrospectively rated reinsurance agreements with respect to which all uncollected balances due from the ceding company have been classified as nonadmitted.

Commissions

53. Commissions payable on reinsurance assumed business shall be included as an offset to Agents' Balances or Uncollected Premiums. Commissions receivable on reinsurance ceded business shall be included as an offset to Ceded Reinsurance Balances Payable.

54. If the ceding commission paid under a reinsurance agreement exceeds the anticipated acquisition cost of the business ceded, the ceding entity shall establish a liability, equal to the difference between the anticipated acquisition cost and the reinsurance commissions received, to be amortized pro rata over the effective period of the reinsurance agreement in proportion to the amount of coverage provided under the reinsurance contract.

Provision for Reinsurance

55. The NAIC Annual Statement Instructions for Property and Casualty Companies for Schedule F—Provision for Overdue Reinsurance, provide for a minimum reserve for uncollectible reinsurance with an additional reserve required if an entity's experience indicates that a higher amount should be provided. The minimum reserve Provision for Reinsurance is recorded as a liability and the change between years is recorded as a gain or loss directly to unassigned funds (surplus). Any reserve over the minimum amount shall be recorded on the statement of income by reversing the accounts previously utilized to establish the reinsurance recoverable.

56. The provision for reinsurance is calculated separately for unauthorized and authorized companies. An authorized reinsurer is licensed, accredited or approved by the ceding entity's state of domicile; an unauthorized reinsurer is not so licensed, accredited or approved.

Disputed Items

57. Occasionally a reinsurer will question whether an individual claim is covered under a reinsurance agreement or may even attempt to nullify an entire agreement. A ceding entity, depending upon the individual facts, may or may not choose to continue to take credit for such disputed balances. A ceding entity shall take no credit whatsoever for reinsurance recoverables in dispute with an affiliate.

58. Items in dispute are those claims with respect to which the ceding entity has received formal written communication from the reinsurer denying the validity of coverage.

Uncollectible Reinsurance

59. Uncollectible reinsurance balances shall be written off through the accounts, exhibits, and schedules in which they were originally recorded.

Commutations

60. A commutation of a reinsurance agreement, or any portion thereof, is a transaction which results in the complete and final settlement and discharge of all, or the commuted portion thereof, present and future obligations between the parties arising out of the reinsurance agreement.

61. In commutation agreements, an agreed upon amount determined by the parties is paid by the reinsurer to the ceding entity. The ceding entity immediately eliminates the reinsurance recoverable recorded against the ultimate loss reserve and records the cash received as a negative paid loss. Any net gain or loss shall be reported in underwriting income in the statement of income.

62. The reinsurer eliminates a loss reserve carried at ultimate cost for a cash payout calculated at present value. Any net gain or loss shall be reported in underwriting income in the statement of income.

63. Commuted balances shall be written off through the accounts, exhibits, and schedules in which they were originally recorded.

National Flood Insurance Program

64. The National Flood Insurance Program was created by the Federal Emergency Management Agency (FEMA) and is designed to involve private insurers in a write-your-own (WYO) flood insurance program financially backed by FEMA at no risk to the insurer. To become a participating WYO entity, the entity signs a document with the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency known as the Financial Assistance/Subsidy Arrangement.

65. Premium rates are set by FEMA. The WYO participating companies write the flood insurance coverage qualifying for the program on their own policies, perform their own underwriting, premium collections, claim payments, administration, and premium tax payments for policies written under the program.

66. Monthly accountings are made to FIA and participants draw upon FEMA letters of credit for deficiencies of losses, loss expenses, and administrative expenses in excess of premiums, subject to certain percentage limitations on expenses.

67. Balances due from or to FEMA shall be reported as ceded reinsurance balances receivable or payable.

Accounting for the Transfer of Property and Casualty Run-off Agreements

68. Property and casualty run-off agreements are reinsurance or retrocession agreements that are intended to transfer essentially all of the risks and benefits of a specific line of business or market segment that is no longer actively marketed by the transferring insurer or reinsurer. A property and casualty run-off agreement is not a novation as the transferring insurer or reinsurer remains primarily liable to the policyholder or ceding entity (in the case of a retrocession) under the original contracts of insurance or reinsurance. Reinsurance agreements between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) are not eligible for the exception for property and casualty run-off agreements in subparagraph 31.e. of SSAP No. 62.

Criteria

69. The accounting treatment for property and casualty run-off agreements must be approved by the domiciliary regulators of the transferring entity (either the original direct insurer in the case of a reinsurance agreement or the original assuming reinsurer in the case of a retrocession agreement) and the assuming entity. If the transferring entity and assuming entity are domiciled in the same state, then the regulator of the state where the majority of the transferred liabilities is located shall be asked to approve the accounting treatment. In determining whether to approve an agreement for this accounting treatment, the regulators shall require the following:

a. Assuming Entity Properly Licensed – The entity assuming the run-off agreement must have the appropriate authority or license to write the business being assumed.

b. Limits and Coverages – the reinsurance or retrocession agreement shall provide the same limits and coverages that were afforded in the original insurance or reinsurance agreement.

c. Non-recourse – The reinsurance or retrocession agreement shall not contain any adjustable features or profit share or retrospective rating, and there shall be no recourse (other than normal representations and warranties that would be associated with a purchase and sale agreement) directly or indirectly against the transferring entity.

d. Risk Transfer – the reinsurance or retrocession agreement must meet the requirements of risk transfer as described in this statement.

e. Financial Strength of Reinsurer – the assuming reinsurer shall have a financial strength rating from at least two independent rating agencies (from NAIC acceptable rating agencies) which is equal to or greater than the current ratings of the transferring entity. The lowest financial strength rating received from an NAIC acceptable rating organization rating agency will be used to compare the financial strength ratings of the transferring and assuming entities.

f. Assessments – the assuming reinsurer or retrocessionaire (if required in the original reinsurance contract) shall be financially responsible for any and all assessments, including guaranty fund assessments, that are assessed against the transferring entity related to the insurance business being assumed.

g. Applicable Only to "Run-off" Business – the reinsurance or retrocession agreement shall only cover liabilities relating to a line(s) of business or specific market segments no longer actively marketed by the transferring entity.

h. Non-cancelable Reinsurance – the reinsurance or retrocession agreement shall provide that the reinsurance or retrocessional coverage provided by the proposed agreement cannot be cancelable by either party for any reason. (However, this provision will not override standard contracts law and principles and will not prevent any remedies, including rescission or termination that might be available for breach, misrepresentation, etc.)

Statutory Schedules and Exhibits

70. At the inception of the transaction, the transferring entity shall record the consideration paid to the assuming entity as a paid loss. If the consideration paid by the transferring entity is less than the loss reserves transferred, the difference shall be recorded by the ceding entity as a decrease in losses incurred. The assuming entity shall record the consideration received as a negative paid loss. In addition, the transferring entity shall record an increase to ceded reinsurance recoverable for the amount of the transferred reserve. Journal entries illustrating these transactions, including situations in which the transaction includes an unearned premium reserve, are included in Exhibit B of this Statement.

71. The assuming entity will report the business in the same line of business as reported by the original insurer or reinsurer. The assuming entity will report the business at the same level of detail using the appropriate statutory schedules and exhibits.

Disclosures

72. Unsecured Reinsurance Recoverables:

a. If the entity has with any individual reinsurers, authorized or unauthorized, an unsecured aggregate recoverable for losses, paid and unpaid including IBNR, loss adjustment expenses, and unearned premium, that exceeds 3% of the entity's policyholder surplus, list each individual reinsurer and the unsecured aggregate recoverable pertaining to that reinsurer; and

b. If the individual reinsurer is part of a group, list the individual reinsurers, each of its related group members having reinsurance with the reporting entity, and the total unsecured aggregate recoverables for the entire group.

73. Reinsurance Recoverables in Dispute—Reinsurance recoverable on paid and unpaid (including IBNR) losses in dispute by reason of notification, arbitration or litigation shall be identified if the amounts in dispute from any entity (and/or affiliate) exceed 5% of the ceding entity's policyholders surplus or if the aggregate of all disputed items exceeds 10% of the ceding entity's policyholders surplus. Notification means a formal written communication from a reinsurer denying the validity of coverage.

74. Uncollectible Reinsurance—Describe uncollectible reinsurance written off during the year reported in the following annual statement classifications, including the name(s) of the reinsurer(s):

a. Losses incurred;

b. Loss adjustment expenses incurred;

c. Premiums earned; and

d. Other.

75. Commutation of Ceded Reinsurance—Describe commutation of ceded reinsurance during the year reported in the following annual statement classifications, including the name(s) of the reinsurer(s):

a. Losses incurred;

b. Loss adjustment expenses incurred;

c. Premiums earned; and

d. Other.

76. Retroactive Reinsurance—The table illustrated in the NAIC Annual Statement Instructions for Property and Casualty Companies under Retroactive Reinsurance in the Notes to Financial Statements section shall be completed for all retroactive reinsurance agreements that transfer liabilities for losses that have already occurred and that will generate special surplus transactions. The insurer (assuming or ceding) shall assign a unique number to each retroactive reinsurance agreement and shall utilize this number for as long as the agreement exists. Transactions utilizing deposit accounting shall not be reported in this note.

77. Reinsurance Assumed and Ceded—The tables illustrated in the NAIC Annual Statement Instructions for Property and Casualty Companies under "Reinsurance Assumed and Ceded in the Notes to Financial Statements" section shall be completed as follows:

a. The financial statements shall disclose the maximum amount of return commission which would have been due reinsurers if all reinsurance were canceled with the return of the unearned premium reserve; and

b. The financial statements shall disclose the accrual of additional or return commission, predicated on loss experience or on any other form of profit sharing arrangements as a result of existing contractual arrangements.

78. A specific interrogatory requires information on reinsurance of risk accompanied by an agreement to release the reinsurer from liability, in whole or in part, from any loss that may occur on the risk or portion thereof.

79. Disclosures for paragraphs 80-85 represent annual statement interrogatories, which are required to be included with the annual audit report beginning with audit reports on financial statements as of and for the period ended December 31, 2006. The disclosures required within paragraphs 80-85 shall be included in accompanying supplemental schedules of the annual audit report beginning in year-end 2006. These disclosures shall be limited to reinsurance contracts entered into, renewed or amended on or after January 1, 1994. This limitation applies to the annual audit report only and does not apply to the statutory annual statement interrogatories and the reinsurance summary supplemental filing.

80. Disclose if any risks are reinsured under a quota share reinsurance contract with any other entity that includes a provision that would limit the reinsurer's losses below the stated quota share percentage (e.g. a deductible, a loss ratio corridor, a loss cap, an aggregate limit or any similar provisions)? If yes, indicate the number of reinsurance contracts containing such provisions and if the amount of reinsurance credit taken reflects the reduction in quota share coverage caused by any applicable limiting provision(s).

81. Disclose if the reporting entity ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates) for which during the period covered by the statement: (i) it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders; (ii) it accounted for that contract as reinsurance and not as a deposit; and (iii) the contract(s) contain one or more of the following features or other features that would have similar results:

a. A contract term longer than two years and the contract is noncancellable by the reporting entity during the contract term;

b. A limited or conditional cancellation provision under which cancellation triggers an obligation by the reporting entity, or an affiliate of the reporting entity, to enter into a new reinsurance contract with the reinsurer, or an affiliate of the reinsurer;

c. Aggregate stop loss reinsurance coverage;

d. A unilateral right by either party (or both parties) to commute the reinsurance contract, whether conditional or not, except for such provisions which are only triggered by a decline in the credit status of the other party;

e. A provision permitting reporting of losses, or payment of losses, less frequently than on a quarterly basis (unless there is no activity during the period); or

f. Payment schedule, accumulating retentions from multiple years or any features inherently designed to delay timing of the reimbursement to the ceding entity.

82. Disclose if the reporting entity during the period covered by the statement ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates) for which during the period covered by the statement it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders; excluding cessions to approved pooling arrangements or to captive insurance companies that are directly or indirectly controlling, controlled by, or under common control with (i) one or more unaffiliated policyholders of the reporting entity, or (ii) an association of which one or more unaffiliated policyholders of the reporting entity is a member, where:

a. The written premium ceded to the reinsurer by the reporting entity or its affiliates represents fifty percent (50%) or more of the entire direct and assumed premium written by the reinsurer based on its most recently available financial statement; or

b. Twenty–five percent (25%) or more of the written premium ceded to the reinsurer has been retroceded back to the reporting entity or its affiliates in separate reinsurance contract.

83. If affirmative disclosure is required for paragraph 81 or 82, provide the following information:

a. A summary of the reinsurance contract terms and indicate whether it applies to the contracts meeting paragraph 81 or 82;

b. A brief discussion of management's principal objectives in entering into the reinsurance contract including the economic purpose to be achieved; and

c. The aggregate financial statement impact gross of all such ceded reinsurance contracts on the balance sheet and statement of income.

84. Except for transactions meeting the requirements of paragraph 31 of *SSAP No. 62—Property and Casualty Reinsurance*, disclose if the reporting entity ceded any risk under any reinsurance contract (or multiple contracts with the same reinsurer or its affiliates) during the period covered by the financial statement, and either:

a. Accounted for that contract as reinsurance (either prospective or retroactive) under statutory accounting principles (SAP) and as a deposit under generally accepted accounting principles (GAAP); or

b. Accounted for that contract as reinsurance under GAAP and as a deposit under SAP?

85. If affirmative disclosure is required for paragraph 84, explain in a supplemental filing why the contract(s) is treated differently for GAAP and SAP.

86. Disclosures for the Transfer of Property and Casualty Run-off Agreements

a. Disclose if the reporting entity has entered into any agreements which have been approved by their domiciliary regulator and have qualified pursuant to SSAP No. 62, subparagraph 31.e., Accounting for the Transfer of Property and Casualty Run-off Agreements.

b. If affirmative, provide a description of the agreement and the amount of consideration paid and liabilities transferred.

87. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

88. This statement adopts *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts* (FAS 113) with modification and FASB *Emerging Issues Task Force No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises* with modification for the following:

a. Reinsurance recoverables on unpaid case-basis and incurred but not reported losses and loss adjustment expenses shall be reported as a contra-liability netted against the liability for gross losses and loss adjustment expenses;

b. Amounts paid for prospective reinsurance that meet the conditions for reinsurance accounting shall be reported as a reduction of unearned premiums;

c. The gain created by a retroactive reinsurance agreement because the amount paid to the reinsurer is less than the gross liabilities for losses and loss adjustment expenses ceded to the reinsurer is reported in the statement of income as a write-in gain in other income by the ceding entity and a write-in loss by the assuming entity. The gain created by a retroactive reinsurance agreement is restricted as a special surplus account until the actual retroactive reinsurance recovered is in excess of the consideration paid;

d. This statement requires that a liability be established through a provision reducing unassigned funds (surplus) for unsecured reinsurance recoverables from unauthorized reinsurers and for certain overdue balances due from authorized reinsurers;

e. Some reinsurance agreements contain adjustable features that provide for adjustment of commission, premium or amount of coverage, based on loss experience. This statement requires that the asset or liability arising from the adjustable feature be computed based on experience to date under the agreement, and the impact of early termination may only be considered at the time the agreement has actually been terminated;

f. Structured settlements are addressed in *SSAP No. 65—Property and Casualty Contracts*. Statutory accounting and FAS 113 are consistent in accounting for structured settlement annuities where the reporting entity is the owner and payee and where the claimant is the payee and the reporting entity has been released from its obligation. FAS 113 distinguishes structured settlement annuities where the claimant is the payee and a legally enforceable release from the reporting entity's liability is obtained from those where the claimant is the payee but the reporting entity has not been released from its obligation. GAAP requires the deferral of any gain resulting from the purchase of a structured settlement annuity where the reporting entity has not been released from its obligation; and

g. This statement requires that reinsurance recoverables on unpaid losses and loss adjustment expenses be presented as a contra-liability. Requirements for offsetting and netting are addressed in SSAP No. 64.

89. This statement rejects AICPA *Statement of Position No. 92-5, Accounting for Foreign Property and Liability Reinsurance*. This statement incorporates Appendix A-785 as applicable.

Effective Date and Transition

90. This statement shall apply to:

a. Reinsurance agreements entered into, renewed, or amended on or after January 1, 1994. An amendment is any revision or adjustment of contractual terms. The payment of premiums or reimbursement of losses recoverable under the agreement shall not constitute an amendment; and

b. Reinsurance agreements in force on January 1, 1995, which cover losses occurring or claims made on or after that date on policies reinsured under such agreements.

91. The guidance shall not apply to:

a. Reinsurance agreements which cover only losses occurring or claims made before January 1, 1994, and which were entered into before January 1, 1994, and were not subsequently renewed or amended; and

b. Reinsurance agreements that expired before and were not renewed or amended after January 1, 1995.

92. The guidance in paragraphs 48 through 52 shall be effective for all accounting periods beginning on or after January 1, 1996, and shall apply to reinsurance agreements entered into, renewed or amended on or after January 1, 1994.

93. This statement is effective for years beginning January 1, 2001. Changes 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.* Revisions to subparagraph 31.e., related paragraphs 68-71, and new disclosures in paragraph 86 documented in *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Run-off Agreements* are effective for contracts entered on or after January 1, 2010.

AUTHORITATIVE LITERATURE

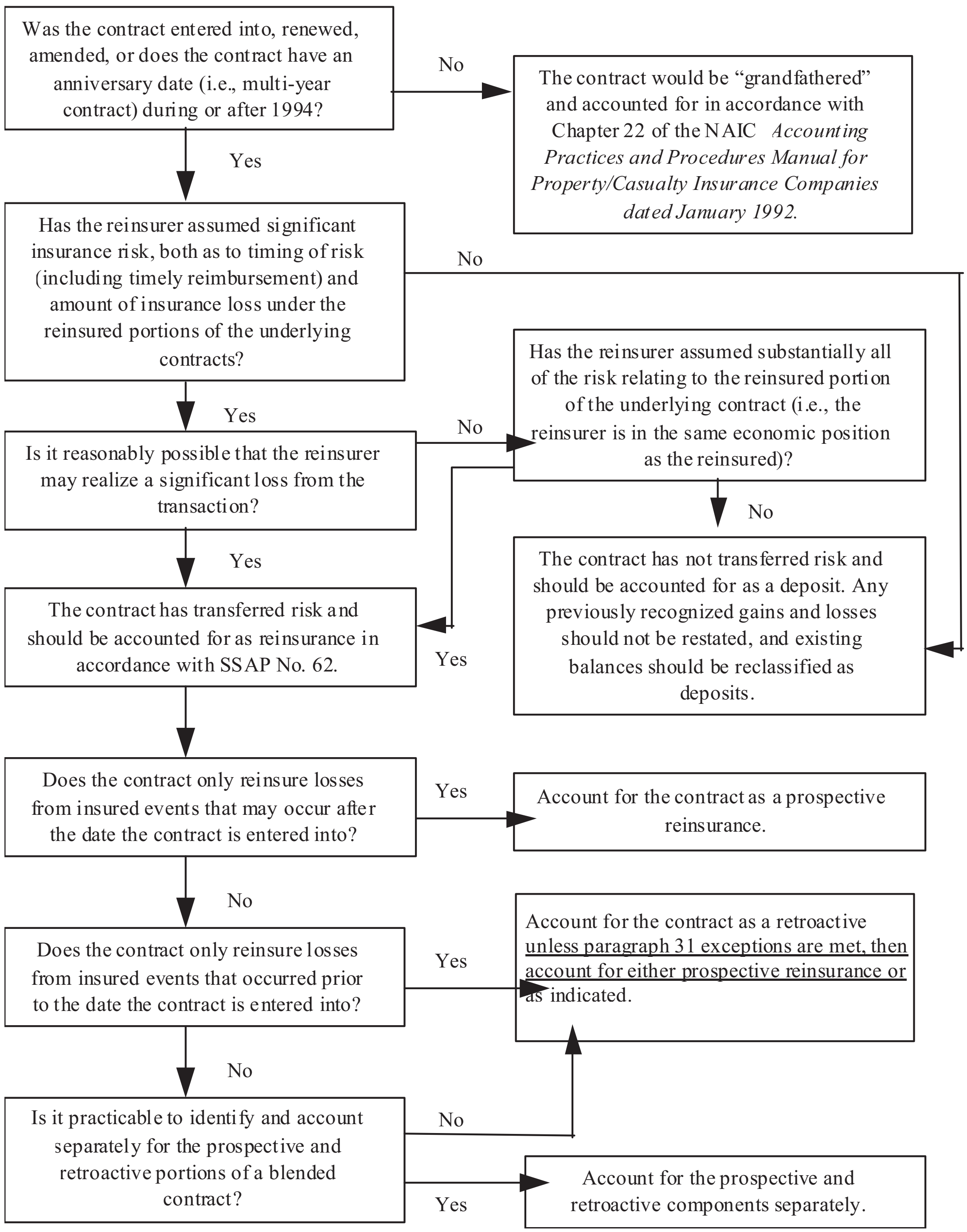
Generally Accepted Accounting Principles

- *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts*
- *FASB Emerging Issues Task Force Issue No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises*

RELEVANT ISSUE PAPERS

- Issue Paper No. 75—Property and Casualty Reinsurance
- Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Run-off Agreements

CLASSIFYING REINSURANCE CONTRACTS



SSAP NO. 62—EXHIBIT A

Implementation Questions and Answers

Applicability

1. Q: The accounting practices in SSAP No. 62 specify the accounting and reporting for reinsurance contracts. What contracts are considered reinsurance contracts for purposes of applying these accounting practices?

   A: Any transaction that indemnifies an insurer against loss or liability relating to insurance risk shall be accounted for in accordance with the accounting practices included in SSAP No. 62. Therefore, all contracts, including contracts that may not be structured or described as reinsurance, shall be accounted for as reinsurance when those conditions are met.

2. Q: The provisions of this statement will apply to (a) reinsurance contracts entered into, renewed or amended on or after January 1, 1994, and (b) any other reinsurance contracts that are in force on January 1, 1995 and cover insurable events on the underlying insurance policies that occur on or after that date. What contracts would be exempt from the new accounting rules included in SSAP No. 62?

   A: The only exempt contracts are:

   1) Purely retroactive reinsurance contracts that cover only insured events occurring before January 1, 1994, provided those contracts were entered into before that date and are not subsequently amended and

   2) Contracts that expired before January 1, 1995 and are not amended after that date.

3. Q: This statement is to be applied to contracts which are amended on or after January 1, 1994. What if the change in terms is not significant, or the terms changed have no financial effect on the contract?

   A: In general, the term amendment should be viewed broadly to include all but the most trivial changes. Examples of amendments include, but are not limited to, replacing one assuming entity with another (including an affiliated entity), or modifying the contract's limit, coverage, premiums, commissions, or experience-related adjustable features. No distinction is made between financial and non-financial terms.

4. Q: Must the accounting provisions of SSAP No. 62 be applied to an *otherwise exempt* contract if the ceding entity pays additional premiums under the contract on or after January 1, 1994?

   A: The answer depends on why the additional premiums are paid. If the additional premiums are the result of a renegotiation, adjustment, or extension of terms, the contract is subject to the accounting provisions of SSAP No. 62. However, additional premiums paid without renegotiation, adjustment, or extension of terms would not make an otherwise exempt contract subject to those provisions.

5. Q: Prospective and retroactive portions of a reinsurance contract are allowed to be accounted for separately, if practicable. Can the retroactive portion of an existing contract be

segregated and, therefore, exempted with other retroactive contracts covering insured events occurring prior to January 1, 1994?

A: No. The transition provisions apply to an entire contract, which is either subject to or exempt from the revised provisions of SSAP No. 62. A ceding entity may bifurcate a contract already subject to the new accounting rules in SSAP No. 62 and then account for both the prospective and retroactive portions in accordance with the new accounting standard.

Risk Transfer

6. Q: Do the new risk transfer provisions apply to existing contracts?

A: Yes, the new risk transfer provisions apply to some existing contracts. SSAP No. 62 applies in its entirety only to existing contracts which were renewed or amended on or after January 1, 1994, or which cover losses occurring or claims made after that date. Therefore, those contracts must be evaluated to determine whether they transfer risk and qualify for reinsurance accounting. For accounting periods commencing on or after January 1, 1995, balances relating to such contracts which do not transfer insurance risk shall be reclassified as deposits and shall be accounted for and reported in the manner described under the caption Reinsurance Contracts Must Include Transfer of Risk.

SSAP No. 62 does not apply to existing contracts which were entered into before, and were not renewed or amended on or after, January 1, 1994, and which cover only losses occurring or claims made before that date, nor to contracts which expired before, and were not renewed or amended on or after, January 1, 1995. Those contracts will continue to be accounted for in the manner provided by SSAP No. 62 before these revisions.

7. Q: How does the effective date affect the assessment of whether a significant loss to the reinsurer was reasonably possible?

A: The risk transfer assessment is made at contract inception, based on facts and circumstances known at the time. Because that point in time has passed for existing contracts, some have suggested that the risk transfer provisions be applied as of the effective date. However, that approach to the risk transfer assessment would violate the requirement to consider all cash flows from the contract. Therefore, the test must be applied from contract inception, considering the effect of any subsequent contract amendments. Careful evaluation and considered judgment will be required to determine whether a significant loss to the reinsurer was reasonably possible at inception.

8. Q: Should risk transfer be reassessed if contractual terms are subsequently amended?

A: Yes. When contractual terms are amended, risk transfer should be reassessed. For example, a contract that upon inception met the conditions for reinsurance accounting could later be amended so that it no longer meets those conditions. The contract should then be reclassified and accounted for as a deposit.

9. Q: How should the risk transfer assessment be made when a contract has been amended?

A: No particular method is prescribed for assessing risk transfer in light of a contract amendment. Whether an amended contract in substance transfers risk must be determined considering all of the facts and circumstances in light of the risk transfer requirements. Judgment also will be required to determine whether an amendment in effect creates a new contract.

10. Q: For purposes of evaluating whether a contract with a reinsurer transfers risk, what constitutes a contract?

A: A contract is not defined, but is essentially a question of substance. It may be difficult in some circumstances to determine the boundaries of a contract. For example, the profit-sharing provisions of one contract may refer to experience on other contracts and, therefore, raise the question of whether, in substance, one contract rather than several contracts exist.

The inconsistency that could result from varying interpretations of the term *contract* is limited by requiring that features of the contract or other contracts or agreements that directly or indirectly compensate the reinsurer or related reinsurers for losses be considered in evaluating whether a particular contract transfers risk. Therefore, if agreements with the reinsurer or related reinsurers, in the aggregate, do not transfer risk, the individual contracts that make up those agreements also would not be considered to transfer risk, regardless of how they are structured.

11. Q: If the assessment of risk transfer changes after the initial assessment at contract inception, how should the ceding entity account for the change?

A: The status of a contract should be determinable at inception and, absent amendment, subsequent changes should be very rare. If the risk of significant loss was not deemed reasonably possible at inception, and a significant loss subsequently occurred, the initial assessment was not necessarily wrong, because remote events do occur. Likewise, once a reasonable possibility of significant loss has been established, such loss need not occur in order to maintain the contract's status as reinsurance.

12. Q: SSAP No. 62 requires that reasonably possible outcomes be evaluated to determine the reinsurer's exposure to significant loss. What factors should be considered in determining whether a scenario being evaluated is reasonably possible?

A: The term *reasonably possible* means that the probability is more than remote. The test is applied to a particular scenario, not to the individual assumptions used in the scenario. Therefore, a scenario is not reasonably possible unless the likelihood of the entire set of assumptions used in the scenario occurring together is reasonably possible.

13. Q: In determining the amount of the reinsurer's loss under reasonably possible outcomes, may cash flows directly related to the contract other than those between the ceding and assuming companies, such as taxes and operating expenses of the reinsurer, be considered in the calculation?

A: No. The evaluation is based on the present value of all cash flows *between the ceding and assuming enterprises* under reasonably possible outcomes and, therefore, precludes considering other expenses of the reinsurer in the calculation.

14. Q: In evaluating the significance of a reasonably possible loss, should the reasonably possible loss be compared to gross or net premiums?

A: Gross premiums should be used.

15. Q: How does a commutation clause affect the period of time over which cash flows are evaluated for reasonable possibility of significant loss to the reinsurer?

A: All cash flows are to be assessed under reasonably possible outcomes. Therefore, unless commutation is expected in the scenario being evaluated, it should not be assumed in the calculation. Further, the assumptions used in a scenario must be internally consistent and economically rational in order for that scenario's outcome to be considered reasonably possible.

16. Q: What interest rate should be used in each evaluated scenario to make the present value calculation?

A: A reasonable and appropriate rate is required, which generally would reflect the expected timing of payments to the reinsurer and the duration over which those cash flows are expected to be invested by the reinsurer.

17. Q: SSAP No. 62 refers to payment schedules and accumulating retentions from multiple years as features that delay timely reimbursement of claims. Does the presence of those features generally prevent a contract from meeting the conditions for reinsurance accounting?

A: Yes. Payment schedules and accumulating retentions from multiple years are contractual features inherently designed to delay the timing of reimbursement to the ceding entity. Regardless of what a particular feature might be called, any feature that can delay timely reimbursement violates the conditions for reinsurance accounting. Transfer of insurance risk requires that the reinsurer's payments to the ceding entity depend on and directly vary with the amount and timing of claims settled under the reinsured contracts. Contractual features that can delay timely reimbursement prevent this condition from being met. Therefore, any feature that may affect the timing of the reinsurer's reimbursement to the ceding entity should be closely scrutinized.

18. Q: What if a contract contains a feature such as a payment schedule or accumulating retention but could still result in the reasonable possibility of significant loss to the reinsurer?

A: Both of the following conditions are required for reinsurance accounting:

a. Transfer of significant risk arising from uncertainties about both (i) the ultimate amount of net cash flows from premiums, commission, claims, and claim settlement expenses paid under a contract (underwriting risk) and (ii) the timing of the receipt and payment of those cash flows (timing risk); and

b. Reasonable possibility of significant loss to the reinsurer.

Because both condition (a) and condition (b) must be met, failure to transfer significant timing and underwriting risk is not overcome by the possibility of significant loss to the reinsurer.

19. Q: Is it permissible to evaluate timely reimbursement on a present value basis?

A: No. The word timely is used in the ordinary temporal sense to refer to the length of time between payment of the underlying reinsured claims and reimbursement by the reinsurer.

While the test for reasonable possibility of significant loss to the reinsurer provides for a present value-based assessment of the economic characteristics of the reinsurance contract, the concept of timely reimbursement relates to the transfer of insurance risk (condition a above), not the reasonable possibility of significant loss (condition b above). Accordingly, timely reimbursement should be evaluated based solely on the length of time between payment of the underlying reinsured losses and reimbursement by the reinsurer.

20. Q: Are there any circumstances under which the conditions for risk transfer need not be met?

A: Yes. An extremely narrow and limited exemption is provided for contracts that reinsure either an individual risk or an underlying book of business that is inherently profitable. When substantially all of the insurance risk relating to the reinsured portions of the underlying insurance contracts has been assumed by the reinsurer, the contract meets the conditions for reinsurance accounting. To qualify under this exception, no more than trivial insurance risk on the reinsured portions of the underlying insurance contracts may be retained by the ceding entity. The reinsurer's economic position must be virtually equivalent to having written the relevant portions of the reinsured contracts directly.

21. Q: In determining whether a reinsurance contract qualifies under the exception referred to in the preceding question, how should the economic position of the reinsurer be assessed in relation to that of the ceding entity?

A: The assessment should be made by comparing the net cash flows of the reinsurer under the reinsurance contract with the net cash flows of ceding entity on the reinsured portions of the underlying insurance contracts. This may be relatively easy for reinsurance of individual risks or for unlimited-risk quota-share reinsurance, because the premiums and losses on these types of reinsurance generally are the same as the premiums and losses on the reinsured portions of the underlying insurance policies.

In other types of reinsurance, determining the reinsurer's net cash flows relative to the insurer is likely to be substantially more difficult. For example, it generally would be difficult to demonstrate that the ceding entity's premiums and losses for a particular layer of insurance are the same as the reinsurer's premiums and losses related to that layer. If the economic position of the reinsurer relative to the insurer cannot be determined, the contract would not qualify under the exception.

<u>Accounting Provisions</u>

22. Q: An existing contract that was accounted for as reinsurance no longer qualifies for reinsurance accounting under the new accounting rules included in SSAP No. 62. How should the ceding and assuming companies account for the contract in future periods?

A: Because the statement of income cannot be restated, previously recognized gains and losses are not revised. If the contract was entered into before, and not renewed or amended on or after, January 1, 1994 and covers only losses occurring or claims made before that date, or the contract expired before January 1, 1995 and was not renewed or amended on or after that date, it would continue to be accounted for in the manner provided before these revisions.

For accounting periods commencing on or after January 1, 1995, existing balances relating to contracts which do not transfer insurance risk and which were entered into on or after January 1, 1994 (covering losses occurring or claims made after that date) would be reclassified as deposits.

Premium payments to a reinsurer would be recorded as deposits. Likewise, losses recoverable from a reinsurer would not be recognized as receivables. Rather, any reimbursement for losses would be accounted for upon receipt as a refund of a deposit.

23. Q: What is the definition of past insurable events that governs whether reinsurance coverage is prospective or retroactive? For example, could a reinsurance contract that covers losses from asbestos and pollution claims on occurrence-based insurance policies effective during previous periods be considered prospective if the reinsurance coverage is triggered by a court interpretation that a loss is covered within the terms of the underlying insurance policies?

A: The distinction between prospective and retroactive reinsurance is based on whether a contract reinsures future or past insured events covered by the underlying reinsurance contracts. In the example above, the insured event is the occurrence of loss within the coverage of the underlying insurance contracts, not the finding of a court. Therefore, the fact that the asbestos exposure or pollution is covered under insurance policies effective during prior periods makes the reinsurance coverage in this example retroactive.

24. Q: Would the answer to the above question change if the reinsurance were written on a claims-made basis?

A: No. The form of the reinsurance—whether claims-made or occurrence-based—does not determine whether the reinsurance is prospective or retroactive. A claims-made reinsurance contract that reinsures claims asserted to the reinsurer in a future period as a result of insured events that occurred prior to entering into the reinsurance contract is a retroactive contract.

25. Q: What is the effect of adjustments to future premiums or coverage in determining whether reinsurance is prospective or retroactive?

A: Adjustments to future premiums or coverage may affect the accounting for a reinsurance contract. Whenever an adjustment results in a reinsurer providing new or additional coverage for past insurable events, that coverage is retroactive. For example, if subsequent years' premiums under a multiple accident year contract create additional coverage for previous accident years, the additional coverage is retroactive, even if the original coverage provided in the contract for those accident years was prospective. Likewise, if current losses under a multiple-year contract eliminate coverage in future periods, some or all of the premiums to be paid in those future periods should be charged to the current period.

26. Q: A reinsurance contract is entered into after the contract's effective date. Is the coverage between the contract's effective date and the date the contract was entered into prospective or retroactive?

A: The portion of the contract related to the period of time between the effective date of the contract and the date the contract was entered into is retroactive because it covers insured events that occurred prior to entering into the reinsurance contract.

27. Q: How is the date the reinsurance contract was entered into determined?

A: It is not uncommon for a reinsurance arrangement to be initiated before the beginning of a policy period but not finalized until after the policy period begins. Whether there was agreement in principle at the beginning of the policy period and, therefore, the contract is substantively prospective must be determined based on the facts and circumstances. For example, a contract may be considered to have been substantively entered into even though regulatory approval of that contract has not taken place.

The absence of agreement on significant terms, or the intention to establish or amend those terms at a later date based on experience or other factors, generally indicates that the parties to the contract have not entered into a reinsurance contact, but rather have agreed to enter into a reinsurance contract at a future date. If contractual provisions under a contract substantively entered into at a future date covered insurable events prior to that date, that coverage is retroactive.

In any event, SSAP No. 62 provides that if a contract (except facultative contracts and contracts signed by the lead reinsurer and certain cover notes or similar documents signed by reinsurers representing more than 50% of the capacity on the contract) has not been finalized, reduced to written form and signed by the parties within 9 months after its effective date, it is presumed to be retroactive.

28. Q: Are contracts to reinsure calendar-year incurred losses considered blended contracts that have both prospective and retroactive elements?

A: Yes. Most reinsurance contracts covering calendar-year incurred losses combine coverage for insured events that occurred prior to entering into the reinsurance contract with coverage for future insured events and, therefore, include both prospective and retroactive elements.

In any event, SSAP No. 62 provides that if a contract (except facultative contracts, contracts signed by the lead reinsurer and certain cover notes or similar documents signed by reinsurers representing more than 50% of the capacity on the contract) has not been finalized, reduced to written form and signed by the parties within 9 months after its effective date it is presumed retroactive.

29. Q: When the prospective and retroactive portions of a contract are being accounted for separately, how should premiums be allocated to each portion of the contract?

A: No specific method for allocating the reinsurance premiums to the risks covered by the prospective and retroactive portions of a contract is required. However, separate accounting for the prospective and retroactive portions of a contract may take place only when an allocation is practicable.

Practicability requires a reasonable basis for allocating the reinsurance premiums to the risks covered by the prospective and retroactive portions of the contract, considering all amounts paid or deemed to have been paid regardless of the timing of payment. If a reasonable basis for allocating the premiums between the prospective and retroactive coverage does not exist, the entire contract must be accounted for as a retroactive contract.

30. Q: A retroactive reinsurance contract contains a cut-through provision that provides the ceding entity's policyholders and claimants with the right to recover their claims directly from the reinsurer. May the ceding entity immediately recognize earned surplus associated with this type of contract?

A: No. SSAP No. 62 states that earned surplus may not be recognized "until the actual retroactive reinsurance recovered exceeds the consideration paid."

31. Q: A ceding entity enters into a retroactive reinsurance agreement that gives rise to segregated surplus. If the reinsurer prepays its obligation under the contract, may the ceding entity recognize earned surplus at the time the prepayment is received?

A: Segregated surplus arising from retroactive reinsurance transactions is earned as actual liabilities that have been transferred are recovered or terminated. Therefore, earned surplus is based on when the reinsurer settles its obligations to the ceding entity, and it may be appropriate to recognize earned surplus at the time the prepayment is received.

However, all of the facts and circumstances must be considered to determine whether the ceding entity has substantively recovered the liabilities transferred to the reinsurer. For example, if the ceding entity agrees to compensate the reinsurer for the prepayment, such as by crediting the reinsurer with investment income on prepaid amounts or balances held, the ceding entity has not, in substance, recovered its transferred liabilities but rather has received a deposit from the reinsurer that should be accounted for accordingly.

32. Q: If the ceding entity does not expect to receive any recoveries because the reinsurer has agreed to reimburse claimants under the reinsured contracts directly, would the ceding entity be considered to have recovered or terminated its transferred liabilities?

A: No. In the example given, the reinsurer is substantively acting as disbursing agent for the ceding entity. Therefore, the ceding entity cannot be said to have recovered amounts due from the reinsurer before payment is made to the claimant.

33. Q: What accounting entries would a ceding entity make to report a retroactive reinsurance contract?

A: Accounting Entries for a Ceding Entity to Report a Retroactive Reinsurance Contract:

<u>Entry 1</u>

Retroactive Reinsurance Reserves Ceded or Assumed (B/S)	10,000	
Retroactive Reinsurance Gain (I/S)		2,000
Cash		8,000

To record initial portfolio transfer see items #3 and #8. The ceding entity must establish the segregated surplus per item #4.

<u>Entry 1A</u>

Retro. Reins. Gain	2,000	

Profit/Loss Account		2,000

To close gain from retroactive transaction.

<u>Entry 1B</u>

Profit/Loss Account	2,000	
Special Surplus from Retro. Reins.		2,000

To close profit from retroactive reinsurance to special surplus.

<u>Entry 2</u>

Cash	2,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		2,000

To record recovery of paid losses from the reinsurer. Outstanding ceded reserves after this recovery equals $8,000, and special surplus from retroactive reinsurance account equals $2,000; therefore, segregated surplus account is not changed per item #10.

<u>Entry 3</u>

Retroactive Reinsurance Reserves Ceded or Assumed (B/S)	3,000	
Retroactive Reinsurance Gain (I/S)		3,000

To record subsequent revision of the initial reserves ceded per item #10. The segregated surplus account is increased to $5,000 as a result of this upward development.

<u>Entry 3A</u>

Retro. Reinsurance Gain	3,000	
Profit/Loss Account		3,000

To close profit from retroactive reinsurance.

<u>Entry 3B</u>

Profit/Loss (I/S)	3,000	
Special Surplus from Retro. Reins.		3,000

To close profit and loss account to special surplus. (Retroactive reinsurance reserves ceded or assumed account balance equals $11,000. Special Surplus from retroactive reinsurance balance equals $5,000.)

<u>Entry 4</u>

Cash	4,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		4,000

To record recovery of paid losses from the reinsurer. Outstanding ceded reserves after this recovery equals $7,000, therefore segregated surplus account is not changed per item #10.

Entry 5

Cash	3,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		3,000

To record recovery of paid losses from reinsurer. Outstanding ceded reserves after recovery equals $4,000, therefore the following entry is needed per items #6 and #10.

Entry 5A

Special Surplus—Retro. Reins.	1,000	
Unassigned Funds		1,000

Retroactive Reinsurance reserves ceded or assumed after this entry equals $4,000.

Entry 6

Retroactive Reinsurance Loss (I/S)	1,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		1,000

To record subsequent revision of the initial reserves ceded per item #10. The segregated surplus account is decreased as a result of this downward development to $3,000. The following entry is needed per items #6 and #10.

Entry 6A

Profit/Loss Account	1,000	
Retro. Reins. Loss		1,000

To close loss to profit and loss account.

Entry 6B

Special Surplus from Retro. Reins.	1,000	
Profit/Loss Account		1,000

To close profit and loss account to special surplus. (Remaining balance of retroactive reinsurance reserve ceded or assumed account equals $3,000.) (Special surplus from retro. reins. account balance equals $3,000.)

Entry 7

Cash	2,500	
Retroactive Reinsurance Gain (I/S)	500	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		3,000

Entry 7A

Profit and Loss Account	500	
Retro. Reins. Gain		500

To close other income to profit and loss account.

Entry 7B

Special Surplus from Retro. Reins.	500	
Profit/Loss Account		500

To close profit and loss account to special surplus. (Remaining balance of special surplus from retro. reins. account equals $2,500.) (Remaining balance of retroactive reinsurance reserve ceded or assumed account -0-.)

Entry 7C

Special Surplus from Retro. Reins.	2,500	
Unassigned Funds		2,500

To close remaining special surplus account to unassigned surplus.

34. Q: How should the parties account for an adverse loss development reinsurance contract where, as of the statement date, the attachment level of the contract exceeds the ceding company's current case and IBNR reserves for the covered accident years (i.e. no surplus gain and no reinsurance recoverable as of the statement date), and the ceding company transferred cash to the reinsurer at the inception of the contract?

A: An adverse loss development reinsurance contract covering prior accident years meets the definition of "retroactive reinsurance" set forth in paragraph 22 of SSAP No. 62:

> ….reinsurance in which a reinsurer agrees to reimburse a ceding entity for liabilities incurred as a result of past insurable events covered under contracts subject to the reinsurance….

Subparagraph 29.k. of SSAP No. 62 specifically provides that the consideration paid for a retroactive reinsurance contract is to be recorded as a decrease in ledger assets by the ceding entity and an increase in ledger assets by the assuming entity.

Question 33 illustrates the accounting entries for retroactive reinsurance contracts.

If the retroactive reinsurance contract transfers both components of insurance risk then, pursuant to paragraph 29 of SSAP No. 62, the ceding company would record the consideration paid as a decrease in ledger assets, recognize an expense for the reinsurance ceded through Other Income or Loss accounts as a write-in item identified as "Retroactive Reinsurance Ceded", and record the recoverable from the reinsurer as a contra liability.

No contra liability is established until and unless (and then only to the extent that) the ceding company establishes reserves which exceed the attachment point.

For the contract described, at inception no contra liability is recorded to offset current liability for the business ceded, since the ceded retroactive reinsurance premium relates to coverage in excess of the current liabilities recorded by the ceding company.

Once the ceding company's recorded liabilities exceed the attachment point of the adverse loss development reinsurance contract and triggers reinsurance recoverable from the reinsurer, a contra liability is established by the ceding company for the amount of the reinsurance recoverable. Any surplus resulting from the retroactive reinsurance is carried as a write-in item on the balance sheet designated as "Special Surplus from Retroactive Reinsurance Account." The surplus gain may not be classified as unassigned funds (surplus) until the actual retroactive reinsurance recovered exceeds the consideration paid.

If any portion of a retroactive reinsurance contract does not transfer insurance risk, then the portion which does not transfer risk is accounted for as a deposit pursuant to paragraph 35 of SSAP No. 62. The deposit is reported as an admitted asset of the ceding company if the reinsurer is licensed, accredited or otherwise qualified in the ceding company's state of domicile as described in Appendix A-785, or if there are funds held by or on behalf of the ceding company as described in that appendix. Receipts and disbursements under the contract are recorded through the deposit/liability accounts. Amounts received in excess of the deposit made are recognized as a gain in the Other Income or Loss account.

Accounting entries for a ceding entity to report a retroactive reinsurance contract at the inception of which the cedent's reserves are lower than the attachment point of the reinsurance coverage:

Assume the company pays $16m to purchase adverse development coverage of $50m, above an attachment point.

Entry 1: Payment of Retrospective Reinsurance Premium

Retrospective Reinsurance Expense*	$16m	
Cash		$16m

The company pays $16m premium for the retrospective reinsurance contract.
*This is an Other Expense item, it does not flow through Schedule F or Schedule P.

Entry 2: Adverse Development Reaches the Attachment Point

Losses Incurred	$25m	
Gross Loss Reserve		$25m
Recoverable on Retro Reinsurance Contract**	$25m	
Other Income*		$9m
Contra – Retro Reinsurance Expense*		$16m
Surplus***	$9m	
Segregated Surplus***		$9m

The company incurs $25m development on reserves related to the contract.
*These are Other Income/Expense items do not flow through Schedule F or Schedule P.
**A contra-liability write-in item, not netted against loss reserves.
***Surplus is segregated in the amount of [$25m - $16m = $9m] recoverables less consideration paid.

Entry 3: Cash is Recovered on Paid Losses

Cash	$20m	
Recoverable on Retrospective Reinsurance Contract		$20m
Segregated Surplus	$4m	
Surplus		$4m

The company recovers $20m cash from reinsurer on this retro contract. Segregated Surplus decreases in the amount of [$20m - $16m = $4m] (decreases for amount recovered in excess of consideration paid).

35. Q: How should a ceding company account for payment of the premium for a retroactive reinsurance contract by the ceding company's parent company or some other person not a party to the reinsurance contract (for example, adverse loss development reinsurance contracts purchased by the parent company in the context of the purchase or sale of the ceding company)?

A: If the reinsurance premium is not paid directly by the ceding company but is instead paid on behalf of the ceding company by the ceding company's parent company or some other entity not a party to the reinsurance contract, then the ceding company should (1) record an increase in gross paid in and contributed surplus in the amount of the reinsurance premium to reflect the contribution to surplus by the parent or third party payor, and (2) record an expense in the amount of the reinsurance premium and account for the contract as provided in Questions 33 and 34.

SSAP NO. 62—EXHIBIT B

P&C Runoff Reinsurance Transactions

The following provides illustrative journal entries for P&C Runoff Reinsurance Transactions.

Example 1: Transfer of existing block of runoff business with no residual UPR on books of Transferor

Cedent/Transferor		**DR**	**CR**
Day 1 - Cedent transfers 50,000 in reserves for 50,000			
Ceded Reinsurance Recoverable (U&I Part 2A & Sch. F)	Contra Liab ↑	50,000	
Cash	Asset ↓		50,000
Losses Paid (U/W Part 2 & Sch. P)	I/S ↓	50,000	
Change in Reserves - Incurred Losses (U&I Part 2)	I/S ↑		50,000
Unlike novation –gross reserves stay on books of transferor			
Day 360 - Negative Development on Transferred Business - 3,000			
Reinsurance Recoverable on Unpaid Losses (Sch. F)	Contra Liab ↑	3,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss @ Reported Reserve			
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↓	53,000	
Ceded Reinsurance Recoverable (U&I Part 2A & Sch. F)	Contra Liab ↓		53,000
Reinsurer/ Transferee			
Day 1 - Cedent transfers 50,000 in reserves for 50,000			
Cash	Asset ↑	50,000	
Reported Losses on Reins. Assumed (U&I Part 2A & Sch. P)	Liab ↑		50,000
Change In Reserves – Incurred Losses (U&I Part 2)	I/S ↓	50,000	
Losses Paid or Incurred (negative) (U&I Part 2 &Sch. P)	I/S ↑		50,000
Day 360 - Negative Development on Transferred Business - 3,000:			
Change in Reserves – Incurred Losses (U&I Part 2)	I/S↓	3,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss			
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↓	53,000	
Cash	Asset ↓		53,000

Comments:
Since the Transferor is ceding incurred losses neither party should have premium impacted. To do that would distort many financial ratios.

Example 2: Transfer of existing block of runoff business with some residual UPR of 10,000 on books of Transferor (this should be less common).

Cedent/Transferor		**DR**	**CR**
Day 1 - Cedent transfers 50k in reserves & 10k UPR for 60,000			
Ceded Reinsurance Recoverable (U&I Part 2A & Sch. F)	Contra Liab ↑	50,000	
Unearned Premium Reserve (U&I Part 1& 1A)	Liab ↓	10,000	
Cash	Asset ↓		60,000
Ceded Premium Written (U&I Part 1B)	I/S ↓	10,000	
Losses Paid (U&I Part 2 & Sch. P)	I/S ↓	50,000	
Change in Reserves - Incurred Losses (U&I Part 2)	I/S ↑		50,000
Change in UPR (U&I Part 1& 1A)	I/S ↑		10,000
Unlike novation –gross reserves stay on books of transferor			
Day 180 – Premium is Fully Earned (Assumes 80% Loss Ratio)			
Ceded Reinsurance Recoverable (U&I Part 2A & Sch. F)	Contra Liab ↑	8,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		8,000
To mirror the increase in unpaid losses by the transferee			
Day 360 - Negative Development on Transferred Business -3,000:			
Reinsurance Recoverable on Unpaid Losses (Sch. F)	Contra Liab ↑	3,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss @ Reported Reserves (50+8+3)			
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↓	61,000	
Ceded Reinsurance Recoverable (U&I Part 2A & Sch. F)	Contra Liab ↓		61,000

Reinsurer/ Transferee			
Day 1 - Cedent transfers 50k in reserves & 10k UPR for 60,000			
Cash	Asset ↑	60,000	
Reported Losses on Reins. Assumed (U&I Part 2A & Sch. P)	Liab ↑		50,000
Unearned Premium Reserve (U&I Part 1& 1A)	Liab ↑		10,000
Assumed Premium Written (U&I Part 1B)	I/S ↑		10,000
Change In Reserves – Incurred Losses (U&I Part 2)	I/S ↓	50,000	
Change in UPR (U&I Part 1& 1A)	I/S ↓	10,000	
Losses Paid or Incurred (negative) (U&I Part 2 &Sch. P)	I/S ↑		50,000
Day 180 – Premium is Fully Earned (Assumes 80% Loss Ratio)			
Unearned Premium Reserve (U&I Part 1& 1A)	Liab ↓	10,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		8,000
Change In Reserves – Incurred Losses (U&I Part 2)	I/S↓	8,000	
Change in UPR (U&I Part 1& 1A)	I/S ↑		10,000
To record the increase in unpaid losses by the transferee			
Day 360 - Negative Development on Transferred Business -3,000:			
Change In Reserves – Incurred Losses (U&I Part 2)	I/S↓	3,000	
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss @ Reported Reserves (50+8+3)			
Reserves for Unpaid Losses (U&I Part 2A & Sch. P)	Liab ↓	61,000	
Cash	Asset ↓		61,000

Comments:
In this second example, the portion of the runoff business that has an UPR associated with it is essentially booked as prospective reinsurance. Other elements of the example are the same except that we assumed an 80% loss ratio on the unearned portion of the business.

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Ref. #2009-08

Statutory Accounting Principles Working Group
Maintenance Agenda Submission Form
Form A

Issue:
FSP SOP 94-3-1 and AAG HCO-1, Omnibus Changes to Consolidation and Equity Method Guidance for Not-for-Profit Organizations

Check (applicable entity):

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

Description of Issue:
FASB Statement of Position SOP 94-3-1 and AAG HCO-1, Omnibus Changes to Consolidation and Equity Method of Guidance for Not-for-Profit Organizations (FSP SOP 94-3-1 and AAG HCO-1), issued May 2009, makes several changes to guidance on consolidation and the equity method of accounting in *AICPA Statement of Position 94-3, Reporting of Related Entities by Not-for-Profit Organizations* (SOP 94-3), and the *AICPA Audit and Accounting Guide, Health Care Organizations* (AAH HCO).

The revisions from this FSP are summarized as follows:

a. Eliminates the temporary control exception to consolidation that currently exists for certain relationships between not-for-profit organizations and makes two related changes:

(1) Amends the definition of *majority voting interest in the board of another entity* in SOP 94-3 and the health care Guide

(2) Conforms the categorization of sole corporate membership in SOP 94-3 to that in the health care Guide

b. Confirms the continued applicability to not-for-profit organizations of the consensus guidance on consolidation of special-purpose entity (SPE) lessors in the following EITF Issues:

(1) No. 90-15, "Impact of Nonsubstantive Lessors, Residual Value Guarantees, and Other Provisions in Leasing Transactions"

(2) No. 96-21, "Implementation Issues in Accounting for Leasing Transactions involving Special-Purpose Entities"

(3) No. 97-1, "Implementation Issues in Accounting for Lease Transactions, including Those involving Special-Purpose Entities"

c. Requires that not-for-profit organizations apply the guidance in:

(1) AICPA Statement of Position 78-9, *Accounting for Investments in Real Estate Ventures,* on the equity method of accounting to their noncontrolling interests in for-profit real estate partnerships, limited liability companies (LLCs), and similar entities unless those investments are reported at fair value, where permitted

Ref. #2009-08

(2) FSP SOP 78-9-1, *Interaction of AICPA Statement of Position 78-9 and EITF Issue No. 04-5,* to help determine whether their interests in for-profit partnerships, LLCs, and similar entities are controlling interests or noncontrolling interests

(3) EITF Issue No. 03-16, "Accounting for Investments in Limited Liability Companies," to determine whether an LLC should be viewed as similar to a partnership, as opposed to a corporation, for purposes of determining whether noncontrolling interests in an LLC or a similar entity should be accounted for in accordance with SOP 78-9 and related guidance.

Existing Authoritative Literature:
Statutory accounting has previously rejected GAAP guidance pertaining to consolidation as well as GAAP guidance specific for not-for-profit organizations. All impacted GAAP pronouncements identified within this FSP have previously been rejected, or deemed not applicable, for statutory accounting:

- *AICPA Statement of Position 94-3, Reporting by Related Entities by Not-for-Profit Organizations* (SOP 94-3) considered **not applicable** for statutory accounting.

- *AICPA Statement of Position 78-9, Accounting for Investments in Real Estate Ventures* (SOP 78-9) **rejected** in *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* (SSAP No. 48).

- *AICPA Audit and Accounting Guide, Health Care Organizations* (AAG HCO), **rejected** in *SSAP No. 73—Health Care Delivery Assets – Supplies, Pharmaceuticals and Surgical Supplies, Durable Medical Equipment, Furniture, Medical Equipment and Fixtures, and Leasehold Improvements in Health Care Facilities* (SSAP No. 73).

- *FASB Staff Position SOP 78-9-1, Interaction of AICPA Statement of Position 78-9 and EITF Issue No. 04-5* (FSP SOP 78-9-1) considered **not applicable** for statutory accounting.

- *EITF Issue No. 90-15, Impact of Nonsubstantive Lessors, Residual Value Guarantees, and Other Provisions in Leasing Transactions* (EITF 90-15) **rejected** in *SSAP No. 22—Leases* (SSAP No. 22).

- *EITF Issue No. 96-21, Implementation Issues in Accounting for Leasing Transactions involving Special-Purpose Entities* (EITF 96-21) **rejected** in *SSAP No. 22—Leases* (SSAP No. 22).

- *EITF Issue No. 97-1, Implementation Issues in Accounting for Lease Transactions, including Those involving Special-Purpose Entities* (EITF 97-1) considered **not applicable** in *INT 99-05: EITF 97-1: Implementation Issues in Accounting for Lease Transactions, including Those Involving Special-Purpose Entities* (INT 99-05).

- *EITF Issue No. 03-16, Accounting for Investments in Limited Liability Companies* (EITF 03-16) **rejected** in *INT 04-24: EITF 03-16: Accounting for Investments in Limited Liability Companies* (INT 04-24)

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

See rejected and not-applicable GAAP guidance noted above.

Ref. #2009-08

Information or issues (included in *Description of Issue*) not previously contemplated by the SAPWG:

None

Staff Recommendation:

Pursuant to the previous conclusions by the Working Group on consolidation and on all the GAAP pronouncements impacted by this FSP, staff recommends that the Working Group move this item to the Nonsubstantive active listing and **expose a nonsubstantive revision to *Issue Paper No. 99—Nonapplicable GAAP Pronouncements*** (Issue Paper No. 99) proposing rejection of FSP SOP 94-3-1 and AAG HCO-1 as not applicable for statutory accounting.

Staff Review Completed by:
Julie Gann
April 2009

Status:

On June 13, 2009, the Statutory Accounting Principles Working Group moved this item to the Nonsubstantive Active Listing and exposed nonsubstantive revisions to Issue Paper No. 99 rejecting FSP SOP 94-3-1 as not applicable to statutory accounting.

On September 21, 2009, the Statutory Accounting Principles Working Group adopted the proposed revisions to Issue Paper No. 99 as final.

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Statement of Statutory Accounting Principles No. 10

Income Taxes

STATUS

Type of Issue:	Common Area
Issued:	Initial Draft; Substantively Revised – September 21, 2009
Effective Date:	January 1, 2001
Affects:	No other pronouncements
Affected by:	Substantive changes to paragraphs 10, 11 and Exhibit A are effective for 2009 annual financial statements and interim and annual 2010 financial statements only
Interpreted by:	INT 00-21, INT 00-22, INT 01-18, INT 01-19, INT 01-20, INT 04-17, INT 06-12

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Income Taxes

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for current and deferred federal and foreign income taxes and current state income taxes.

SUMMARY CONCLUSION

2. For purposes of accounting for federal and foreign income taxes, reporting entities shall adopt *FASB Statement No. 109, Accounting for Income Taxes* (FAS 109) with modifications for state income taxes, the realization criteria for deferred tax assets, and the recording of the impact of changes in its deferred tax balances. As a result, financial statements will recognize current and deferred income tax assets and liabilities in accordance with the provisions of this statement.

Current Income Taxes

3. "Income taxes incurred" shall include current income taxes, the amount of federal and foreign income taxes paid (recovered) or payable (recoverable) for the current year. Current income taxes are defined as:

a. Current year estimates of federal and foreign income taxes (including the equity tax of a mutual life insurer and the "true-up" of such tax), based on tax returns for the current year, and tax contingencies for current and all prior years, to the extent not previously provided, computed in accordance with *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5);

b. Amounts incurred or received during the current year relating to prior periods, to the extent not previously provided, as such amounts are deemed to be changes in accounting estimates as defined in *SSAP No. 3—Accounting Changes and Corrections of Errors* (SSAP No. 3).

4. State taxes (including premium, income and franchise taxes) shall be computed in accordance with SSAP No. 5 and shall be limited to (a) taxes due as a result of the current year's taxable basis calculated in accordance with state laws and regulations and (b) amounts incurred or received during the current year relating to prior periods, to the extent not previously provided as such amounts are deemed to be changes in accounting estimates. Property and casualty insurance companies shall report state taxes as other underwriting expenses under the caption "Taxes, licenses, and fees." Life and accident and health insurance companies shall report such amounts as general expenses under the caption "Insurance taxes, licenses, and fees, excluding federal income taxes." Other health entities shall report such amounts as general administration expenses under the caption "Taxes, licenses, and fees." State tax recoverables that are reasonably expected to be recovered in a subsequent accounting period are admitted assets. State taxes are reasonably expected to be recovered if the refund is attributable to overpayment of estimated tax payments, errors, carrybacks, or items for which the reporting entity has authority to recover under a state regulation or statute.

Deferred Income Taxes

5. A reporting entity's balance sheet shall include deferred income tax assets (DTAs) and liabilities (DTLs), the expected future tax consequences of temporary differences generated by statutory accounting, as defined in paragraph 11 of FAS 109.

6. A reporting entity's deferred tax assets and liabilities are computed as follows:

a. Temporary differences are identified and measured using a "balance sheet" approach whereby statutory and tax basis balance sheets are compared;

b. Temporary differences include unrealized gains and losses and nonadmitted assets but do not include asset valuation reserve (AVR), interest maintenance reserve (IMR), Schedule F penalties and, in the case of a mortgage guaranty insurer, amounts attributable to its statutory contingency reserve to the extent that "tax and loss" bonds have been purchased;

c. Total DTAs and DTLs are computed using enacted tax rates; and

d. A DTL is not recognized for amounts described in paragraph 31 of FAS 109.

7. Changes in DTAs and DTLs, including changes attributable to changes in tax rates and changes in tax status, if any, shall be recognized as a separate component of gains and losses in unassigned funds (surplus). DTAs and DTLs shall be offset and presented as a single amount on the statement of financial position.

Admissibility of Income Tax Assets

8. Current income tax recoverables shall include all current income taxes, including interest, reasonably expected to be recovered in a subsequent accounting period, whether or not a return or claim has been filed with the taxing authorities. Current income tax recoverables are reasonably expected to be recovered if the refund is attributable to overpayment of estimated tax payments, errors, carrybacks, as defined in paragraph 289 of FAS 109, or items for which the reporting entity has substantial authority, as that term is defined in Federal Income Tax Regulations.

9. Current income tax recoverables meet the definition of assets as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement.

10. Gross DTAs shall be admitted in an amount equal to the sum of paragraphs 10 a., 10 b., and 10 c., or the amount determined in paragraphs 10 d. and 10 e.:

a. Federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year;

b. The lesser of:

i. The amount of gross DTAs, after the application of paragraph 10 a., expected to be realized within one year of the balance sheet date; or

ii. Ten percent of statutory capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for its most recently filed statement with the domiciliary state commissioner adjusted to exclude any net DTAs, EDP equipment and operating system software and any net positive goodwill; and

c. The amount of gross DTAs, after application of paragraphs 10 a. and 10 b., that can be offset against existing gross DTLs.

d. If the reporting entity's financial statements and risk-based capital calculated using a DTA as the sum of paragraphs 10 a., 10 b., and 10 c. results in the company's risk-based capital level being above the following thresholds:

i. The risk-based capital trend test for those entities that are subject to a risk-based capital trend-test or

ii. For those entities not subject to a risk-based capital trend test, a risk-based capital above the maximum risk-based capital level where an action level could occur as a result of a trend test (i.e. 250% for life and fraternal entities; 300% for property/casualty entities and health entities.

then the reporting entity may admit a higher amount of DTAs as calculated in paragraph 10e:

e. If the thresholds in paragraph 10d are exceeded, then admitted deferred tax assets are determined as follows:

i. Federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse during a timeframe corresponding with IRS tax loss carryback provisions, not to exceed three years;

ii. the lesser of:

(a) The amount of gross DTAs, after the application of paragraph 10 e.i., expected to be realized within the same timeframe of paragraph 10 e.i. of the balance sheet date; or

(b) **Fifteen** percent of statutory capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for its most recently filed statement with the domiciliary state commissioner adjusted to exclude any net DTAs, EDP equipment and operating system software and any net positive goodwill; and

iii. The amount of gross DTAs, after application of paragraphs 10e.i. and 10eii, that can be offset against existing gross DTLs.

f. The increased amount of admitted assets and statutory surplus resulting from the use, if applicable, of paragraph 10 e. to calculate admitted DTAs:

i. Commissioner may, by regulation, restrict deferred tax assets from the definition of admitted assets and surplus for purposes of determining any regulatory trigger that involves admitted assets and/or statutory surplus, including but not limited to: triggers contained in the insurance holding company system regulatory act (including the determination of the amount of an ordinary or extraordinary dividend), investment limitations (including the basket clause), and grounds for rehabilitation and liquidation.

ii. Shall be separately reported in the aggregate write in for gains in losses in surplus line of the Summary of Operations, Statement of Income or Statement of Revenue, as applicable.

iii. Shall be separately reported in the aggregate write-in for special surplus funds.

11. In computing a reporting entity's gross DTA pursuant to paragraph 10;

a. Existing temporary differences that reverse by the end of the subsequent calendar year or during a timeframe corresponding with IRS tax loss carryback provisions, not to exceed three years shall be determined in accordance with paragraphs 228 and 229 of FAS 109;

b. In determining the amount of federal income taxes that can be recovered through loss carrybacks, the amount and character (i.e., ordinary versus capital) of the loss carrybacks and the impact, if any, of the Alternative Minimum Tax shall be determined in accordance with the provisions of the Internal Revenue Code, and regulations thereunder;

c. The amount of carryback potential that may be considered in calculating the gross DTAs of a reporting entity in subparagraph 10 a. or 10.e.i. above, that files a consolidated income tax return with one or more affiliates, may not exceed the amount that the reporting entity could reasonably expect to have refunded by its parent; and

d. The phrases "reverse by the end of the subsequent calendar year" and "realized within one or three years of the balance sheet date" are intended to accommodate interim reporting dates and reporting entities that file on an other than calendar year basis for federal income tax purposes.

Intercompany Income Tax Transactions

12. In the case of a reporting entity that files a consolidated income tax return with one or more affiliates, income tax transactions (including payment of tax contingencies to its parent) between the affiliated parties shall be recognized if:

a. Such transactions are economic transactions as defined in *SSAP No. 25—Accounting for and Disclosures about Transactions with Affiliates and Other Related Parties* (SSAP No. 25);

b. Are pursuant to a written income tax allocation agreement; and

c. Income taxes incurred are accounted for in a manner consistent with the principles of FAS 109, as modified by this statement.

13. Amounts owed to a reporting entity pursuant to a recognized transaction shall be treated as a loan or advance, and nonadmitted, pursuant to SSAP No. 25, to the extent that the recoverable is not settled within 90 days of the filing of a consolidated income tax return, or where a refund is due the reporting entity's parent, within 90 days of the receipt of such refund.

Intraperiod Tax Allocation

14. In accordance with paragraph 35 of FAS 109, a reporting entity's unrealized gains and losses shall be recorded net of any allocated DTA or DTL. The amount allocated shall be computed in a manner consistent with paragraph 38 of FAS 109.

15. Income taxes incurred shall be allocated to net income and realized capital gains or losses in a manner consistent with paragraph 38 of FAS 109. Furthermore, income taxes incurred or received during the current year attributable to prior years shall be allocated, to the extent not previously provided, to net income in accordance with SSAP No. 3 unless attributable, in whole or in part, to realized capital gains or losses, in which case, such amounts shall be apportioned between net income and realized capital gains and losses, as appropriate.

Interim Periods

16. Income taxes incurred in interim periods shall be computed using an estimated annual effective current tax rate for the annual period in accordance with the methodology described in paragraphs 19 and 20 of *Accounting Principles Board Opinion No. 28, Interim Financial Reporting*. Estimates of the annual effective tax rate at the end of interim periods are, of necessity, based on estimates and are subject to subsequent refinement or revision. If a reliable estimate cannot be made, the actual effective tax rate for the year-to-date may be the best estimate of the annual effective tax rate. If a reporting entity is unable to estimate a part of its "ordinary" income (or loss) or the related tax (or benefit) but is otherwise able to make a reliable estimate, the tax (or benefit) applicable to the item that cannot be estimated shall be reported in the interim period in which the item is reported.

Disclosures

17. Statutory financial statement disclosure shall be made in a manner consistent with the provisions of paragraphs 43—45 and 48 of FAS 109. However, required disclosures with regard to a reporting entity's valuation allowance shall be replaced with disclosures relating to the nonadmittance of some portion or all of a reporting entity's DTAs. The financial statements shall include the disclosures required by paragraph 47 of FAS 109 for non-public companies. Paragraphs 18 to 23 describe the disclosure requirements as modified for the difference between the requirements of FAS 109 and those prescribed by this statement.

18. The components of the net DTA or DTL recognized in a reporting entity's balance sheet shall be disclosed as follows:

a. The total of all DTAs by tax character (admitted and nonadmitted);

b. The total of all DTLs by tax character;

c. The total DTAs nonadmitted as the result of the application of paragraph 10; and

d. The net change during the year in the total DTAs nonadmitted.

e. The increased amount by tax character, and the change in such, of DTAs resulting from the use of paragraph 10.e., if applicable; and

f. The amount of each result by tax character of paragraphs 10.a., 10.b.i., 10.b.ii., 10.c., 10.e.i., and 10.e.ii., (see Q&A 4.14 as example) and the risk-based capital level (total adjusted capital and authorized control level) used in paragraph 10.d.

g. The amount of admitted DTAs, admitted assets, statutory surplus and Total adjusted capital in the risk-based capital calculation resulting from the calculation in paragraph 10 a., 10 b., and 10 c., and the increased amount of DTAs, admitted assets and surplus resulting from the use of paragraph 10 e. if applicable.

19. To the extent that DTLs are not recognized for amounts described in paragraph 31 of FAS 109, the following shall be disclosed:

a. A description of the types of temporary differences for which a DTL has not been recognized and the types of events that would cause those temporary differences to become taxable;

b. The cumulative amount of each type of temporary difference;

c. The amount of the unrecognized DTL for temporary differences related to investments in foreign subsidiaries and foreign corporate joint ventures that are essentially permanent in duration if determination of that liability is practicable or a statement that determination is not practicable; and

d. The amount of the DTL for temporary differences other than those in item c. above that is not recognized in accordance with the provisions of paragraphs 31 of FAS 109.

20. The significant components of income taxes incurred (i.e., current income tax expense) and the changes in DTAs and DTLs shall be disclosed. Those components would include, for example:

a. Current tax expense or benefit;

b. The change in DTAs and DTLs (exclusive of the effects of other components listed below);

c. Investment tax credits;

d. The benefits of operating loss carryforwards; and

e. Adjustments of a DTA or DTL for enacted changes in tax laws or rates or a change in the tax status of the reporting entity.

21. Additionally, to the extent that the sum of a reporting entity's income taxes incurred and the change in its DTAs and DTLs is different from the result obtained by applying the federal statutory rate to its pretax net income, a reporting entity shall disclose the nature of the significant reconciling items.

22. A reporting entity shall also disclose the following:

a. The amounts, origination dates and expiration dates of operating loss and tax credit carryforwards available for tax purposes; and

b. The amount of federal income taxes incurred in the current year and each preceding year, which are available for recoupment in the event of future net losses.

c. The aggregate amount of deposits admitted under Section 6603 of the Internal Revenue Service Code.

23. If a reporting entity's federal income tax return is consolidated with those of any other entity or entities, the following shall be disclosed:

a. A list of names of the entities with whom the reporting entity's federal income tax return is consolidated for the current year; and

b. The substance of the written agreement, approved by the reporting entity's Board of Directors, which sets forth the manner in which the total combined federal income tax for all entities is allocated to each entity which is a party to the consolidation. (If no written agreement has been executed, give an explanation of why such an agreement has not been executed.) Additionally, the disclosure shall include the manner in which the entity has an enforceable right to recoup federal income taxes in the event of future net losses which it may incur or to recoup its net losses carried forward as an offset to future net income subject to federal income taxes.

24. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

25. This statement adopts the provisions of FAS 109 except as modified in paragraph 2 of this statement which results in paragraphs 29—30, 36—37, 39, 41—42, 46, and 49—59 of FAS 109 being rejected, inasmuch as they are not applicable to reporting entities subject to this statement or are inconsistent with other statutory accounting principles. Paragraph 47 of FAS 109 is adopted with modification to provide for the disclosures required for non public reporting entities.

26. This statement rejects *FASB Interpretation No. 18, Accounting for Income Taxes in Interim Periods…an interpretation of APB Opinion No. 28.*

27. The following lists Accounting Principles Board Opinions that are adopted or rejected by this statement:

a. *Accounting Principles Board Opinion No. 2, Accounting for the "Investment Credit,"* paragraphs 9—15 are adopted with modification to utilize the cost reduction method only and rejects all other paragraphs;

b. *Accounting Principles Board Opinion No. 4 (Amending No. 2), Accounting for the "Investment Credit,"* is rejected in its entirety;

c. *Accounting Principles Board Opinion No. 10, Omnibus Opinion—1966,* paragraph 6 is adopted;

d. *Accounting Principles Board Opinion No. 23, Accounting for Income Taxes—Special Areas,* paragraphs 1—3, 5—9, 12—13, and 15—18 are adopted, and paragraphs 19—25, and 31—33 are rejected;

e. *Accounting Principles Board Opinion No. 28, Interim Financial Reporting,* paragraphs 19 and 20 are adopted and all other paragraphs rejected.

28. The following lists FASB Technical Bulletins that are adopted or rejected by this statement:

a. *FASB Technical Bulletin No. 79-9, Accounting in Interim Periods for Changes in Income Tax Rates* is rejected in its entirety;

b. *FASB Technical Bulletin No. 82-1, Disclosure of the Sale or Purchase of Tax Benefits through Tax Leases* is adopted in its entirety.

29. The following lists FASB Emerging Issues Task Force Issues that are adopted or rejected by this statement:

a. *FASB Emerging Issues Task Force No. 91-8, Application of FASB Statement No. 96 to a State Tax Based on the Greater of a Franchise Tax or an Income Tax,* is rejected in its entirety;

b. *FASB Emerging Issues Task Force No. 92-8, Accounting for the Income Tax Effects under FASB Statement No. 109 of a Change in Functional Currency When an Economy Ceases to Be Considered Highly Inflationary*, is adopted in its entirety;

c. *FASB Emerging Issues Task Force No. 93-13, Effect of a Retroactive Change in Enacted Tax Rates That Is Included in Income from Continuing Operations*, is rejected in its entirety;

d. *FASB Emerging Issues Task Force No. 93-16, Application of FASB Statement No. 109 to Basis Differences within Foreign Subsidiaries That Meet the Indefinite Reversal Criterion of APB Opinion No. 23*, is rejected in its entirety;

e. *FASB Emerging Issues Task Force No. 93-17, Recognition of Deferred Tax Assets for a Parent Company's Excess Tax Basis in the Stock of a Subsidiary That Is Accounted for as a Discontinued Operation*, is adopted in its entirety;

f. *FASB Emerging Issues Task Force No. 94-10, Accounting by a Company for the Income Tax Effects of Transactions among or with Its Shareholders under FASB Statement No. 109*, is rejected in its entirety;

g. *FASB Emerging Issues Task Force No. 95-9, Accounting for Tax Effects of Dividends in France in Accordance with FASB Statement No. 109*, is rejected in its entirety;

h. *FASB Emerging Issues Task Force No. 95-10, Accounting for Tax Credits Related to Dividend Payments in Accordance with FASB Statement No. 109*, is rejected in its entirety;

i. *FASB Emerging Issues Task Force No. 95-20, Measurement in the Consolidated Financial Statements of a Parent of the Tax Effects Related to the Operations of a Foreign Subsidiary That Receives Tax Credits Related to Dividend Payments*, is rejected in its entirety.

30. This statement rejects *AICPA Accounting Interpretations, Accounting for the Investment Credit: Accounting Interpretations of APB Opinion No. 4* in its entirety.

Effective Date and Transition

31. 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. Revisions to paragraphs 10, 11, and Exhibit A are also considered a change in accounting principle, effective December 31, 2009.

32. The substantive revisions adopted September 21, 2009 to paragraphs 10, 11 and Exhibit A are effective for 2009 annual financial statements, and 2010 interim and annual financial statements only[1].

[1] A Subgroup has been formed to provide a recommendation on the appropriate determination for admitting deferred tax assets to be applied with financial statements filed after December 31, 2010.

AUTHORITATIVE LITERATURE

Generally Accepted Accounting Principles

- FASB Statement No. 109, Accounting for Income Taxes
- Accounting Principles Board Opinion No. 2, Accounting for the "Investment Credit"
- Accounting Principles Board Opinion No. 10, Omnibus Opinion—1966, paragraph 6
- Accounting Principles Board Opinion No. 23, Accounting for Income Taxes—Special Areas, paragraphs 1—3, 5—9, 12—13, and 15—18
- Accounting Principles Board Opinion No. 28, Interim Financial Reporting, paragraphs 19 and 20
- FASB Technical Bulletin No. 82-1, Disclosure of the Sale or Purchase of Tax Benefits through Tax Leases
- FASB Emerging Issues Task Force No. 92-8, Accounting for the Income Tax Effects under FASB Statement No. 109 of a Change in Functional Currency When an Economy Ceases to Be Considered Highly Inflationary
- FASB Emerging Issues Task Force No. 93-17, Recognition of Deferred Tax Assets for a Parent Company's Excess Tax Basis in the Stock of a Subsidiary That Is Accounted for as a Discontinued Operation

RELEVANT ISSUE PAPERS

- Issue Paper No. 83—Accounting for Income Taxes

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Drafting Note:

Please note that the SSAP No. 10 Q&A has not been modified to address the new changes. Work on updating the SSAP No. 10 Q&A to address the SSAP No. 10 substantive revisions will begin immediately as a priority project.

Drafted: 09/23/09

Blanks (E) Working Group
Washington, DC
September 21, 2009

The Blanks Working Group of the Accounting Practices and Procedures (E) Task Force met in Washington, DC, Sept. 21, 2009. The following Working Group members participated: Jake Garn, Chair (UT); Kim Hudson, Vice Chair (CA); Gloria Glover (AK); Kevin Brown (DC); David Lonchar (DE); Al Willis (FL); Jim Hanson (IL); David Hurt (KY); Judy Weaver representing Dan Schaefer (MI); Jim Nixon (NE); Tom Burke (NH); Steve Johnson (PA); Larry Knight (TN); Peter Raymond representing Ken McGuckin (VT); and Robert Hrezo representing Leah Cooper (WV).

1. Items Previously Exposed for Comment

   a. Add Questions to General Interrogatories Part 1 Common Interrogatories Related to Exemptions Granted to the Insurer to Specified Sections of the Annual Financial Reporting Model Regulation or Substantially Similar State Law or Regulation (2009-25BWG) Effective 12/31/2010.

      Mr. Garn stated that this proposal adds general interrogatories to identify exemptions granted for specified sections of the Annual Financial Reporting Model Regulation. Hearing no opposition, Mr. Willis made a motion, seconded by Mr. Nixon, to adopt the proposal (Attachment Two-A). The motion passed unanimously.

   b. Add Two Additional Interrogatory Questions to the Supplemental Exhibits and Schedules Interrogatories for the Communication of Internal Control Related Matters Noted in Audit and Management's Report of Internal Control Over Financial Reporting (2009-26BWG) Effective 12/31/2010.

      Mr. Garn stated that this proposal adds interrogatories to the Supplemental Exhibits and Schedules to communicate internal control-related matters noted in the Audit and Management's report. Hearing no opposition, Mr. Hudson made a motion, seconded by Mr. Johnson, to adopt the proposal (Attachment Two-B). The motion passed unanimously.

   c. Add Crosschecks to the Electronic Notes for Note 1A for State Basis Net Income and Surplus to Ensure NAIC SAP Income and Surplus Amounts Reported in the Note Reconcile with Detail Reported as Permitted and Prescribed Practices Used to Arrive at State Basis Income and Surplus (2009-27BWG Modified) Effective 01/01/2010.

      Mr. Willis stated that this proposal adds crosschecks for Note 1A to assist in the verification of consistent reporting. He asked for a slight modification to the column references for the health instructions for line five, which should reference columns three and four rather than one and two. Upon a motion by Mr. Willis, seconded by Mr. Hudson, the Working Group voted unanimously to adopt the modifications and the modified proposal (Attachment Two-C).

   d. Add an Interrogatory Question to the Supplemental Exhibits and Schedules Interrogatories for the Actuarial Opinion Required by the Modified Guaranteed Annuity Model Regulation. Modify Interrogatory Question for Actuarial Opinions Associated with Exhibit 5 Interrogatory Question 1, 2 and 3 for Consistency. Add Four Additional Certifications Related to Actuarial Guideline XLIII (CARVM for Variable Annuities) (2009-28BWG Modified) Effective 12/31/2010.

      Mr. Garn stated that this proposal adds additional interrogatories to the Supplemental Exhibits and Schedules Interrogatories for an additional actuarial opinion required by the Modified Guarantee Annuity Model Regulation and certifications related to Actuarial Guideline XLIII. A modification was made to add some instruction for the additional actuarial opinion. Hearing no opposition, a motion was made by Mr. Hudson, seconded by Mr. Nixon, to adopt the modifications and modified proposal (Attachment Two-D). The motion passed unanimously.

   e. Revise the Reporting Instructions to the Title Insurance Annual Statement Blank, Schedule T, to Include More Detailed Instructions for "Type of Rate," and to Make Certain Editorial Changes to the Blank (2009-29BWG Modified) Effective 01/01/2010.

      Alan Seeley (NM) stated that this proposal was drafted by the Title Insurance Issues Working Group. It is intended to expand Schedule T in the current annual statement and to provide further clarification for the reporting premiums and losses by state. Milum Livesay (Genworth) stated that Genworth does not have an issue with the proposal as currently drafted. A minor modification was made to reference a column name change from "direct losses unpaid" to "direct known claim reserve" and to remove the instruction wording of "include incurred but not reported."

Upon a motion by Mr. Hudson, seconded by Mr. Nixon, the Working Group voted unanimously to adopt the modifications to the proposal. Upon a motion by Mr. Hudson, seconded by Mr. Willis, the Working Group voted unanimously to adopt the modified proposal (Attachment Two-E).

f. <u>Add a New "State Page" Blank and Instructions to the Title Insurers Annual Statement Immediately Following the 5-Year Historical Data (2009-30BWG Modified) Effective 12/31/2010.</u>

Mr. Seeley stated that this proposal is the introduction of a state page to the Title blank. The exhibit shows the number of policies issued, direct premiums written, direct losses paid and amounts paid to or retained by agents. The amounts are to be reported by type of business. This reporting will assist the regulators in assessing profitability and in making comparisons of premiums and rates by state to the extent it is comparable. He stated that this represents the first step of developing a statistical database to evaluate the profitability of the Title insurance and competition among companies. Mr. Hudson stated that the proposal was modified to show the standard effective date format. Upon a motion by Mr. Hudson, seconded by Mr. Nixon, the Working Group voted unanimously to adopt the modifications to the proposal. Upon a motion by Mr. Hudson, seconded by Mr. Willis, the Working Group voted unanimously to adopt the modified proposal (Attachment Two-F).

g. <u>Expand the Title Insurance "State Page" and Instructions to Include the Reporting of Experience by "Type of Property" and "Type of Rate" (2009-31BWG Modified) Effective 12/31/2012.</u>

Mr. Seeley stated that this proposal is an enhancement to proposal 2009-31BWG. This proposal expands the data required in the state page to include a breakout of the number of policies by residential and non-residential. This will allow regulators to look more closely at residential properties and associated risks. It will allow the regulators to sort premiums by regions where there might be a difference between regions within a particular state.

Upon a motion by Mr. Hudson, seconded by Mr. Nixon, the Working Group voted unanimously to adopt the modifications to the proposal. Upon a motion by Mr. Hudson, seconded by Mr. Nixon, the Working Group voted unanimously to adopt the modified proposal (Attachment Two-G). Interested parties stated that they are concerned with the 2012 effective date and indicated that if, while constructing their systems to capture this data, they find issues to delay compliance, they will likely request additional time to comply.

h. <u>Amend Schedule T, Premium by State by Adding a Note Explaining the Codes Used in Column 1, Active Status (2009-32BWG) Effective 01/01/2010.</u>

Mr. Garn stated that this proposal adds the active status code listing to the bottom of the Schedule T blanks page. Ms. Glover stated that this information would be helpful for those who do not have instructions readily available to identify the code. Upon a motion by Ms. Glover, seconded by Mr. Willis, the Working Group voted unanimously to adopt the proposal (Attachment Two-H).

2. <u>Newly Submitted Items</u>

a. <u>Add Instructions to Schedule T, Details of Write-ins for Line 58, Other Alien, to Clarify that the Reporting Entity Should List the Jurisdiction (Country) for the Write-in Line Description and Make Wording of Instructions Consistent Across Statement Types (2009-33BWG).</u>

Upon a motion by Ms. Glover, seconded by Mr. Johnson, the Working Group voted unanimously to expose the proposal for comment.

b. <u>Add Instructions to Line 24 of the Asset Page to Include Receivables for Securities not Received Within 15 Days of Settlement Date. Modify the "Exclude" Statement for Line 9 of the Asset Page to Clarify that Receivables for Securities not Received Within 15 Days of the Settlement Date are to be Excluded and Nonadmitted (2009-34BWG).</u>

Upon a motion by Mr. Hudson, seconded by Ms. Glover, the Working Group voted unanimously to expose the proposal for comment.

c. Add a New Annual Statement Line 17.4 to the Underwriting and Investment Exhibits, Exhibit of Premiums and Losses (state page), Five Year Historical, and Insurance Expense Exhibit of the Property Statement and the Property Supplement of the Health Statement for the Reporting of Director and Officer Business. Instructions for the Five Year Historical will also be Modified to Reflect the New Line (2009-35BWG).

David Vacca (NAIC) stated that this proposal will assist regulators in identifying the amount of directors and officers business being written and the potential exposures. Upon a motion by Mr. Hudson, seconded by Mr. Nixon, the Working Group voted unanimously to expose the proposal for comment.

d. Add Line Categories to Schedule S to Group Separately U.S. and Non-U.S. Insurers Reported in the Schedule. Modify the Instructions for the Location Column to Indicate the Use of Postal Code in the Column to Indicate Domiciliary Jurisdiction and Change the Column Description from Location to Domiciliary Jurisdiction. Changing Property and Title Schedule F Location Column Description to be Consistent with Life, Health and Fraternal and Their Respective Annual Statement Schedules (2009-36BWG).

Mr. Vacca stated that this proposal is intended to gain consistency between the blanks when reporting affiliated and non-affiliated U.S. and non-U.S. business in the Schedule S, Part 1 sections of the blanks. Upon a motion by Mr. Johnson, seconded by Ms. Glover, the Working Group voted unanimously to expose the proposal for comment.

e. Modify Instruction for IMR (Interest Maintenance Reserve) Line 2 and AVR (Asset Valuation Reserve) Line 2 with Language for Other Than Temporary Impairments to Reflect Changes Initiated by the Adoption of *SSAP No. 43 Revised—Loan-backed and Structured Securities* Which Superseded *SSAP No. 98—Treatment of Cash Flows When Quantifying Changes in Valuation and Impairments, an Amendment of SSAP No. 43—Loan-backed and Structured Securities.* This Proposal Amends Guidance Recently Adopted by Proposal 2009-14 BWG (2009-37BWG).

Robin Marcotte (NAIC) stated that this proposal modifies instructions to Interest Maintenance Reserve (IMR) and Asset Valuation Reserve (AVR) Exhibits to include language for other-than-temporary impairments. Upon a motion by Mr. Hudson, seconded by Ms. Glover, the Working Group voted unanimously to expose the proposal for comment.

3. Editorial Changes

Upon a motion by Mr. Johnson, seconded by Mr. Hudson, the Working Group voted to unanimously adopt the editorial changes (Attachment Two-I).

4. Any Other Matters

Mr. Garn stated that a memorandum was received by the Statutory Accounting Principles Working Group regarding the additional disclosures adopted as part of SSAP 43R, beginning with third quarter 2009 reporting for Note 5–Loaned Backed Securities in the Notes to Financial Statements (Attachment Two-J). As the statutory accounting guidance represents a higher level of authority, this change did not require a vote of the Blanks Working Group, but was submitted as a separate item to make it clear that the disclosure will be part of the 2009 quarterly and annual statement instructions but not attached to a specific proposal.

Mr. Garn stated that a second memorandum was received by the Statutory Accounting Principles Working Group requesting that guidance be added to the NAIC Web site to assist companies in the completion of Note 5–Loaned Backed Securities in the Notes to Financial Statements for the third quarter 2009, annual 2009 and 2010 quarterly statement filings. The guidance includes illustration templates for future data capture elements. A Blanks Working Group proposal, requesting the data capture elements for 2010 annual and 2011 quarterly reporting, will be submitted for the Winter National Meeting and follow the regular Blanks Working Group procedures. Upon a motion by Mr. Johnson, seconded by Mr. Hudson, the Working Group voted unanimously to expose the guidance for comment, with the comment period to end Oct. 5.

Mr. Garn stated that a memorandum has been received by Matti Peltonen (NY) requesting the Web site posting of guidance for the breakout of investment categories. Mr. Peltonen stated that this breakout will assist companies in reporting investments within the intended category. This guidance will assist regulators when evaluating the investments within those categories. Upon a motion from Mr. Johnson, seconded by Mr. Hanson, the Working Group voted unanimously to expose the guidance for a two week comment period to end Oct. 5, 2009.

The revised Blanks Working Group procedures, proposal form and instructions were adopted via email vote by the Blanks Working Group members on July 1, 2009 (Attachement Two-K).

Mr. Garn stated that the comment deadline for the Winter National Meeting is Nov. 5, 2009. Having no further business, the Blanks Working Group of the Accounting Practices and Procedures (E) Task Force adjourned.

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: 05/07/2009	**FOR NAIC USE ONLY**
CONTACT PERSON: Bruce Jenson	Agenda Item # 2009-25BWG
ON BEHALF OF: NAIC AICPA Working Group	Year 2010
NAME: Doug Stolte	Changes to Existing Reporting [X]
TITLE: Chair	New Reporting Requirement [ ]
AFFILIATION: NAIC AICPA Working Group	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
ADDRESS: 1300 East Main Street	No Impact [X]
Richmond, VA 23219	Modifies Required Disclosure [ ]
TELEPHONE:	**DISPOSITION**
	[ ] Rejected For Public Comment
	[ ] Referred To Another NAIC Group
	[ ] Received For Public Comment
	[X] Adopted
	[ ] Rejected
	[ ] Deferred
	[ ] Other (Specify)________________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [ ] **QUARTERLY STATEMENT** [X] **INSTRUCTIONS**

[X] Life and Accident & Health [X] Property/Casualty [X] Health
[ ] Separate Accounts [X] Fraternal [X] Title
[ ] Other Specify

Anticipated Effective Date: Annual 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Add questions to General Interrogatories Part 1 Common Interrogatories related to exemptions granted to the insurer to specified sections of the Annual Financial Reporting Model Regulation or substantially similar state law or regulation.

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

The purpose of this proposal is to accumulate information showing whether insurers have been granted waivers from complying with new regulations included in the Annual Financial Reporting Model Regulation (Model Audit Rule) that go into effect beginning 1/1/2010 allowing foreign states and other users to know when such waivers have been granted by the insurers' domestic states.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: Annual 2010 should not be a problem

Other Comments:

** **This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – LIFE, HEALTH, PROPERTY, FRATERNAL & TITLE

ANNUAL STATEMENT FOR THE YEAR 2006 OF THE

GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

GENERAL

Detail Eliminated To Conserve Space

9. What is the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit? ....
....

10.1 Has the insurer been granted any exemptions to the prohibited non-audit services provided by the certified independent public accountant requirements as allowed in Section 7H of the Annual Financial Reporting Model Regulation (Model Audit Rule), or substantially similar state law or regulation? Yes [ ] No [ ]

10.2 If response to 10.1 is "yes," provide information related to this exemption:..
....

10.3 Has the insurer been granted any exemptions to the audit committee requirements as allowed in Section 14H of the Annual Financial Reporting Model Regulation, or substantially similar state law or regulation? Yes [ ] No [ ]

10.4 If response to 10.3 is "yes", provide information related to this exemption:..
....

10.5 Has the insurer been granted any exemptions related to the other requirements of the Annual Financial Reporting Model Regulation as allowed for in Section 17A of the Model Regulation, or substantially similar state law or regulation? Yes [ ] No [ ]

10.6 If response to 10.5 is "yes", provide information related to this exemption:..
....

~~10~~11. What is the name, address and affiliation (officer/employee of the reporting entity or actuary/consultant associated with an actuarial consulting firm) of the individual providing the statement of actuarial opinion/certification?..

Detail Eliminated To Conserve Space

ANNUAL STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL & TITLE

GENERAL INTERROGATORIES

PART 1 – COMMON INTERROGATORIES

GENERAL

Detail Eliminated To Conserve Space

8.4 Enter 'YES' or 'NO' in Columns 3 through 7.

~~13~~14. The response to this interrogatory applies to the reporting entity's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions.

~~13~~14.31 Include the nature of any waiver, including any implicit waiver, from a provision of the code of ethics granted by the reporting entity, an affiliate that provides management services to the entity, or the entity's ultimate parent to one of these specified officers, the name of the person to whom the waiver was granted and the date of the waiver.

Detail Eliminated To Conserve Space

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

		FOR NAIC USE ONLY
	DATE: 05/07/2009	Agenda Item # 2009-26BWG
CONTACT PERSON:	**Bruce Jenson**	Year 2010
		Changes to Existing Reporting [X]
ON BEHALF OF:	**NAIC AICPA Working Group**	New Reporting Requirement [ ]
NAME:	**Doug Stolte**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
TITLE:	**Chair**	No Impact [X] Modifies Required Disclosure [ ]
AFFILIATION:	**NAIC AICPA Working Group**	**DISPOSITION**
ADDRESS:	**1300 East Main Street**	[ ] Rejected For Public Comment
	Richmond, VA 23219	[ ] Referred To Another NAIC Group [ ] Received For Public Comment
TELEPHONE:		[X] Adopted [ ] Rejected [ ] Deferred [ ] Other (Specify)________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT**	[ ] **QUARTERLY STATEMENT**	[X] **INSTRUCTIONS**
[X] Life and Accident & Health	[X] Property/Casualty	[X] Health
[ ] Separate Accounts	[X] Fraternal	[X] Title
[ ] Other Specify		

Anticipated Effective Date: Annual 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Add two additional interrogatory questions to the Supplemental Exhibits and Schedules Interrogatories for the Communication of Internal Control Related Matters Noted in Audit and Management's Report of Internal Control over Financial Reporting. These items will be assigned a document identifier and added to the bar code instructions.

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

The purpose of this proposal is to update the Annual Statement Blank to conform with changes made to the NAIC Annual Financial Reporting Model Regulation (Model Audit Rule).

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: Annual 2010 should not be a problem

Other Comments:

** **This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – FRATERNAL

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your state of domicile waives the filing requirement, your response of **WAIVED** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason, enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

Response

1. Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1? ....
2. Will an actuarial opinion be filed by March 1? ....

APRIL FILING

3. Will Management's Discussion and Analysis be filed by April? ....
4. Will the Supplemental Investment Risks Interrogatories be filed by April 1? ....

JUNE FILING

5. Will an audited financial report be filed by June 1? ....
6. Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1? ....

AUGUST FILING

7. Will Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile by August 1? ....

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason, enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

~~7~~8. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1? ....

~~8~~9. Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1? ....

~~9~~10. Will the actuarial opinion on participating and non-participating policies as required in Interrogatories 1 and 2 to Exhibit 5 be filed by March 1? ....

~~10~~11. Will the statement on non-guaranteed elements as required in Interrogatory #3 to Exhibit 5 be filed by March 1?

~~11~~12. Will the actuarial opinion on X-Factors be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~12~~13. Will the actuarial opinion on Separate Accounts Funding Guaranteed Minimum Benefit be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~13~~14. Will the actuarial opinion on Synthetic Guaranteed Investment Contracts be filed with the state of domicile and electronically with the NAIC by March 1?

~~14~~15. Will the Reasonableness of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~15~~16. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~16~~17. Will the Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~17~~18. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state
of domicile and electronically with the NAIC by March 1? ....

~~18~~19. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~19~~20. Will the C-3 RBC Certifications required under C-3 Phase I be filed with the state of domicile by March 1?

~~20~~21. Will the C-3 RBC Certifications required under C-3 Phase II be filed with the state of domicile by March 1? ....

~~21~~22. Will the Actuarial Certifications Related to Annuity Nonforfeiture Ongoing Compliance for Equity Indexed Annuities be filed with the state of domicile and electronically with the NAIC by March 1?

~~22~~23. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1? ....

APRIL FILING

~~23~~24. Will the Long-term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1? ....

~~24~~25. Will the Interest Sensitive Life Insurance Products Report be filed with the state of domicile and the NAIC by April 1? ....

~~25~~26. Will the Accident and Health Policy Experience Exhibit be filed by April 1? ....

AUGUST FILING

27. Will Management's Report of Internal Control over Financial Reporting be filed with the state of domicile by August 1? ....

Explanation:

Bar code:

ANNUAL STATEMENT BLANK – HEALTH

SUPPLEMENTAL EXHIBITS AND SCHEDULES INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of **WAIVED** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enters **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING **Responses**

1. Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1? ....
2. Will an actuarial opinion be filed by March 1? ....
3. Will the confidential Risk-based Capital Report be filed with the NAIC by March 1? ....
4. Will the confidential Risk-based Capital Report be filed with the state of domicile, if required by March 1? ....

APRIL FILING

5. Will Management's Discussion and Analysis be filed by April 1? ....
6. Will the Supplemental Investment Risks Interrogatories be filed by April 1? ....
7. Will the Accident and Health Policy Experience Exhibit be filed by April 1? ....

JUNE FILING

8. Will an audited financial report be filed by June 1? ....
9. Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1? ....

AUGUST FILING

10. Will Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile by August 1? ....

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enters **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

~~10~~11. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1? ....
~~11~~12. Will the Supplemental Life data due March 1 be filed with the state of domicile and the NAIC? ....
~~12~~13. Will the Supplemental Property/Casualty data due March 1 be filed with the state of domicile and the NAIC? ....
~~13~~14. Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1? ....
~~14~~15. Will the actuarial opinion on participating and non-participating policies as required in Interrogatories 1 and 2 on Exhibit 5 to Life Supplement be filed with the state of domicile and electronically with the NAIC by March 1? ....
~~15~~16. Will the actuarial opinion on non-guaranteed elements as required in Interrogatory 3 to Exhibit 5 to Life Supplement be filed with the state of domicile and electronically with the NAIC by March 1? ....
~~16~~17. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1? ....

APRIL FILING

~~17~~18. Will the Long-Term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1? ....

~~18~~19. Will the Supplemental Life data due April 1 be filed with the state of domicile and the NAIC? ....

~~19~~20. Will the Supplemental Property/Casualty Insurance Expense Exhibit due April 1 be filed with any state that requires it, and, if so, the NAIC? ....

AUGUST FILING

21. Will Management's Report of Internal Control over Financial Reporting be filed with the state of domicile by August 1? ....

Explanation:

Bar code:

ANNUAL STATEMENT BLANK – LIFE

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of WAIVED **to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter** SEE EXPLANATION **and provide an explanation following the interrogatory questions.**

Responses

MARCH FILING

1. Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1? ....

2. Will the confidential Risk-based Capital Report be filed with the NAIC by March 1? ....

3. Will the confidential Risk-based Capital Report be filed with the state of domicile, if required, by March 1? ....

4. Will an actuarial opinion be filed by March 1? ....

APRIL FILING

5. Will Management's Discussion and Analysis be filed by April 1? ....

6. Will the Life, Health & Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit be filed with the state of domicile and the NAIC by April 1? ....

7. Will the Adjustment Form (if required) be filed with the state of domicile and the NAIC by April 1? ....

8. Will the Supplemental Investment Risks Interrogatories be filed by April 1? ....

JUNE FILING

9. Will an audited financial report be filed by June 1? ....

10. Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1? ....

AUGUST FILING

11. Will Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile by August 1? ....

The following supplemental reports are required to be filed as part of your annual statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

~~11~~12. Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1? ....

~~12~~13. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1? ....

~~13~~14. Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1? ....

~~14~~15. Will the actuarial opinion on participating and non-participating policies as required in Interrogatories 1 and 2 to Exhibit 5 be filed by March 1? ....

~~15~~16. Will the actuarial opinion on non-guaranteed elements as required in interrogatory #3 to Exhibit 5 be filed by March 1? ....

~~16~~17. Will the actuarial opinion on X-Factors be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~17~~18. Will the actuarial opinion on Separate Accounts Funding Guaranteed Minimum Benefit be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~18~~19. Will the actuarial opinion on Synthetic Guaranteed Investment Contracts be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~19~~20. Will the Reasonableness of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~20~~21. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~21~~22. Will the Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method required by Actuarial Guideline XXXVI be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~22~~23. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~23~~24. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~24~~25. Will the C-3 RBC Certifications required under C-3 Phase I be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~25~~26. Will the C-3 RBC Certifications required under C-3 Phase II be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~26~~27. Will the Actuarial Certifications Related to Annuity Nonforfeiture Ongoing Compliance for Equity Indexed Annuities be filed with the state of domicile and electronically with the NAIC by March 1? ....

SUPPLEMENTAL EXHIBITS AND SCHEDULES INTERROGATORIES

~~27~~28. Will the Workers' Compensation Carve-Out Supplement be filed by March 1? ....

~~28~~29. Will Supplemental Schedule O be filed with the state of domicile and the NAIC by March 1? ....

~~29~~30. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1? ....

APRIL FILING

~~30~~31. Will the Long-Term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1? ....

~~31~~32. Will the Interest-Sensitive Life Insurance Products Report Forms be filed with the state of domicile and the NAIC by April 1? ....

~~32~~33. Will the Credit Insurance Experience Exhibit be filed with the state of domicile and the NAIC by April 1? ....

~~33~~34. Will the Accident and Health Policy Experience Exhibit be filed by April 1? ....

AUGUST FILING

35. Will Management's Report of Internal Control over Financial Reporting be filed with the state of domicile by August 1? ....

Explanation:

Bar code:

ANNUAL STATEMENT BLANK – PROPERTY

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of WAIVED to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter SEE EXPLANATION and provide an explanation following the interrogatory questions.

	MARCH FILING	RESPONSES
1.	Will an actuarial opinion be filed by March 1?	....
2.	Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1?	....
3.	Will the confidential Risk-based Capital Report be filed with the NAIC by March 1?	....
4.	Will the confidential Risk-based Capital Report be filed with the state of domicile, if required, by March 1?	....
	APRIL FILING	
5.	Will the Insurance Expense Exhibit be filed with the state of domicile and the NAIC by April 1?	....
6.	Will Management's Discussion and Analysis be filed by April 1?	....
7.	Will the Supplemental Investment Risks Interrogatories be filed by April 1?	....
	MAY FILING	
8.	Will this company be included in a combined annual statement that is filed with the NAIC by May 1?	....
	JUNE FILING	
9.	Will an audited financial report be filed by June 1?	....
10.	Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1?	....
	AUGUST FILING	
11.	Will Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile by August 1?	....

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of NO to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter SEE EXPLANATION and provide an explanation following the interrogatory questions.

	MARCH FILING	
~~11~~12.	Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1?	....
~~12~~13.	Will the Financial Guaranty Insurance Exhibit be filed by March 1?	....
~~13~~14.	Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1?	....
~~14~~15.	Will Supplement A to Schedule T (Medical Professional Liability Supplement) be filed by March 1?	....
~~15~~16.	Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1?	....
~~16~~17.	Will the Premiums Attributed to Protected Cells Exhibit be filed by March 1?	....
~~17~~18.	Will the Reinsurance Summary Supplemental Filing for General Interrogatory 9 be filed with the state of domicile and the NAIC by March 1?	....
~~18~~19.	Will the Medicare Part D Coverage Supplement be filed wit the state of domicile and the NAIC by March 1?	....
~~19~~20.	Will the confidential Actuarial Opinion Summary be filed with the state of domicile, if required, by March 15 (or the date otherwise specified)?	....
~~20~~21.	Will the Reinsurance Attestation Supplement be filed with the state of domicile and the NAIC by March 1?	....
~~21~~22.	Will the Exceptions to the Reinsurance Attestation Supplement be filed with the state of domicile by March 1?	....
	APRIL FILING	
~~22~~23.	Will the Credit Insurance Experience Exhibit be filed with the state of domicile and the NAIC by April 1?	....
~~23~~24.	Will the Long-term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1?	....
~~24~~25.	Will the Accident and Health Policy Experience Exhibit be filed by April 1?	....
	AUGUST FILING	
26.	Will Management's Report of Internal Control over Financial Reporting be filed with the state of domicile by August 1?	....

Explanation:

Bar Code:

ANNUAL STATEMENT BLANK – TITLE

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of **WAIVED** to the specific interrogatory will be accepted in lieu of filing a “NONE” report and a bar code will be printed below. If the supplement is required of your company but is not filed for whatever reason, enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

		Response
	MARCH FILING	
1.	Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1?	....
2.	Will an actuarial opinion be filed by March 1?	....
	APRIL FILING	
3.	Will Management’s Discussion and Analysis be filed by April 1?	....
4.	Will the Supplemental Schedule of Business Written by Agency be filed with the state of domicile by April 1?	....
5.	Will the Supplemental Investment Risk Interrogatories be filed by April 1?	....
	JUNE FILING	
6.	Will an audited financial report be filed by June 1?	....
7.	Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1?	....
	AUGUST FILING	
8.	Will Communication of Internal Control Related Matters Noted in Audit be filed with the state of domicile by August 1?	....

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a “NONE” report and a bar code will be printed below. If the supplement is required of your company but is not filed for whatever reason enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions

	MARCH FILING	
~~8~~9.	Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1?	....
	AUGUST FILING	
10.	Will Management’s Report of Internal Control over Financial Reporting be filed with the state of domicile by August 1?	....

Explanation:

Bar code:

ANNUAL STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL AND TITLE

APPENDIX

INSTRUCTIONS FOR USE OF BAR CODES

Detail Eliminated To Conserve Space

FORM	DOCUMENT IDENTIFIER
Detail Eliminated To Conserve Space	
Audited Financial Reports	220
Accountants Letter of Qualifications	221
Communication of Internal Control Related Matters Noted in an Audit	222
Management's Report of Internal Control over Financial Reporting	223
Credit Insurance Experience Exhibit	230

Detail Eliminated To Conserve Space

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: **05/07/2009**	**FOR NAIC USE ONLY**
CONTACT PERSON:	Agenda Item # 2009-27BWG MOD
ON BEHALF OF:	Year 2010
NAME: **Al Willis**	Changes to Existing Reporting [X]
TITLE: **Director L&H Financial Oversight**	New Reporting Requirement [ ]
AFFILIATION: **Florida Office of Insurance Regulation**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
ADDRESS: **200 E. Gains Street**	No Impact [X]
Tallahassee, Fl 32399-0327	Modifies Required Disclosure [ ]
TELEPHONE:	**DISPOSITION**
	[ ] Rejected For Public Comment
	[ ] Referred To Another NAIC Group
	[ ] Received For Public Comment
	[X] Adopted
	[ ] Rejected
	[ ] Deferred
	[ ] Other (Specify)________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [X] **QUARTERLY STATEMENT** [X] **INSTRUCTIONS**

[X] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[X] Property/Casualty
[X] Fraternal
[X] Health
[X] Title

Anticipated Effective Date: First Quarter 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Add cross checks to the Electronic Notes for Note 1A for state basis net income and surplus. Also add cross check to ensure NAIC SAP income and surplus amounts reported in the note reconcile with detail reported as permitted and prescribed practices used to arrive at state basis income and surplus.

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

The purpose of this proposal is to ensure the income and surplus numbers tie to the appropriate statement schedules and the NAIC SAP basis numbers reconcile with the permitted and prescribed practice detail provided in the electronic note.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: First Quarter 2010 should not be a problem

Other Comments:

**** This section must be completed on all forms.** **Revised 01/18/05**

QUARTERLY & ANNUAL STATEMENT INSTRUCTIONS – LIFE

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

1. **Summary of Significant Accounting Policies**

Detail Eliminated To Conserve Space

Illustration:

A. Accounting Practices

Detail Eliminated To Conserve Space

	State of Domicile	20_____	20_____
NET INCOME			
(1) ~~Net Income~~ ABC Company state basis (Page 4, Line 35, Columns 1 & 2)	_______	$_______	$_______
(2) State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation of fixed assets	_______	_______	_______
(3) State Permitted Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation, home office property	_______	_______	_______
(4) ~~Net Income,~~ NAIC SAP (1-2-3=4)	_______	$_______	$_______
SURPLUS			
(5) ~~Statutory Surplus~~ ABC Company state basis (Page 3, Line ~~37~~38, Columns 1 & 2)	_______	$_______	$_______
(6) State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Goodwill, net; e.g., Fixed Assets, net	_______	_______	_______
(7) State Permitted Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Home Office Property	_______	_______	_______
(8) ~~Statutory Surplus,~~ NAIC SAP (5-6-7=8)	_______	$_______	$_______

NOTE: The permitted and prescribed adjustments detailed in the reconciliation illustrated above are only examples of permitted or prescribed practices that could be disclosed in the Notes to Financial Statements. Other permitted or prescribed practices not shown in the example should also be shown in the reporting entities printed and electronic notes.

Detail Eliminated To Conserve Space

Drafting Note: For Quarterly, crosscheck for (5) should be columns 1 & 3

QUARTERLY & ANNUAL STATEMENT INSTRUCTIONS – HEALTH

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

1. Summary of Significant Accounting Policies

Detail Eliminated To Conserve Space

Illustration:

A. Accounting Practices

Detail Eliminated To Conserve Space

		State of Domicile	20_____	20_____
NET INCOME				
(1)	~~Net Income~~ ABC Company state basis (Page 4, Line 32, Columns ~~1~~2 & ~~2~~3)		$	$
(2)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation of fixed assets			
(3)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation, home office property			
(4)	~~Net Income,~~ NAIC SAP (1-2-3=4)		$	$
SURPLUS				
(5)	~~Statutory Surplus~~ ABC Company state basis (Page 3, Line ~~31~~32, Columns ~~1~~23 & ~~2~~34)		$	$
(6)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Goodwill, net e.g., Fixed Assets, net			
(7)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Home Office Property			
(8)	~~Statutory Surplus,~~ NAIC SAP (5-6-7=8)		$	$

NOTE: The permitted and prescribed adjustments detailed in the reconciliation illustrated above are only examples of permitted or prescribed practices that could be disclosed in the Notes to Financial Statements. Other permitted or prescribed practices not shown in the example should also be shown in the reporting entities printed and electronic notes.

Detail Eliminated To Conserve Space

Drafting Note: For Quarterly, crosscheck for (5) should be columns ~~2~~ 3 & 4

QUARTERLY & ANNUAL STATEMENT INSTRUCTIONS – PROPERTY

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

1. **Summary of Significant Accounting Policies**

Detail Eliminated To Conserve Space

Illustration:

A. Accounting Practices

Detail Eliminated To Conserve Space

	State of Domicile	20_____	20_____
NET INCOME			
(1) ~~Net Income~~ ABC Company state basis (Page 4, Line 20, Columns 1 & 2)		$	$
(2) State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation of fixed assets			
(3) State Permitted Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation, home office property			
(4) ~~Net Income,~~ NAIC SAP (1-2-3=4)		$	$
SURPLUS			
(5) ~~Statutory Surplus~~ ABC Company state basis (Page 3, Line ~~35~~36, Columns 1 & 2)		$	$
(6) State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Goodwill, net; e.g., Fixed Assets, net			
(7) State Permitted Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Home Office Property			
(8) ~~Statutory Surplus,~~ NAIC SAP (5-6-7=8)		$	$

NOTE: The permitted and prescribed adjustments detailed in the reconciliation illustrated above are only examples of permitted or prescribed practices that could be disclosed in the Notes to Financial Statements. Other permitted or prescribed practices not shown in the example should also be shown in the reporting entities printed and electronic notes.

Detail Eliminated To Conserve Space

Drafting Note: For Quarterly, crosscheck for (5) should be columns 1 & 3

QUARTERLY & ANNUAL STATEMENT INSTRUCTIONS – FRATERNAL

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

1. Summary of Significant Accounting Policies

Detail Eliminated To Conserve Space

Illustration:

A. Accounting Practices

Detail Eliminated To Conserve Space

		State of Domicile	20_____	20_____
NET INCOME				
(1)	~~Net Income~~ ABC Company state basis (Page 4, Line 31, Columns 1 & 2)	_____	$_____	$_____
(2)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation of fixed assets	_____	_____	_____
(3)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation, home office property	_____	_____	_____
(4)	~~Net Income,~~ NAIC SAP (1-2-3=4)	_____	$_____	$_____
SURPLUS				
(5)	~~Statutory Surplus~~ ABC Company state basis (Page 3, Line 30, Columns 1 & 2)	_____	$_____	$_____
(6)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Goodwill, net e.g., Fixed Assets, net	_____	_____	_____
(7)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Home Office Property	_____	_____	_____
(8)	~~Statutory Surplus,~~ NAIC SAP (5-6-7=8)	_____	$_____	$_____

NOTE: The permitted and prescribed adjustments detailed in the reconciliation illustrated above are only examples of permitted or prescribed practices that could be disclosed in the Notes to Financial Statements. Other permitted or prescribed practices not shown in the example should also be shown in the reporting entities printed and electronic notes.

Detail Eliminated To Conserve Space

Drafting Note: For Quarterly, crosscheck for (5) should be columns 1 & 3

QUARTERLY & ANNUAL STATEMENT INSTRUCTIONS – TITLE

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

1. Summary of Significant Accounting Policies

Detail Eliminated To Conserve Space

Illustration:

A. Accounting Practices

Detail Eliminated To Conserve Space

		State of Domicile	20_____	20_____
NET INCOME				
(1)	~~Net Income~~ ABC Company state basis (Page 4, Line 15, Columns 1 & 2)	___________	$ ___________	$ ___________
(2)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation of fixed assets	___________	___________	___________
(3)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Income)~~: e.g., Depreciation, home office property	___________	___________	___________
(4)	~~Net Income,~~ NAIC SAP (1-2-3=4)	___________	$ ___________	$ ___________
SURPLUS				
(5)	~~Statutory Surplus~~ ABC Company state basis (Page 3, Line ~~30~~31, Columns 1 & 2)	___________	$ ___________	$ ___________
(6)	State Prescribed Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Goodwill, net e.g., Fixed Assets, net	___________	___________	___________
(7)	State Permitted Practices that increase/(decrease) NAIC SAP ~~(Surplus)~~: e.g., Home Office Property	___________	___________	___________
(8)	~~Statutory Surplus,~~ NAIC SAP (5-6-7=8)	___________	$ ___________	$ ___________

NOTE: The permitted and prescribed adjustments detailed in the reconciliation illustrated above are only examples of permitted or prescribed practices that could be disclosed in the Notes to Financial Statements. Other permitted or prescribed practices not shown in the example should also be shown in the reporting entities printed and electronic notes.

Detail Eliminated To Conserve Space

Drafting Note: For Quarterly, crosscheck for (5) should be columns 1 & 3

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: **05/13/2009**	**FOR NAIC USE ONLY**
CONTACT PERSON:	Agenda Item # 2009-28BWG MOD
ON BEHALF OF:	Year 2010
NAME: **Blaine Shepherd**	Changes to Existing Reporting [X]
TITLE: **Valuation Actuary**	New Reporting Requirement [ ]
AFFILIATION: **Minnesota Department of Commerce**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
ADDRESS: **87 7th Pl. E. Ste. 500**	No Impact [X]
St. Paul, MN 55101-2198	Modifies Required Disclosure [ ]
TELEPHONE:	**DISPOSITION**
	[ ] Rejected For Public Comment
	[ ] Referred To Another NAIC Group
	[ ] Received For Public Comment
	[X] Adopted
	[ ] Rejected
	[ ] Deferred
	[ ] Other (Specify)________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [ ] **QUARTERLY STATEMENT** [X] **INSTRUCTIONS**

[X] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[X] Property/Casualty
[X] Fraternal
[X] Health
[X] Title

Anticipated Effective Date: Annual 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Add interrogatory question to the Supplemental Exhibits and Schedules Interrogatories for the actuarial opinion required by the Modified Guaranteed Annuity Model Regulation. Modify interrogatory question for actuarial opinions associated with Exhibit 5 interrogatory question 1, 2 and 3 to be consistent with the other actuarial opinion interrogatories. Also adding four additional certifications related to Actuarial Guideline XLIII (CARVM for Variable Annuities) effective December 31, 2009. Note: Health, Property and Title statements are included in this proposal only due the change in bar code instructions which are uniform for all statement types.

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

The purpose of this proposal is to clarify electronic filing of the actuarial opinion required by the Modified Guaranteed Annuity Model Regulation with the NAIC. This actuarial opinion not included in Blanks proposal 2007-22BWG but should have been included. The proposal also clarifies certifications related to Actuarial Guideline XLIII (CARVM for Variable Annuities) effective December 31, 2009 should be filed electronically with the NAIC.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: Annual 2010

Other Comments:

**** This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – FRATERNAL

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your state of domicile waives the filing requirement, your response of **WAIVED** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason, enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

Response

1. Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1? ....
2. Will an actuarial opinion be filed by March 1? ....

APRIL FILING

3. Will Management's Discussion and Analysis be filed by April? ....
4. Will the Supplemental Investment Risks Interrogatories be filed by April 1? ....

JUNE FILING

5. Will an audited financial report be filed by June 1? ....
6. Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1? ....

The following supplemental reports are required to be filed as part of your statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason, enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

~~6~~7. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1? ....

~~7~~8. Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1? ....

~~8~~9. Will the actuarial opinion on participating and non-participating policies as required in Interrogatories 1 and 2 to Exhibit 5 be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~9~~10. Will the statement on non-guaranteed elements as required in Interrogatory #3 to Exhibit 5 be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~10~~11. Will the actuarial opinion on X-Factors be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~11~~12. Will the actuarial opinion on Separate Accounts Funding Guaranteed Minimum Benefit be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~12~~13. Will the actuarial opinion on Synthetic Guaranteed Investment Contracts be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~13~~14. Will the Reasonableness of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~14~~15. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~15~~16. Will the Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~16~~17. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~17~~18. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~18~~19. Will the C-3 RBC Certifications required under C-3 Phase I be filed with the state of domicile by March 1? ....

~~19~~20. Will the C-3 RBC Certifications required under C-3 Phase II be filed with the state of domicile by March 1? ....

~~20~~21. Will the Actuarial Certifications Related to Annuity Nonforfeiture Ongoing Compliance for Equity Indexed Annuities be filed with the state of domicile and electronically with the NAIC by March 1? ....

22. Will the actuarial opinion required by the Modified Guaranteed Annuity Model Regulation be filed with the state of domicile and electronically with the NAIC by March 1? ....

23. Will the Actuarial Certifications Related to Hedging required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

24. Will the Financial Officer Certification Related to Clearly Defined Hedging Strategy required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

25. Will the Management Certification That the Valuation Reflects Management's Intent required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

26. Will the Actuarial Certification Related to the Reserves required by Actuarial Guideline XLIII -be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~21~~27. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1? ....

APRIL FILING

~~22~~28. Will the Long-term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1? ....

~~23~~29. Will the Interest Sensitive Life Insurance Products Report be filed with the state of domicile and the NAIC by April 1? ....

~~24~~30. Will the Accident and Health Policy Experience Exhibit be filed by April 1? ....

ANNUAL STATEMENT BLANK – LIFE

SUPPLEMENTAL EXHIBITS AND SCHEDULES
INTERROGATORIES

The following supplemental reports are required to be filed as part of your statement filing unless specifically waived by the domiciliary state. However, in the event that your domiciliary state waives the filing requirement, your response of **WAIVED** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

Responses

MARCH FILING

1. Will the Supplemental Compensation Exhibit be filed with the state of domicile by March 1? ....

2. Will the confidential Risk-based Capital Report be filed with the NAIC by March 1? ....

3. Will the confidential Risk-based Capital Report be filed with the state of domicile, if required, by March 1? ....

4. Will an actuarial opinion be filed by March 1? ....

APRIL FILING

5. Will Management's Discussion and Analysis be filed by April 1? ....

6. Will the Life, Health & Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit be filed with the state of domicile and the NAIC by April 1? ....

7. Will the Adjustment Form (if required) be filed with the state of domicile and the NAIC by April 1? ....

8. Will the Supplemental Investment Risks Interrogatories be filed by April 1? ....

JUNE FILING

9. Will an audited financial report be filed by June 1? ....

10. Will Accountants Letter of Qualifications be filed with the state of domicile and electronically with the NAIC by June 1? ....

The following supplemental reports are required to be filed as part of your annual statement filing. However, in the event that your company does not transact the type of business for which the special report must be filed, your response of **NO** to the specific interrogatory will be accepted in lieu of filing a "NONE" report and a bar code will be printed below. If the supplement is required of your company but is not being filed for whatever reason enter **SEE EXPLANATION** and provide an explanation following the interrogatory questions.

MARCH FILING

~~10~~11. Will Schedule SIS (Stockholder Information Supplement) be filed with the state of domicile by March 1? ....

~~11~~12. Will the Medicare Supplement Insurance Experience Exhibit be filed with the state of domicile and the NAIC by March 1? ....

~~12~~13. Will the Trusteed Surplus Statement be filed with the state of domicile and the NAIC by March 1? ....

13. Will the actuarial opinion on participating and non-participating policies as required in Interrogatories 1 and 2 to Exhibit 5 be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~14~~14. Will the actuarial opinion on non-guaranteed elements as required in interrogatory #3 to Exhibit 5 be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~15~~15. Will the actuarial opinion on X-Factors be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~16~~16. Will the actuarial opinion on Separate Accounts Funding Guaranteed Minimum Benefit be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~17~~17. Will the actuarial opinion on Synthetic Guaranteed Investment Contracts be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~18~~18. Will the Reasonableness of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~19~~19. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXV be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~20~~21. Will the Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method required by Actuarial Guideline XXXVI be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~21~~22. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Average Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~22~~23. Will the Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Market Value) be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~23~~24. Will the C-3 RBC Certifications required under C-3 Phase I be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~24~~25. Will the C-3 RBC Certifications required under C-3 Phase II be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~25~~26. Will the Actuarial Certifications Related to Annuity Nonforfeiture Ongoing Compliance for Equity Indexed Annuities be filed with the state of domicile and electronically with the NAIC by March 1? ....

SUPPLEMENTAL EXHIBITS AND SCHEDULES INTERROGATORIES

27. Will the actuarial opinion required by the Modified Guaranteed Annuity Model Regulation be filed with the state of domicile and electronically with the NAIC by March 1? ....

28. Will the Actuarial Certifications Related to Hedging required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

29. Will the Financial Officer Certification Related to Clearly Defined Hedging Strategy required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

30. Will the Management Certification That the Valuation Reflects Management's Intent required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

31. Will the Actuarial Certification Related to the Reserves required by Actuarial Guideline XLIII be filed with the state of domicile and electronically with the NAIC by March 1? ....

~~26~~32. Will the Workers' Compensation Carve-Out Supplement be filed by March 1? ....

~~27~~33. Will Supplemental Schedule O be filed with the state of domicile and the NAIC by March 1? ....

~~28~~34. Will the Medicare Part D Coverage Supplement be filed with the state of domicile and the NAIC by March 1? ....

APRIL FILING

~~29~~35. Will the Long-Term Care Experience Reporting Forms be filed with the state of domicile and the NAIC by April 1? ....

~~30~~36. Will the Interest-Sensitive Life Insurance Products Report Forms be filed with the state of domicile and the NAIC by April 1? ....

~~31~~37. Will the Credit Insurance Experience Exhibit be filed with the state of domicile and the NAIC by April 1? ....

~~32~~38. Will the Accident and Health Policy Experience Exhibit be filed by April 1? ....

Explanation:

Bar code:

ANNUAL STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL AND TITLE

Detail Eliminated To Conserve Space

ACTUARIAL CERTIFICATIONS RELATED TO ANNUITY NONFORFEITURE ONGOING COMPLIANCE

For all companies that are required to submit a Actuarial Certification Related to Annuity Nonforfeiture Reductions and Compliance for equity indexed annuities, such document shall be filed with the state of domicile and electronically with the NAIC no later than March 1. An example for a certification can be found in the appendix of Model Law #806.

ACTUARIAL OPINION REQUIRED BY MODIFIED GUARANTEED ANNUITY MODEL REGULATION

An insurer that issues a modified guaranteed annuity subject to Model Law #255 shall submit an actuarial opinion with the state of domicile and electronically with the NAIC by March 1 following the December 31 valuation date, showing the status of the accounts as of the prior December 31. In the actuarial opinion the valuation actuary shall indicate whether the assets in the separate account are adequate to provide all future benefits that are guaranteed.

ACTUARIAL CERTIFICATIONS RELATED TO HEDGING REQUIRED BY ACTUARIAL GUIDELINE XLIII

For all companies that are required to submit an Actuarial Certification related to hedging required by Actuarial Guideline XLIII.

FINANCIAL OFFICER CERTIFICATION RELATED TO CLEARLY DEFINED HEDGING STRATEGY REQUIRED BY ACTUARIAL GUIDELINE XLIII

For all companies that are required to submit a certification by a financial officer related to clearly defined hedging strategy required by Actuarial Guideline XLIII.

MANAGEMENT CERTIFICATION THAT THE VALUATION REFLECTS MANAGEMENT'S INTENT REQUIRED BY ACTUARIAL GUIDELINE XLIII

For all companies that are required to submit a certification by a management required by Actuarial Guideline XLIII.

ACTUARIAL CERTIFICATION RELATED TO THE RESERVES REQUIRED BY ACTUARIAL GUIDELINE XLIII

For all companies that are required to submit an actuarial certification of reserves required by Actuarial Guideline XLIII.

ANNUAL STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL AND TITLE

APPENDIX

INSTRUCTIONS FOR USE OF BAR CODES

Detail Eliminated To Conserve Space

FORM	DOCUMENT IDENTIFIER

Detail Eliminated To Conserve Space

State Page	430
Actuarial Certifications Related to Hedging required by Actuarial Guideline XLIII	436
Financial Officer Certification Related to Clearly Defined Hedging Strategy required by Actuarial Guideline XLIII	437
Management Certification That the Valuation Reflects Management's Intent required by Actuarial Guideline XLIII	438
Actuarial Certification Related to the Reserves required by Actuarial Guideline XLIII	439
Statement of Actuarial Opinion	440
Actuarial Opinion Summary (AOS)	441
X-Factors Actuarial Opinion	442
Separate Accounts Funding Guaranteed Minimum Benefit Actuarial Opinion	443
Synthetic Guaranteed Investment Contracts Actuarial Opinion	444
Reasonableness of Assumptions Certification required by Actuarial Guideline XXXV	445
Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXV	446
Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method required by Actuarial Guideline XXXVI	447
Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Average Market Value)	448
Reasonableness and Consistency of Assumptions Certification required by Actuarial Guideline XXXVI (Updated Market Value)	449
C-3 RBC Certifications required under C-3 Phase I	450
C-3 RBC Certifications required under C-3 Phase II	451
Actuarial Certifications Related to Annuity Nonforfeiture Ongoing Compliance	452
Actuarial Opinion required by the Modified Guaranteed Annuity Model Regulation	453
Supplement A to Schedule T	455

Detail Eliminated To Conserve Space

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

		FOR NAIC USE ONLY
	DATE: 05/13/2009	Agenda Item # 2009-29BWG MOD Year 2010 Changes to Existing Reporting [X] New Reporting Requirement [ ]
CONTACT PERSON:	**David B. Cox (david.cox@insurance.mo.gov)**	
ON BEHALF OF:	**Title Insurance Issues Working Group**	
NAME:	**Morris Chavez**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
TITLE:	**Superintendent of Insurance**	No Impact [X] Modifies Required Disclosure [ ]
AFFILIATION:	**New Mexico Department of Insurance**	**DISPOSITION**
ADDRESS:	**P.O. Box 1269** **Santa Fe, NM, 87504-1269**	[ ] Rejected For Public Comment [ ] Referred To Another NAIC Group [ ] Received For Public Comment [X] Adopted [ ] Rejected [ ] Deferred [ ] Other (Specify)________
TELEPHONE:		

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [X] **QUARTERLY STATEMENT** [X] **INSTRUCTIONS**

[ ] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[ ] Property/Casualty
[ ] Fraternal
[ ] Health
[X] Title

Anticipated Effective Date: First Quarter 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Revise the reporting instructions to title insurance annual statement blank, Schedule T, to include more detailed instructions for "type of rate", and to make certain editorial changes to the Blank.

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

This proposal requires premium reported for a state to comport the state's statutory definition of title insurance premium. The proposal expands the definitions of "type of rate" in order to be more explicit and to support the proposed State Page to be effective for the 2012 Annual Statement.

Some states (including NY, CA, PA) have laws that allow title insurers to use more than one type of rate in the state. In these states, the proposed state page data will have an imprecise meaning because the experience could be a mix of two different rates. For example, rates that include a provision for the agent to conduct the title search and exam and closing will have a higher agent retention than those rates that do not contain these items. The proposed State Page for experience 2012 requires insurers using multiple rate types to report their experience separately by rate type.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: First Quarter 2010 should not be a problem

Other Comments:

** **This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – TITLE

ANNUAL STATEMENT FOR THE YEAR 2010 OF THE

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN
~~Allocated by~~ By States and Territories

	1	2	Direct Premiums Written			6	7	8	9	10
			3	Agency Operations						
				4	5					
States, Etc.	Active Status	Premium Rate (b)	Direct Operations	Non-affiliated Agencies	Affiliated Agencies	Other Income	Direct Premiums Earned	Direct Losses and Allocated Loss Adjustment Expenses Paid	Direct Losses and Allocated Loss Adjustment Expenses Incurred	Direct ~~Losses Unpaid~~Known Claim Reserve
1. Alabama AL										
2. Alaska AK										
3. Arizona AZ										
4. Arkansas AR										
5. California CA										
6. Colorado CO										
7. Connecticut CT										
8. Delaware DE										
9. Dist. Columbia DC										
10. Florida FL										
11. Georgia GA										
12. Hawaii HI										
13. Idaho ID										
14. Illinois IL										
15. Indiana IN										
16. Iowa IA										
17. Kansas KS										
18. Kentucky KY										
19. Louisiana LA										
20. Maine ME										
21. Maryland MD										
22. Massachusetts MA										
23. Michigan MI										
24. Minnesota MN										
25. Mississippi MS										
26. Missouri MO										
27. Montana MT										
28. Nebraska NE										
29. Nevada NV										
30. New Hampshire NH										
31. New Jersey NJ										
32. New Mexico NM										
33. New York NY										
34. No. Carolina NC										
35. No. Dakota ND										
36. Ohio OH										
37. Oklahoma OK										
38. Oregon OR										
39. Pennsylvania PA										
40. Rhode Island RI										
41. So. Carolina SC										
42. So. Dakota SD										
43. Tennessee TN										
44. Texas TX										
45. Utah UT										
46. Vermont VT										
47. Virginia VA										
48. Washington WA										
49. West Virginia WV										
50. Wisconsin WI										
51. Wyoming WY										
52. American Samoa AS										
53. Guam GU										
54. Puerto Rico PR										
55. U.S. Virgin Islands VI										
56. Northern Mariana Islands MP										
57. Canada CN										
58. Aggregate Other Alien OT	xxx	xxx								
59. Totals	(a)	xxx								
DETAILS OF WRITE-INS										
5801.	xxx									
5802.	xxx									
5803.	xxx									
5898. Summary of remaining write-										
5899 Totals (Lines 5801 through 5803 plus 5898) (Line 58 above)										

(a) Insert the number of L responses except for Canada and Other Alien.
~~(b)Insert "AI" if gross all-inclusive rate, "R" if gross risk rate; "O" if other and indicate rate type utilized:~~
(b) Each type of rate must be coded with a combination of the five Activity Codes (R, S, X, C and/or E) listed in the instructions.
Use the code combination corresponding to the State's statutory definition of title insurance premium.
If more than one combination of activities is included in the statutory definition, all relevant combinations must be listed.
See the Schedule T Instructions.

ANNUAL STATEMENT INSTRUCTIONS – TITLE

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN

~~ALLOCATED~~ BY STATES AND TERRITORIES

In order to provide consistency in reporting financial data in the annual statement, all title insurers must strictly follow the guidelines stated in this instruction.

All U.S. business must be ~~allocated~~ reported by state regardless of license status.

For purposes of reporting in Schedule T and other schedules or exhibits in the annual statement, the amount of title insurance premiums to be reported shall be guided by the following definitions of the methods of reporting "Direct Premiums Written":

~~**(1) GROSS ALL-INCLUSIVE PREMIUMS**~~

~~Under this method of reporting direct premiums written, the title insurer and its title agent generally perform all of the functions necessary to insure the risk and issue a title insurance policy. The title insurer reports 100% of the premiums charged either through its branch office or its title agents. Direct written premiums reported under this method generally contemplate the following factors in the ratemaking process:~~

~~1. Cost of title search/examination.~~

~~2. Policy issuing cost.~~

~~3. Amount retained by, or commissions to, agents/abstractors/attorneys.~~

~~4. Overhead and miscellaneous expenses.~~

~~5. Expected losses and ALAE from underwriting the risk.~~

~~6. Profit margin.~~

~~**(2) GROSS RISK RATE PREMIUMS**~~

~~This method of reporting direct written premiums generally applies to states where either by statute or custom the charges for the title search and examination are excluded or charged separately from the title insurance premiums. The cost factors contemplated in the ratemaking process include all of the factors listed in the "Gross All-Inclusive Premiums," except for the "Cost of the Title Search/Examination."~~

~~Generally, the direct written premiums reported in the annual statement should fall within the definitions of either Gross All-Inclusive Premiums or Gross Risk Rate Premiums. The net risk or net remittance method as outlined below is no longer an acceptable method of reporting written premiums. In the event the company uses another method, it must report it as "Other" for each state in the Premium Rate column in the footnote define the basis for varying from either the Gross All Inclusive or Gross Risk Rate method. Below is a summary of the two defined methods and an unacceptable method of reporting Direct Written Premiums showing the cost factors generally associated with the premiums reported:~~

	~~Gross All-Inclusive~~	~~Gross Risk Rate~~	~~Net Risk or Net Remittance (NOT ACCEPTABLE)~~
~~Title search/exam~~	~~X~~		~~X~~
~~Policy issuing cost~~	~~X~~		~~X~~
~~Commissions~~	~~X~~	~~X~~	~~X~~
~~Overhead and misc. exp.~~	~~X~~	~~X~~	~~X~~
~~Risk assumed~~	~~X~~	~~X~~	~~X~~
~~Profit margin~~	~~X~~	~~X~~	~~X~~

~~Please note that charges for escrow/settlement services provided are specifically excluded in the defined methods of reporting title premiums. Thus, these should be reported as separate revenue.~~

Each type of rate used in a state must be coded with a combination of the five (5) Activity Codes listed below. Use the code combination corresponding to the state's statutory definition of title insurance premium. If more than one combination of activities is included in the statutory definition, all relevant combinations must be listed.

In some states, not every activity listed under each activity code is performed, either pursuant to an explicit statutory provision or pursuant to a court decision with respect to activities that constitute the unauthorized practice of law or by custom.

Activity Code R - Risk Rate, which includes one or more of the following activities:

1. Issuance of a policy
2. Defense of claims
3. Payment of losses

Activity Code S - Search, which includes one or more of the following activities:

1. Preparation or updating of an abstract of title
2. Searching the public record in a courthouse
3. Conducting a search using a title plant

Activity Code X - Examination, which includes one or more of the following activities:

1. Review of documents located during the search to determine the existence of title defects and/or potential title risks
2. Curative actions to remove title defects
3. Determining insurability of a title or lien interest

Activity Code C - Closing, which includes one or more of the following activities:

1. Preparation of closing documents
2. Obtaining signatures (escrow closing) or conducting a closing meeting (table closing)
3. Recording deeds, mortgages, and similar instruments with the county recorder

Activity Code E - Escrow, which includes

1. Collection, safekeeping, and disbursement of funds

The table below lists appropriate coding for the most common rates, along with a list containing examples of areas in which they are used.

Activities	**Example States or Localities as of 2008**
R	CT, NC, MO, PA (Approved Attorney), SC
RSXCE	Northern CA, NY (Zone 2), PA
RXCE	NY (Zone 1)
RSX	NM
RX	FL
RSXC	Southern CA, TX

For premiums transacted through the company's agencies, the amount of title insurance premiums retained by the agents should be reported as part of the company's income as defined above and at the same time, the company should report this amount as part of the company's operating expense in the appropriate schedules.

The data reported in Schedule T of the annual statement is not intended to be used for the calculation of the amount of premium tax due. In the event the basis used for the calculation of premium tax differs from the basis required for reporting in the annual statement as defined in this instruction, the company should submit to the respective state insurance department or other premium tax collection agency a separate schedule to support its premium tax calculation.

~~Explanation of basis of allocation by states, etc., of premiums:~~

> ~~This explanation should be detailed enough so that state allocation methods are determinable for every type of business. References to "rules" of allocation are not acceptable without complete definition of the operation of such "rules." Any variations in "rules" or other methods, regardless of how minor they may be, must be disclosed. For group business, references to "policyholder," "contract holder," "insured" or words of similar import which are intended to be utilized as a basis for premium allocation must be defined. Likewise, references to "residence" or "billing address" must be explained.~~

~~Premiums Written for federal purchasing groups should be allocated to each state in which members of the group are located, in amounts equal to the premiums charged for all members located in the state.~~

Column 1 – Active Status

Use the following codes to identify the Reporting Entity's status for each state or territory reported in the schedule as of the end of the reporting period. Enter the code that applies to the Reporting Entity's status in the state or territory.

L	–	Licensed or Chartered	(Licensed Carrier and Domiciled Risk Retention Groups referred to in some states as admitted.)
R	–	Registered	(Non-domiciled Risk Retention Groups)
E	–	Eligible	(Reporting Entities eligible or approved to write Surplus Lines in the state. In some states referred to as nonadmitted.)
Q	–	Qualified	(Qualified or Accredited Reinsurer)
N	–	None of the above	(Not allowed to write business in the state)

Column 3 – Direct Premiums Written - Direct Operations

Total to agree with the total of Line 1, Column 1, in Operations and Investment Exhibit – Part 1A.

Column 4 – Direct Premiums Written - Nonaffiliated Agency

Total to agree with the total of Line 1, Column 2, in Operations and Investment Exhibit – Part 1A.

Column 5 – Direct Premiums Written - Affiliated Agency

Total to agree with the total of Line 1, Column 3, in Operations and Investment Exhibit – Part 1A.

Column 6 – Other Income

Total to agree with the total of Lines 2 + 3, Column 4, in Operations and Investment Exhibit – Part 1A.

Column 8 – Direct Losses and Allocated Loss Adjustment Expenses Paid

For treatment of salvage, see instructions for Schedule P.

~~Include: Allocated loss adjustment expenses.~~
Total to agree with the total of Line 1, Column 4, in Operations and Investment Exhibit – Part 2A.

Column 9 – Direct Losses and Allocated Loss Adjustment Expenses Incurred

~~Include: Allocated loss adjustment expenses.~~
Total to agree with the total of Schedule T total Column 8 of the current year, plus Schedule T total Column 10 of the current year minus Schedule T total Column 10 of the prior year.

Column 10 – Direct Known Claim Reserve

Total to agree with the total of Line 1.1, Column 4, in Operations and Investment Exhibit – Part 2B.

Line 58 – Aggregate Other Alien

Enter the total of the write-ins listed in schedule Details of Write-ins Aggregated on Line 58.

All U.S. business must be reported ~~allocated~~ by state regardless of license status.

Details of Write-ins Aggregated at Line 58 For Other Alien

List separately each alien jurisdiction for which there is no pre-printed line on Schedule T.

* DRAFTING NOTE *

Quarterly Schedule T changes for consistency with annual changes:

- Strike the word “Allocated” from the heading of the schedule.
- In the instructions replace words “allocated by state” with “reported by state”
- Column heading and description or Columns 6 and 7 change to “Direct Known Claim Reserve”
- Change column description for Columns 6 and 7 from “Direct Losses Unpaid” to “Direct Known Claim Reserve”, replace words “losses unpaid” in the instruction with “known claim reserve” and remove the instruction to “Include Incurred But Not Reported” for consistency with annual reporting.

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: **05/13/2009**	**FOR NAIC USE ONLY** Agenda Item # 2009-30BWG MOD Year 2010 Changes to Existing Reporting [X] New Reporting Requirement [ ]
CONTACT PERSON: **David B. Cox (david.cox@insurance.mo.gov)**	
ON BEHALF OF: **Title Insurance Issues Working Group**	
NAME: **Morris Chavez**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
TITLE: **Superintendent of Insurance**	No Impact [X] Modifies Required Disclosure [ ]
AFFILIATION: **New Mexico Department of Insurance**	**DISPOSITION**
ADDRESS: **P.O. Box 1269** **Santa Fe, NM, 87504-1269**	[ ] Rejected For Public Comment [ ] Referred To Another NAIC Group [ ] Received For Public Comment [X] Adopted [ ] Rejected [ ] Deferred [ ] Other (Specify)________
TELEPHONE:	

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [ ] **QUARTERLY STATEMENT** [X] **INSTRUCTIONS**

[ ] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[ ] Property/Casualty
[ ] Fraternal
[ ] Health
[X] Title

Anticipated Effective Date: ~~January 1, 2010 for the 2010 Annual Statement~~Annual 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Add a new "State Page" (and instructions) to the title insurers annual statement immediately following the 5-Year Historical Data. Please see attached prototype.

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

State specific revenue, loss, and expense data provides the building blocks needed to estimate the profitability of title insurance company operations by state and segment. State specific information relating to exposure allows states to calculate the average prices per policy and average title insurance rates per insured value. This information is useful to assess the reasonableness of title insurance rates and fees and to assess the level of competition.

In many cases the premium retained by title insurance agent and fees for related services constitute a majority of the cost of title insurance. This proposal only relates the title insurer's operations, but it quantifies the amount of premium retained by agents. This proposal does not include the reporting of related fees charged by agents, nor does the proposal address the correctness of the amount of premium retained by agents or fees paid to title insurance agents.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: ~~January 1, 2010 for the 2010 Annual Statement~~Annual 2010 should not be a problem

Other Comments:

**** This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – TITLE

Affix Bar Code Above

ANNUAL STATEMENT FOR THE YEAR 2010 OF THE ….Sample Title Insurance Company
Exhibit of Premiums and Losses

NAIC Group Code…0000 | Direct Business in the State of ….Missouri | During the Year ….2010 | NAIC Company Code 59999

Type of Business	1 Number of Policies Issued During the Year	2 Direct Amount of Insurance Written in Millions	3 Direct Premiums Written	4 Other Income on Policies Issued for the Type of Business	5 Amounts Paid to or Retained by Title Agents	6 Taxes Licenses and Fees Incurred	7 Direct Premiums Earned	8 Direct Losses Paid	9 Direct Allocated Loss Adjustment Expenses Paid	10 Direct Losses and Allocated Loss Adjustment Expenses Incurred	11 Direct Known Claim Reserve
1. Policies Issued Directly					XXX	XXX					
2. Policies Issued By Non-Affiliated Agents						XXX					
3. Policies Issued by Affiliated Agents						XXX					
4. All Other	XXX	XXX	XXX	~~XXX~~	XXX	XXX	XXX	XXX	XXX	XXX	XXX
5. Aggregate Write-In for Line 5						XXX					
6. Total											

Details of Write-ins											
5.01											
5.02											
5.03											
5.98 Summary of remaining write-ins for Line 5 from Overflow Page											
5.99 Total (Lines 5.01 through 5.03 plus 5.98) (Line 5 Above)											

ANNUAL STATEMENT INSTRUCTIONS – TITLE

EXHIBIT OF PREMIUMS AND LOSSES
DIRECT BUSINESS IN THE STATE OF...

A schedule should be prepared and submitted to the state of domicile for each jurisdiction in which the company has written direct business, has direct losses paid, direct losses incurred or direct losses unpaid. To other states in which the company is licensed it should submit only a schedule for that state.

Column 1 – Number of Policies Issued During the Year

The number of policies issued means the number of original owner's policies and single issue loan policies issued but not simultaneous issue loan policies or closing protection letters.

Column 2 – Direct Amount of Insurance Written in Millions

The amount of liability to be reported is the policy face (direct of reinsurance) in those cases not involving a simultaneous issue of multiple policies. In determining the amount of liability to be reported in case of simultaneous issue of an owner's policy and a mortgage policy, include the higher liability policy only. This amount is reported in millions of dollars ($000,000 omitted).

Column 3 – Direct Premiums Written

Total to agree with Schedule T, Columns 3, 4 and 5, for the appropriate state and segment.

Column 4 – Other Income on Policies Issued for the Type of Business

Total to agree with Schedule T, Column 6, for the appropriate state.

Include other income not from policies issued (including services provided to agents or attorneys for a fee) in Row 4, "All Other".

Column 5 – Amounts Paid to or Retained by Title Agents

Total to agree with Operations and Investment Exhibit, Part 3, Column 4, Line 2.

Column 6 – Taxes, Licenses and Fees Incurred

Total to agree with Operations and Investment Exhibit, Part 3, Column 48, Line 20.5.

Column 7 – Direct Premiums Earned

Total to agree with Schedule T, Column 7, for the appropriate state.

Column 8 – Direct Losses Paid

The total of direct losses paid (Column 8) plus direct allocated loss adjustment expenses paid (Column 9) to agree with Schedule T, Column 8, for the appropriate state.

Column 9 – Direct Allocated Loss Adjustment Expenses Paid

See instructions for Column (8).

Column 10 – Direct Losses and Allocated Loss Adjustment Expenses Incurred

Total to agree with Schedule T, Column 9, for the appropriate state.

Column 11 – Direct Known Claim Reserve

Total to agree with Schedule T, Column 10, for the appropriate state.

Lines 1 to 3 – Policies Issued Directly, Policies Issued By Non-Affiliated Agents, and Policies Issued By Affiliated Agents

For definitions of type of issuing entity, see the instructions for Operations and Investment Exhibit, Part 1A.

Line 4 – All Other

Show as a separate item other income not from policies issued (including services provided to agents or attorneys for a fee) in "All Other".

Line 5 – Aggregate Write-In for Line 5

Show business not applicable to Lines 1 to 4.

Details of Write-In at Line 5

List separately the types of business listed in Line 5, Write-In.

* DRAFTING NOTE *

New state page should follow the Five – Year Historical for consistency with the placement of the state pages in other statement types.

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: 05/13/2009	**FOR NAIC USE ONLY** Agenda Item # 2009-31BWG MOD Year 2010 Changes to Existing Reporting [X] New Reporting Requirement [ ]
CONTACT PERSON: David B. Cox (david.cox@insurance.mo.gov) **ON BEHALF OF:** Title Insurance Issues Working Group **NAME:** Morris Chavez **TITLE:** Superintendent of Insurance **AFFILIATION:** New Mexico Department of Insurance **ADDRESS:** P.O. Box 1269 Santa Fe, NM, 87504-1269 **TELEPHONE:**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT** No Impact [X] Modifies Required Disclosure [ ] **DISPOSITION** [ ] Rejected For Public Comment [ ] Referred To Another NAIC Group [ ] Received For Public Comment [X] Adopted [ ] Rejected [ ] Deferred [ ] Other (Specify)________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] ANNUAL STATEMENT [ ] QUARTERLY STATEMENT [X] INSTRUCTIONS

[ ] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[ ] Property/Casualty
[ ] Fraternal
[ ] Health
[X] Title

Anticipated Effective Date: January 1, 2012 for the 2012 Annual Statement

IDENTIFICATION OF ITEM(S) TO CHANGE

The title insurance "State Page" (and instructions) is expanded to include the reporting of experience by "type of property" and "type of rate". Implementation of these reporting categories requires considerable lead-time.

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

Types of property (residential and non-residential) have differing levels of risk and expense. Experience at this level of detail is more useful for assessing market conditions, insurance company profitability, average prices per policy and average rates per insured value. This information is useful to assess the reasonableness of title insurance rates and fees and to assess the level of competition.

Some states (including NY, CA, PA) have laws that allow title insurers to use more than one type of rate in the state. Under this proposal insurers using more than one "type of rate" in a state will report their experience separately by rate type. For example, rates that include a provision for the agent to conduct the closing will have a higher agent retention than those rates that do not contain a provision for conducting the closing. Separate reporting by type of rate allows for more precise assessment of the company's experience. See the related proposal for the Schedule T Instructions.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: January 1, 2012 for the 2012 Annual Statement should not be a problem

Other Comments:

**** This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – TITLE

Affix Bar Code Above

ANNUAL STATEMENT FOR THE YEAR 2012 OF THE ….Sample Title Insurance Company
Exhibit of Premiums and Losses

NAIC Group Code…0000 | Direct Business in the State of ….Missouri | During the Year ….2012 | NAIC Company Code 59999

	Type of Business	1 Number of Policies Issued During the Year	2 Direct Amount of Insurance Written in Millions	3 Direct Premiums Written	4 Other Income on Policies Issued for the Type of Business	5 Amounts Paid to or Retained by Title Agents	6 Taxes Licenses and Fees Incurred	7 Direct Premiums Earned	8 Direct Losses Paid	9 Direct Allocated Loss Adjustment Expenses Paid	10 Direct Losses and Allocated Loss Adjustment Expenses Incurred	11 Direct Known Claim Reserve
~~1.~~	~~Policies Issued Directly~~					~~XXX~~	~~XXX~~					
1.	Experience for Policies Having Type of Rate Code: ______											
1a.	Residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
1b.	Non-residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
1c.	Sub-total Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
1d.	Residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1e.	Non-residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1f.	Sub-total Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1g.	Residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1h.	Non-residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1i.	Sub-total Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
1j.	All Other	XXX	XXX	XXX	~~XXX~~	XXX	XXX	XXX	XXX	XXX	XXX	XXX
1k.	Sub-total for Type of Rate Code						XXX	XXX	XXX	XXX	XXX	XXX
~~2.~~	~~Policies Issued By Non-Affiliated Agents~~						~~XXX~~					
2.	Experience for Policies Having Type of Rate Code: ______											
2a.	Residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
2b.	Non-residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
2c.	Sub-total Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
2d.	Residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2e.	Non-residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2f.	Sub-total Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2g.	Residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2h.	Non-residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2i.	Sub-total Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
2j.	All Other	XXX	XXX	XXX	~~XXX~~	XXX	XXX	XXX	XXX	XXX	XXX	XXX
2k.	Sub-total for Type of Rate Code						XXX	XXX	XXX	XXX	XXX	XXX
~~3.~~	~~Policies Issued by Affiliated Agents~~						~~XXX~~					
3.	Experience for Policies Having Type of Rate Code: ______											
3a.	Residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
3b.	Non-residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
3c.	Sub-total Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
3d.	Residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3e.	Non-residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3f.	Sub-total Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3g.	Residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3h.	Non-residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3i.	Sub-total Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
3j.	All Other	XXX	XXX	XXX	~~XXX~~	XXX	XXX	XXX	XXX	XXX	XXX	XXX
3k.	Sub-total for Type of Rate Code						XXX	XXX	XXX	XXX	XXX	XXX
~~4.~~	~~All Other~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~	~~XXX~~
4.	Experience for All Types of Rate Codes Combined											
4a.	Residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
4b.	Non-residential Policies Issued Directly					XXX	XXX	XXX	XXX	XXX	XXX	XXX
4c.	Total Policies Issued Directly					XXX	XXX					
4d.	Residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
4e.	Non-residential Policies Issued By Non-Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
4f.	Total Policies Issued By Non-Affiliated Agents						XXX					
4g.	Residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
4h.	Non-residential Policies Issued By Affiliated Agents						XXX	XXX	XXX	XXX	XXX	XXX
4i.	Total Policies Issued By Affiliated Agents						XXX					
4j.	All Other	XXX	XXX	XXX	~~XXX~~	XXX	XXX	XXX	XXX	XXX	XXX	XXX
4k.	Total for All Types of Rate Codes Combined						XXX					
5.	Aggregate Write-In for Line 5						~~XXX~~					
6.	Total											
	Details of Write-ins											
5.01	PERSONAL PROPERTY											
5.02												
5.03												
5.98	Summary of remaining write-ins for Line 5 from Overflow Page											
5.99	Total (Lines 5.01 through 5.03 plus 5.98)(Line 5 Above)											

ANNUAL STATEMENT INSTRUCTIONS – TITLE

EXHIBIT OF PREMIUMS AND LOSSES
DIRECT BUSINESS IN THE STATE OF...

A schedule should be prepared and submitted to the state of domicile for each jurisdiction in which the company has written direct business, has direct losses paid, direct losses incurred or direct losses unpaid. To other states in which the company is licensed it should submit only a schedule for that state.

Column 1 – Number of Policies Issued During the Year

The number of policies issued means the number of original owner's policies and single issue loan policies issued but not simultaneous issue loan policies or closing protection letters.

Column 2 – Direct Amount of Insurance Written in Millions

The amount of liability to be reported is the policy face (direct of reinsurance) in those cases not involving a simultaneous issue of multiple policies. In determining the amount of liability to be reported in case of simultaneous issue of an owner's policy and a mortgage policy, include the higher liability policy only. This amount is reported in millions of dollars ($000,000 omitted).

Column 3 – Direct Premiums Written

Total to agree with Schedule T, Columns 3, 4 and 5, for the appropriate state and segment.

Column 4 – Other Income on Policies Issued for the Type of Business

Total to agree with Schedule T, Column 6, for the appropriate state.

Include other income not from policies issued (including services provided to agents or attorneys for a fee) in Rows 1j, 2j, 3j and 4j, "All Other".

Column 5 – Amounts Paid to or Retained by Title Agents

Total to agree with Operations and Investment Exhibit, Part 3, Column 4, Line 2.

Column 6 – Taxes, Licenses and Fees Incurred

Total to agree with Operations and Investment Exhibit, Part 3, Column 8, Line 20.5.

Column 7 – Direct Premiums Earned

Total to agree with Schedule T, Column 7, for the appropriate state.

Column 8 – Direct Losses Paid

The total of direct losses paid (Column 8) plus direct allocated loss adjustment expenses paid (Column 9) to agree with Schedule T, Column 8, for the appropriate state.

Column 9 – Direct Allocated Loss Adjustment Expenses Paid

See instructions for Column (8).

Column 10 – Direct Losses and Allocated Loss Adjustment Expenses Incurred

Total to agree with Schedule T, Column 9, for the appropriate state.

Column 11 – Direct Known Claim Reserve

Total to agree with Schedule T, Column 10, for the appropriate state.

Lines 1 to 3 – Policies Issued Directly, Policies Issued By Non-Affiliated_Agents, and Policies Issued By Affiliated Agents

For definitions of type of issuing entity, see the instructions for Operations and Investment Exhibit, Part 1A.

Type of Rate Code

Specify the type of rate code in accordance with the reporting instructions for Schedule T. Show only those codes for the types of rates in use in the particular state. If ~~more than~~ three or more types of rates are in use in a state, show the type of rate code with the largest direct written premium in row 1, show the next largest in row 2, and combine all remaining rate types in row 3.

Lines 1 to 4

Residential Policies and Non-Residential Policies

All policies insuring title to real property must be classified as either residential or non-residential (do not classify policies as "other"). Residential policies mean title insurance policies that insure the title to real property having a house, individual condominium unit, mobile home permanently affixed to real estate, or other dwelling unit intended principally for the occupancy of from one to four (1–4) families, but does not include multi-family structures intended for the use of 5+ families, undeveloped lots, or real estate intended principally for business, commercial, industrial, religious, educational or agricultural purposes even if some portion of the real estate is used for residential purposes.

Report policies insuring title to personal property as a separate write-in in line 5.01.

Policies Issued Directly, Policies Issued By Non-Affiliated Agents, and Policies Issued By Affiliated Agents

For definitions of type of issuing entity, see the instructions for Operations and Investment Exhibit, Part 1A.

~~Line 4 – All Other~~
Sub-lines "j" – All Other

Show as a separate item other income not from policies issued (including services provided to agents or attorneys for a fee) in "All Other".

Line 5 – Aggregate Write-In for Line 5

Show business not applicable to Lines 1 to 4.

Details of Write-In at Line 5

List separately the types of business listed in Line 5, Write-In.

*** DRAFTING NOTE ***

As an exception to normal presentation, this proposal assumes adoption of 2009-30BWG (initial state page) and thus only show changes to the original state page blank and instructions to allow changes as a result of the expansion to be more readily identified..

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NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

		FOR NAIC USE ONLY
	DATE: May 1, 2009	Agenda Item # 2009-32BWG
		Year 2010
CONTACT PERSON:	**Gloria G. Glover**	Changes to Existing Reporting [X]
ON BEHALF OF:		New Reporting Requirement [ ]
NAME:	**Gloria G. Glover**	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
TITLE:	**Chief Financial Examiner**	No Impact [X] Modifies Required Disclosure [ ]
AFFILIATION:	**Alaska Division of Insurance**	**DISPOSITION**
ADDRESS:	**550 W. 7th Avenue, Suite 1560**	[ ] Rejected For Public Comment [ ] Referred To Another NAIC Group [ ] Received For Public Comment
	Anchorage, AK 99501-3567	[X] Adopted [ ] Rejected
TELEPHONE:		[ ] Deferred [ ] Other (Specify)________

BLANK(S) TO WHICH PROPOSAL APPLIES

[X] **ANNUAL STATEMENT** [X] **QUARTERLY STATEMENT** [ ] **INSTRUCTIONS**

[X] Life and Accident & Health
[ ] Separate Accounts
[ ] Other Specify
[X] Property/Casualty
[X] Fraternal
[X] Health
[X] Title

Anticipated Effective Date: 1st Quarter 2010

IDENTIFICATION OF ITEM(S) TO CHANGE

Amend Schedule T – Premium by State by adding a note explaining the codes used in column 1 – Active Status.

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

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

The codes are in some cases intuitive and in other cases not intuitive. The addition of a note at the bottom of the page will assist the reader in understanding the status of the reporting entity in each state.

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: 1st Quarter 2010 should not be a problem

Other Comments:

**** This section must be completed on all forms.** **Revised 01/18/05**

ANNUAL STATEMENT BLANK – LIFE

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS

Allocated by States and Territories

	1	Direct Business Only					
		Life Contracts		4	5	6	7
States, Etc.	Active Status	2 Life Insurance Premiums	3 Annuity Considerations	Accident and Health Insurance Premiums, Including Policy, Membership and Other Fees	Other Considerations	Total Columns 2 through 5	Deposit -Type Contracts

Detail Eliminated To Conserve Space

DETAILS OF WRITE-INS							
5801.	XXX						
5802.	XXX						
5803.	XXX						
5898. Summary of remaining write-ins for Line 58 from overflow page	XXX						
5899. Total (Lines 5801 through 5803 + 5898) (Line 58 above)	XXX						
9401.	XXX						
9402.	XXX						
9403.	XXX						
9498. Summary of remaining write-ins for Line 94 from overflow page	XXX						
9499. Total (Lines 9401 through 9403 + 9498) (Line 94 above)	XXX						

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

Explanation of basis of allocation by states, etc., of premiums and annuity considerations

(a) Insert the number of L responses except for Canada and Other Alien.
(b) Column 4 should balance with Exhibit 1, Lines 6.4, 10.4 and 16.4, Cols. 8, 9 and 10, or with Schedule H, Part 1, Column 1, Line 1 indicate which; ______________________.

ANNUAL STATEMENT BLANK – HEALTH

SCHEDULE T – PREMIUMS AND OTHER CONSIDERATIONS

Allocated by States and Territories

	1	Direct Business Only							
		2	3	4	5	6	7	8	9
State, Etc.	Active Status	Accident & Health Premiums	Medicare Title XVIII	Medicaid Title XIX	Federal Employees Health Benefits Program Premiums	Life & Annuity Premiums & Other Considerations	Property/Casualty Premiums	Total Columns 2 Through 7	Deposit–Type Contracts

Detail Eliminated To Conserve Space

DETAILS OF WRITE-INS									
5801.	XXX								
5802.	XXX								
5803.	XXX								
5898. Summary of remaining write-ins for Line 58 from overflow page	XXX								
5899. Totals (Lines 5801 through 5803 plus 5898) (Line 58 above)	XXX								

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

Explanation of basis of allocation by states, premiums by state, etc.

(a) Insert the number of L responses except for Canada and other Alien.

ANNUAL STATEMENT BLANK – PROPERTY

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN

Allocated By States And Territories

	1	Gross Premiums, Including Policy and Membership Fees Less Return Premiums and Premiums on Policies Not Taken		4	5	6	7	8	9
States, Etc.	Active Status	2 Direct Premiums Written	3 Direct Premiums Earned	Dividends Paid or Credited to Policyholders on Direct Business	Direct Losses Paid (Deducting Salvage)	Direct Losses Incurred	Direct Losses Unpaid	Finance and Service Charges Not Included in Premiums	Direct Premium Written for Federal Purchasing Groups (Included in Col. 2)

Detail Eliminated To Conserve Space

59. Totals	(a)								
DETAILS OF WRITE-INS									
5801.	XXX	....	....	....	....	....	....	....	....
5802.	XXX	....	....	....	....	....	....	....	....
5803.	XXX	....	....	....	....	....	....	....	....
5898. Sum. of remaining write-ins for Line 58 from overflow page........	XXX	....	....	....	....	....	....	....	....
5899. Totals (Lines 5801 through 5803+5898) (Line 58 above)	XXX								

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

Explanation of basis of allocation of premiums by states, etc.

(a) Insert the number of L responses except for Canada and Other Alien

ANNUAL STATEMENT BLANK – FRATERNAL

SCHEDULE T – PREMIUMS AND ANNUITY CONSIDERATIONS

Allocated by States and Territories

	1	Direct Business Only					
		Life Contracts		4	5	6	7
States, Etc.	Active Status	2 Life Insurance Premiums	3 Annuity Considerations	Accident and Health Insurance Premiums, Including Policy, Membership and Other Fees	Other Considerations	Total Columns 2 through 5	Deposit -Type Contracts

Detail Eliminated To Conserve Space

DETAILS OF WRITE-INS							
5801.	XXX	....	....	....	....	....	....
5802.	XXX	....	....	....	....	....	....
5803.	XXX	....	....	....	....	....	....
5898. Summary of remaining write-ins for Line 58 from overflow page........	XXX	....	....	....	....	....	....
5899. Total (Lines 5801 through 5803 + 5898) (Line 58 above)	XXX						
9401.	XXX	....	....	....	....	....	....
9402.	XXX	....	....	....	....	....	....
9403.	XXX	....	....	....	....	....	....
9498. Summary of remaining write-ins for Line 94 from overflow page........	XXX	....	....	....	....	....	....
9499. Total (Lines 9401 through 9403 + 9498) (Line 94 above)	XXX						

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

Explanation of basis of allocation by states, etc., of premiums and annuity considerations

(a) Insert the number of L responses except for Canada and Other Alien.
(b) Column 4 should balance with Exhibit 1, Lines 6.4, 10.4 and 16.4, Col. 4 or with Schedule H, Part 1, Column 1, Line 1 indicate which; ______________________.

ANNUAL STATEMENT BLANK – TITLE

SCHEDULE T – EXHIBIT OF PREMIUMS WRITTEN

Allocated by States and Territories

	1	2	Direct Premiums Written			6	7	8	9	10
			3	Agency Operations						
				4	5					
States, Etc.	Active Status	Premium Rate (b)	Direct Operations	Non-affiliated Agencies	Affiliated Agencies	Other Income	Direct Premiums Earned	Direct Losses Paid	Direct Losses Incurred	Direct Losses Unpaid

Detail Eliminated To Conserve Space

DETAILS OF WRITE-INS										
5801...	xxx	....	....	....	....	....	....	....	....	....
5802...	xxx	....	....	....	....	....	....	....	....	....
5803...	xxx	....	....	....	....	....	....	....	....	....
5898.Summary of remaining write-	....	....	....	....	....	....	....	....	....	....
5899 Totals (Lines 5801 through 5803 plus 5898) (Line 58 above)										

(L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.

(a) Insert the number of L responses except for Canada and Other Alien.
(b) Insert "AI" if gross all-inclusive rate, "R" if gross risk rate; "O" if other and indicate rate type utilized:

DRAFTING NOTE: MAKE SIMILAR CHANGES ON THE QUARTERLY SCHEDULE T ALL STATEMENT TYPES

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Blanks Working Group
Adopted Proposals

Listing does not include adopted proposals for annual and quarterly statements for the years 2008 and prior.

Filing Type: **Annual - March includes the annual statement and supplements due March 1**
Annual - April includes all supplements due April 1
Annual - June includes the Audited Financial Statements

Statement Type: **L = Life** **P/C = Property Casualty**
F = Fraternal **SA = Separate Accounts**
H = Health **T = Title**

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2007-27BWG	Delete the categories Public Utilities and Banks, Trusts and Insurance Companies and create definitions for the remaining categories contained in Schedule D and other related schedules.	09/29/2007	First Quarter 2009	X	X	X	X	X	X	X			X	
2007-38BWG	Several insurance departments are experiencing coding problems with information related to medical malpractice insurance. Statistical Information (C) Task Force members have determined there is no need to report data separately for policies effective prior to January 1, 1976.	12/02/2007	First Quarter 2009			X				X			X	
2007-39BWG	Add instruction to report income received columns net of foreign withholding tax for Schedule D Part 1, 2, 4 and 5, Schedule DA Part 1 and Schedule E Part 2.	12/02/2007	First Quarter 2009	X	X	X	X	X	X	X			X	
2007-43BWG	Instruction clarification added for the allocation of premiums by state for Schedule T and Schedule T, Part 2.	12/02/2007	First Quarter 2009			X				X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2007-42BWG	Instruction clarification added for the allocation of premiums for life and annuity policies (except individual and group health insurance premium) by state for Schedule T and Schedule T, Part 2. Making line and column instruction modifications for consistency between annual and quarterly instructions. Situs of contract added as option for allocation of group life premium at the direction of the AP&P Task Force.	03/29/2008	First Quarter 2009	X			X	X		X			X	
2007-50BWG	Modify instruction for Schedule D, Part 2, Section 2, Column 11 for consistency with modification to Schedule D, Part 1, 4 and 5 with the adoption of 2007-03BWG. Modify Schedule D, Part 4 and 5 for consistency in reporting of the common stock section of these schedules with the change being made to Schedule D, Part 2, Section 2, Column 11 in this proposal.	03/29/2008	First Quarter 2009	X	X	X	X	X	X	X			X	
2007-51BWG	Modify to the instructions for the cross check to the parenthetical amount for cash on the Asset Page in Schedule E Part 1.	05/31/2008	First Quarter 2009	X		X	X	X	X	X			X	
2008-02BWG	Modify the include statement for Line 14.1 of the Asset page to encompass life, health and fraternal statements too.	05/31/2008	First Quarter 2009	X		X	X	X	X	X			X	
2008-05BWG	Add matrix to the Investment Schedules General Instructions for determining the value to enter into the Foreign Code column for Schedule D and DA. Modify the instruction for the Foreign Code columns to refer to the Investment Schedules General Instructions for determining the appropriate code.	05/31/2008	First Quarter 2009	X		X	X	X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2008-06BWG	Add definition of hybrid securities to the Investment Schedules General Instructions (All statement types), new lines numbers for hybrid securities for Schedule D, Schedule DA and Schedule E Part 2 (All statement types), eliminate hybrid security disclosure from Note 20 (All statement types) and make appropriate adjustment to line number references for the Asset Valuation Reserve instructions (Life & Fraternal only).	05/31/2008	First Quarter 2009	X	X	X	X	X	X	X			X	
2008-07BWG	Modify the instructions to the Payable to Parent Subsidiaries, and Affiliates line to exclude loans from affiliates. Remove reference to SSAP No. 15 from the include statement. Also language in the first paragraph and the include statement was modified for consistency between statement types.	05/31/2008	First Quarter 2009	X		X	X	X	X	X			X	
2008-20BWG	Instruction clarification added for the allocation of premiums by state for Schedule T. Allocation is allowed based on residence, employment location or situs of the contract.	05/31/2008	First Quarter 2009	X		X	X	X	X	X			X	
2008-03BWG	The Market Analysis Priorities (D) Working Group is requesting that two market regulation contacts be added to the statement blank. Specifically, the Working Group is seeking to have a Market Conduct Annual Statement contact and a Market Analysis contact added to the blanks. These contacts would be electronic data capture only.	09/22/2008	First Quarter 2009	X	X	X	X	X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2008-30BWG	All titles / statements currently listed as Medical "Malpractice" needs to be changed to read Medical "Professional Liability" in the Annual, Quarterly Statements and Instructions.	09/22/2008	First Quarter 2009			X		X		X			X	
2009-24BWG	Modify instructions for the Quarterly Notes to Financial Statements to require Note 1A to be completed every quarter. Also add the instructions and illustration for Note 1A from the annual instructions into the quarterly instructions.	04/23/2009	First Quarter 2009										X	
2008-27BWG	On Exhibit 4 – Dividend or Refunds, Line 17 modify the reference to the Summary of Operations page to include coupons reported on line 14 of the Summary of Operations.	09/22/2008	Year-end 2009	X						X				
2008-28BWG	Add instruction to the 5 Year Historical regarding restatement of prior year numbers and disclosure when the reporting entity is part of a merger, add a footnote to the blank and a footnote table in the specs.	09/22/2008	Year-end 2009	X		X	X	X	X	X				
2008-31BWG	To clarify the appropriate reporting within Schedule H as it pertains to earned premium. Currently the instruction implies that advance premium should be considered in the calculation of earned premium, which is inconsistent with SSAP 54-Individual and Accident and Health Contracts.	09/22/2008	Year-end 2009	X		X	X			X				

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2008-33BWG	Add CUSIP Identification column to Schedule DA, Part 1 in the annual statement. Entry of a CUSIP Identification number will be required and valid only for Exempt Money Market Mutual Funds and Class One Money Market Mutual Funds.	09/22/2008	Year-end 2009	X	X	X	X	X	X	X				
2008-34BWG	Add reference to inclusion of income tax amounts from inter-company tax sharing arrangements to Column 8 of Schedule Y, Part 2 for the health annual statement.	12/05/2008	Year-end 2009					X		X				
2008-38BWG	A requirement to inform the commissioner and provide some information about the initial appointment of an Appointed Actuary is added.	03/15/2009	Year-end 2009			X			X	X				
2008-40BWG	Move the common instructions related to the detail line listing and definitions to a general instructions section for Schedule B, Parts 1 and Part 2.	03/15/2009	Year-end 2009	X		X	X	X	X	X				
2008-41BWG	Add chart to the instructions for the Life Supplemental Schedule O, Part 1 showing amounts entered into the schedule are cumulative.	03/15/2009	Year-end 2009	X						X				
2008-46BWG	Add a place for date of signatures to the signature illustration of the Reinsurance Attestation in the instructions.	03/15/2009	Year-end 2009			X				X				
2008-47BWG	Add interrogatory to the Supplemental Exhibits and Schedules Interrogatories on the filing of the Accountants Letter of Qualifications with the state of domicile and electronically (PDF) with the NAIC.	03/15/2009	Year-end 2009	X		X	X	X	X	X				

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2009-01BWG	Add instruction to the Exhibit of Premiums and Losses for Line 2.1 and modify the instruction for Line 2.3 to clarify that flood coverage other than coverage provided as part of the federal flood program should be reported in Line 2.1.	06/13/2009	Year-end 2009			X		X		X				
2009-02BWG	Add Structured Settlements interrogatory questions for life and fraternal companies to disclose reserves established for annuities purchased by property and casualty companies for structured settlements resulting in a release of liability for the property and casualty companies.	06/13/2009	Year-end 2009	X			X			X				
2009-03BWG	The purpose of this proposal is to ensure the amount reported on Note 9A(3) and Note 9A(5) in the printed annual statement and captured in the electronic notes is correct.	06/13/2009	Year-end 2009	X		X		X	X	X				
2009-04BWG	Add instructions to Schedule D (Part 1, 3, 4 & 5) and Schedule E (Part 1) to clarify the reporting of investments in certificate of deposits via Certificate of Deposit Account Registry Service (CDARs) or other similar services.	06/13/2009	Year-end 2009	X		X	X	X	X	X			X	
2009-05BWG	Modify the instructions to clarify that the "Change in Net Deferred Income Tax" line of Page 4, (Page 5 for Health), of the annual statement represents the gross change in net deferred tax assets.	06/13/2009	Year-end 2009	X		X		X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2009-06BWG	Add Annual Statement Line 17.3 – Excess Workers' Compensation line to the Underwriting and Investments Exhibits. Modify the IEE and State Page to show Annual Statement Line 17.1, 17.2 and 17.3 as separate lines like the same as the Underwriting and Investment Exhibits. Also add instruction to Schedule P to clarify Excess Workers' Compensation should be reported.	06/13/2009	Year-end 2009			X		X		X			X	
2009-07BWG	Add crosscheck to Statement of Revenue & Expenses, Line 20; Underwriting and Investment Exhibit Part 2 Line 2; Exhibit 3, Column 7; General Interrogatories Line 1.5 and 11.4; and Exhibit of Premiums, Enrollment and Utilization, Lines 5, 15 and 18	06/13/2009	Year-end 2009					X		X				
2009-08BWG	The purpose of this proposal is to create a supplement to gather information for the Statutory Accounting Principles Working Group (SAPWG) on the reporting of bail bond policies. This supplement will help the SAPWG as they consider the Form A submitted to them related to bail bond policies.	06/13/2009	Year-end 2009			X				X				
2009-09BWG	Modify disclosures in Note 17B to reflect disclosure modifications adopted for SSAP No. 91 – Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities by SAPWG.	06/13/2009	Year-end 2009	X		X	X	X	X	X				

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2009-10BWG	Add a new disclosure for Note 5F related to participating mortgage loans. In March 2008 the Statutory Accounting Principles Wording Group (SAPWG) adopted additional disclosures related to guarantees of indebtedness of others in SSAP No. 40 – Real Estate. The instructions to include these disclosures were not included in the 2008 instructions. This proposal adds the disclosure to the instructions.	06/13/2009	Year-end 2009	X		X	X	X	X	X				
2009-11BWG	Add instruction to Note 14A for disclosure of guarantees of indebtedness of others. In December 2008 the Statutory Accounting Principles Wording Group (SAPWG) adopted additional disclosures related to guarantees of indebtedness of others in SSAP No. 5 – Liabilities, Contingencies and Impairment of Assets. The instructions to include these disclosures were not included in the 2008 instructions. This proposal adds the disclosure to the instructions.	06/13/2009	Year-end 2009	X		X	X	X	X	X				
2009-12BWG	Move the disclosure in Note 20H FHLB (Federal Home Loan Bank) agreements to Note 11 for all statement types. Also include the disclosure in Note 31 for life and fraternal statements for agreements where the substance of the agreement is a funding agreement. There is currently an illustration Note 31F to satisfy the disclosure requirements for SSAP No. 61 – Life, Deposit-Type and Accident and Health Reinsurance Paragraph 60. This proposal adds an instruction to go along with the illustration shown.	06/13/2009	Year-end 2009	X		X	X	X	X	X				

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2009-13BWG	Modify illustration for Note 5E(3) to reflect changes to the instructions made to the 2008 instructions as a result of the changes to SSAP No. 91R – Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities adopted in December 2008 by the Statutory Accounting Principles Working Group (SAPWG).	06/13/2009	Year-end 2009	X		X	X	X	X	X				
2009-14BWG	This proposal modifies the instructions for IMR and AVR to adoption of SSAP No. 98 – Treatment of Cash Flows When Quantifying Changes in Valuation and Impairments, an Amendment of SSAP No. 43—Loan-backed and Structured Securities and SSAP No. 99 – Accounting for Certain Securities Subsequent to an Other-Than-Temporary Impairment.	06/13/2009	Year-end 2009	X			X			X				
2009-15BWG	Add interrogatory question at the end of the General Interrogatories, Part 2 related to Health Savings Accounts.	06/13/2009	Year-end 2009	X		X	X	X		X			X	
2009-17BWG	Clarify the use of two separate columns for Method Used to Obtain Fair Value in Schedule D Part 2, Sections 1 & 2. The instructions will be split between Method used to Obtain Fair Value Code (for the single character code) and Source Used to Obtain Fair Value (for those codes where naming of pricing service, stock exchange, broker or custodian is required).	06/13/2009	Year-end 2009	X		X	X	X	X	X				

Ref#	Description	Date Adopted	Date Effective	Statement Type: L	SA	P/C	F	H	T	Filing Type: Annual: March	Annual: April	Annual: June	Quarterly	Combined
2009-18BWG	Add electronic column to Schedule D Part 1 to indicate the collateral type for structured securities reported under the industrial and miscellaneous grouping. Use of these new columns will be restricted to certain lines on Schedule D. Also this proposal clarifies the use of two separate columns regarding fair values in Schedule D Part 1. The instructions will be split between the Method Used to Obtain Fair Value Code column (for the single character code) and the Source Used to Obtain Fair Value column (for those codes where naming of the pricing service, stock exchange, broker or custodian is required).	06/13/2009	Year-end 2009	X	X	X	X	X	X	X				
2009-19BWG	Adds an interrogatory to the statement to determine availability of broker or custodian pricing policies and the reporting entity's process for determining reliability of the pricing source if the reporting entity doesn't have a copy of the broker or custodian pricing policy.	06/13/2009	Year-end 2009	X		X	X	X	X	X				
2009-21BWG	Add a requirement to inform the Commissioner about the initial appointment of an Appointed Actuary and provide some additional information. Also expands the Actuarial Memorandum requirement.	06/13/2009	Year-end 2009					X		X				

Ref#	Description	Date Adopted	Date Effective	Statement Type: L	SA	P/C	F	H	T	Filing Type: Annual March	Annual April	Annual June	Quarterly	Combined
2009-22BWG	Add back old Long Term Care Experience Reporting Forms and instructions for 2009 for one year with removal in 2010. Retain Document Identifier numbers for old forms for bar codes too. (NOTE: Title statement only included because Document Identifier numbers are uniform and included in the instructions for all statement types.)	06/13/2009	Year-end 2009	X		X	X	X	X	X				
2009-23BWG	Add a Medicare Part D – stand alone line to the Accident and Health Policy Experience exhibit for group and individual.	06/13/2009	Year-end 2009	X		X	X	X		X				
2008-35BWG	Remove the reference to the time frame to be used in responding to the Quarterly General Interrogatories under the header of the first page of the interrogatories. Modify the instruction for the time frame used in responding to the interrogatories in the first paragraph of the Quarterly General Interrogatory instructions.	12/05/2008	First Quarter 2010	X		X	X	X	X				X	
2008-36BWG	Add Exhibit 1 to the fraternal quarterly blank to be consistent with life quarterly blank.	12/05/2008	First Quarter 2010				X						X	
2008-37BWG	Add Instruction to Schedule D to clarify determination of what to put for the state abbreviation in the state column. Note: These instructions will apply to the Separate Accounts and Protected Cell statements but there will be no change in the specific Separate Account or Protected Cell instructions as the general account instructions are currently used for these schedules.	03/15/2009	First Quarter 2010	X		X	X	X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2008-39BWG	Add instruction to Schedule Y, Part 1 to clarify Social Security Numbers for individuals are not to be included on the schedule.	03/15/2009	First Quarter 2010	X		X	X	X	X	X			X	
2008-44BWG	Add a prior year to date column to the quarterly cash flow page.	03/15/2009	First Quarter 2010	X		X	X	X	X				X	
2008-45BWG	Modify Schedule BA Instructions to clarify where to report reverse mortgages and data capture the reporting for Note 5C(3) and 5C(4) on reverse mortgages. Add a reference in the Investment General Instructions directing user to INT 00-06, Accounting for Deferred Compensation Arrangements Where Amounts Earned are Held in a Rabbi Trust and Invested for accounting guidance on Rabbi Trusts.	03/15/2009	First Quarter 2010	X		X	X	X	X	X			X	
2008-48BWG	Add to Quarterly Statement General Interrogatories Part 2 an A&H Operating Percentages section accompanied by applicable guidance in the Quarterly Statement Instructions. Operating Percentages: A&H loss percent _____% A&H cost containment percent _____% A&H expense percent excluding cost containment expenses _____%.	03/15/2009	First Quarter 2010	X		X	X	X					X	
2009-16BWG	Add new Schedule DB forms and instructions and eliminate current forms and instructions. Changes to instructions for related schedules.	06/13/2009	First Quarter 2010	X	X	X	X	X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type: L	SA	P/C	F	H	T	Filing Type: Annual: March	April	June	Quarterly	Combined
2009-20BWG	Add specific lines to Assets and Liabilities pages for derivatives amounts currently being reported as write-ins. Also update references in the 5 Year Historical and add lines to capture information on derivatives added to the assets page. Note: Detail of the proposal only shows changes to the annual instructions and blank. These changes will also be made to the quarterly instructions and blank.	06/13/2009	First Quarter 2010	X	X	X	X	X	X	X			X	
2006-29BWG	Revise the reporting instructions to title insurance annual statement blank, Schedule T, to include more detailed instructions for "type of rate", and to make certain editorial changes to the Blank.	09/21/2009	First Quarter 2010						X	X			X	
2006-32BWG	Amend Schedule T – Premium by State by adding a note explaining the codes used in column 1 – Active Status. (L) Licensed or Chartered – Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified – Qualified or Accredited Reinsurer; (E) Eligible – Reporting Entities eligible or approved to write Surplus Lines in the state; (N) None of the above – Not allowed to write business in the state.	09/21/2009	First Quarter 2010	X		X	X	X	X	X			X	
2009-27BWG	Add cross checks to the Electronic Notes for Note 1A for state basis net income and surplus. Also add cross check to ensure NAIC SAP income and surplus amounts reported in the note reconcile with detail reported as permitted and prescribed practices used to arrive at state basis income and surplus.	09/21/2009	First Quarter 2010	X		X	X	X	X	X			X	

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2008-42BWG	Remove instructions for the audit opinion that provides guidance more appropriately provided by state statute or the Annual Financial Reporting Model Regulation formally known as Model Audit Rule.	03/15/2009	Year-end 2010	X		X	X	X	X	X				
2006-26BWG	Add two additional interrogatory questions to the Supplemental Exhibits and Schedules Interrogatories for the Communication of Internal Control Related Matters Noted in Audit and Management's Report of Internal Control over Financial Reporting. These items will be assigned a document identifier and added to the bar code instructions.	09/21/2009	Year-end 2010	X		X	X	X	X	X				
2009-25BWG	Add questions to General Interrogatories Part 1 Common Interrogatories related to exemptions granted to the insurer to specified sections of the Annual Financial Reporting Model Regulation or substantially similar state law or regulation.	09/21/2009	Year-end 2010	X		X	X	X	X	X				

Ref#	Description	Date Adopted	Date Effective	Statement Type						Filing Type				
				L	SA	P/C	F	H	T	Annual			Quarterly	Combined
										March	April	June		
2009-28BWG	Add interrogatory question to the Supplemental Exhibits and Schedules Interrogatories for the actuarial opinion required by the Modified Guaranteed Annuity Model Regulation. Modify interrogatory question for actuarial opinions associated with Exhibit 5 interrogatory question 1, 2 and 3 to be consistent with the other actuarial opinion interrogatories. Also adding four additional certifications related to Actuarial Guideline XLIII (CARVM for Variable Annuities) effective December 31, 2009. Note: Health, Property and Title statements are included in this proposal only due the change in bar code instructions which are uniform for all statement types.	09/21/2009	Year-end 2010	X		X	X	X	X	X				
2009-30BWG	Add a new "State Page" (and instructions) to the title insurers annual statement immediately following the 5-Year Historical Data. Please see attached prototype.	09/21/2009	Year-end 2010						X	X				
2009-31BWG	The title insurance "State Page" (and instructions) is expanded to include the reporting of experience by "type of property" and "type of rate". Implementation of these reporting categories requires considerable lead time.	09/21/2009	Year-end 2012						X	X				

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To: Jake Garn
Chair, Blanks Working Group

From: Joseph Fritsch
Chair, Statutory Accounting Principles (E) Working Group

Date: September 16, 2009

Re: Note 5 – Loaned-Backed Securities Disclosure

The Statutory Accounting Principles Working Group has adopted new disclosures for SSAP 43R. The disclosures are required for annual and quarterly reporting beginning with the third quarter 2009. Consistent with similar disclosure requirements in the past, this item coming from the SAPWG should be incorporated into the existing Note 5 – Loaned-Backed Securities.

As the SSAP guidance represents a higher level of authority, this change does not require approval from the Blanks Working Group but is submitted as a separate item to make it clear that it is becoming part of the 2009 quarterly and annual statement instructions but not attached to a specific proposal.

This guidance does not result in a change to the reporting or to the statutory accounting guidance. It is merely clarification as to the reporting of the investment categories.

If you have any questions, please contact NAIC Staff Support, Robin Marcotte (816-783-8124) or John Tittle (816-783-8120).

cc: Mary Caswell, NAIC
Dan Daveline, NAIC

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2009 QUARTERLY STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL AND TITLE

NOTES TO FINANCIAL STATEMENTS

The interim financial information shall include disclosures sufficient to make the information presented not misleading. It may be presumed that the users of the interim financial information have read or have access to the annual statement for the preceding period and that the adequacy of additional disclosure needed for a fair presentation, except in regard to material contingencies, may be determined in that context. Accordingly, footnote disclosure that would substantially duplicate the disclosure contained in the most recent annual statement or audited financial statements, such as a statement of significant accounting policies and practices, details of accounts that have not changed significantly in amount or composition since the end of the most recently completed fiscal year, may be omitted but the footnote number and annotation such as "no change" should be included. However, provide disclosure for annual Note 1A, 5D, 17C and 24 in all quarters; and all other Notes where events subsequent to the end of the most recent fiscal year have occurred that have a material impact on the reporting entity. Disclosures shall encompass, for example, significant changes since the end of the period reported on the last annual statement in such items as statutory accounting principles and practices; estimates inherent in the preparation of financial statements; status of long term contracts; capitalization including significant new borrowings or modifications of existing financial arrangements; and the reporting entity resulting from business combinations or dispositions. Notwithstanding the above, where material noninsurance contingencies exist, disclosure of such matters shall be provided even though a significant change since year-end may not have occurred. If the reporting entity has changed the accounting policies since the end of its preceding year, the changes shall be disclosed in the quarterly financial statements. Information should be reported for current year-to-date.

1. Summary of Significant Accounting Policies

Detail Eliminated To Conserve Space

5D. Loan-Backed Securities

Instruction:

For loan-backed securities, disclose the following:

(1) Fair values in accordance with SSAP No. 27, Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments (SSAP No. 27).

(2) Descriptions of sources used to determine prepayment assumptions.

(3) Concentrations of credit risk in accordance with SSAP No. 27.

(4) All securities within the scope of this statement with a recognized other-than-temporary impairment, disclosed in the aggregate, classified on the basis for the other-than-temporary impairment:

a. intent to sell,

b. inability or lack of intent to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, or

c. present value of cash flows expected to be collected is less than the amortized cost basis of the security.

(5) For each security with a recognized other-than-temporary impairment, currently held by the reporting entity, as the present value of cash flows expected to be collected is less than the amortized cost basis of the securities:

a. The amortized cost basis, prior to any current-period other-than-temporary impairment.

b. The other-than-temporary impairment recognized in earnings as a realized loss.

c. The fair value of the security.

d. The amortized cost basis after the current-period other-than-temporary impairment.

(6) All impaired securities (fair value is less than cost or amortized cost) for which an other-than-temporary impairment has not been recognized in earnings as a realized loss (including securities with a recognized other-than-temporary impairment for non-interest related declines when a non-recognized interest related impairment remains):

a. The aggregate amount of unrealized losses (that is, the amount by which cost or amortized cost exceeds fair value) and

b. The aggregate related fair value of securities with unrealized losses.

The disclosures in (i) and (ii) above should be segregated by those securities that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. 27.

(7) Additional information should be included describing the general categories of information that the investor considered in reaching the conclusion that the impairments are not other-than-temporary.

(8) When it is not practicable to estimate fair value in accordance with SSAP No. 27, the investor should disclose the following additional information, if applicable:

a. The aggregate carrying value of the investments not evaluated for impairment, and

b. The circumstances that may have a significant adverse effect on the fair value.

Illustration:

(2) Prepayment assumptions for single class and multi-class mortgage-backed/asset-backed securities were obtained from broker dealer survey values or internal estimates.

17C. Wash Sales

2009 ANNUAL STATEMENT INSTRUCTIONS – LIFE, HEALTH, PROPERTY, FRATERNAL AND TITLE

NOTES TO FINANCIAL STATEMENTS

Detail Eliminated To Conserve Space

5. **Investments**

Instruction:

Detail Eliminated To Conserve Space

D. Loan-Backed Securities

For loan-backed securities, disclose the following:

(1) Fair values in accordance with SSAP No. 27, Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments (SSAP No. 27).~~Whether for applying the retrospective method, the reporting entity has elected to use book value as of January 1, 1994 as the cost for securities purchased prior to January 1, 1994 where historical cash flows are not readily available.~~

(2) Descriptions of sources used to determine prepayment assumptions.

(3) Concentrations of credit risk in accordance with SSAP No. 27~~Changes from the retrospective to the prospective adjustment methodology due to negative yield on specific securities.~~

(4) All securities within the scope of this statement with a recognized other-than-temporary impairment, disclosed in the aggregate, classified on the basis for the other-than-temporary impairment:

a. intent to sell,

b. inability or lack of intent to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, or

c. present value of cash flows expected to be collected is less than the amortized cost basis of the security.

(5) For each security with a recognized other-than-temporary impairment, currently held by the reporting entity, as the present value of cash flows expected to be collected is less than the amortized cost basis of the securities:

a. The amortized cost basis, prior to any current-period other-than-temporary impairment.

b. The other-than-temporary impairment recognized in earnings as a realized loss.

c. The fair value of the security.

d. The amortized cost basis after the current-period other-than-temporary impairment.

(6) All impaired securities (fair value is less than cost or amortized cost) for which an other-than-temporary impairment has not been recognized in earnings as a realized loss (including securities with a recognized other-than-temporary impairment for non-interest related declines when a non-recognized interest related impairment remains):

a. The aggregate amount of unrealized losses (that is, the amount by which cost or amortized cost exceeds fair value) and

b. The aggregate related fair value of securities with unrealized losses.

The disclosures in (a) and (b) above should be segregated by those securities that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. 27.

(7) Additional information should be included describing the general categories of information that the investor considered in reaching the conclusion that the impairments are not other-than-temporary.

(8) When it is not practicable to estimate fair value in accordance with SSAP No. 27, the investor should disclose the following additional information, if applicable:

a. The aggregate carrying value of the investments not evaluated for impairment, and

b. The circumstances that may have a significant adverse effect on the fair value.

Detail Eliminated To Conserve Space

Illustration:

Detail Eliminated To Conserve Space

D. Loan-Backed Securities

~~(1) The company has elected to use the book value as of January 1, 1994 as the cost for applying the retrospective adjustment method to securities purchased prior to that date.~~

(2) Prepayment assumptions for single class and multi-class mortgage-backed/asset-backed securities were obtained from broker dealer survey values or internal estimates.

~~(3) In 20__ the Company changed from the retrospective to prospective methodology due to negative yields on specific securities totaling $_____.~~

Detail Eliminated To Conserve Space

PROCEDURES OF THE FINANCIAL CONDITION (E) COMMITTEE BLANKS WORKING GROUP IN CONNECTION WITH PROPOSED AMENDMENTS TO ANNUAL AND QUARTERLY STATEMENT BLANKS AND INSTRUCTIONS

The following establishes procedures and rules of the Financial Condition (E) Committee Blanks Working Group (Blanks Working Group) with respect to proposed amendments to the annual and quarterly statement blanks and instructions.

1. The Blanks Working Group may consider relevant proposals to change the NAIC Statement Blanks and Instructions at any interim or national meeting as scheduled by the Blanks Working Group.

2. Suggested changes and amendments filed with the NAIC Executive Headquarters shall be considered at the next regularly scheduled meeting of the Blanks Working Group if the proposal is filed at least thirty days prior to the meeting. Items filed less than thirty days prior to a regularly scheduled meeting will be considered at the following regularly scheduled meeting. In rare circumstances, suggested changes and amendments can be considered as an exception to the above stated process and timeframe based on a super majority (two-thirds) consent of the Blanks Working Group members present.

3. All proposals shall be stated in a concise and complete form. The Submission Form and Instructions are available online at
   http://www.naic.org/committees_e_app_blanks.htm BlanksAgenda_Form.doc
   An illustration of the format of exhibits or schedules should accompany the Submission Form. In addition, if another NAIC Committee, Task Force or Working group is known to have considered this proposal, that Committee, Task Force or Working Group should provide any relevant information.

   The following time guidelines apply:~~-~~

   _____- -Any proposal that affects a quarterly statement must be effective at the beginning of the year and any quarterly proposal must be adopted no later than the NAIC Summer~~Fall~~ National Meeting for changes effective the following year (change effective 1st quarter 20~~06~~~~10~~11 must be adopted no later than the Summer ~~Fall~~ 20~~05~~~~9~~10 meeting). To meet this requirement quarterly proposals must be filed at least thirty days prior to the NAIC Spring National Meeting.

   _____- Changes that only affect the annual statement must be adopted no later than ~~the NAIC Summer Spring National Meeting~~June in the year of the change (change effective with annual statement 2011~~095~~ ~~to be filed March 1, 200610~~ must be adopted no later than ~~SpringSummer~~June 2011~~095 meeting~~). To meet this requirement, annual proposals must be filed no later than 30 days prior to the NAIC Fall National Meeting of the prior year (change effective with annual statement 2011 must be submitted in October 2010)~~.~~ Annual statement proposals for the current year will also be accepted 30 days prior to the NAIC Spring National Meeting. At the Spring National Meeting, the annual proposals submitted subsequent to the submissions deadline for the NAIC Fall National Meeting will be evaluated as to the appropriate effective date, either the coming year end or the following year end. Proposals that are deemed to be necessary for the current year end will be exposed with a comment deadline of 30 days prior to a scheduled June conference call of the Blanks Working Group. The June conference call will be only to discuss and decide on adoption of annual proposals for -the current year end exposed or re-exposed at the Spring National Meeting.

   Changes that do not conform to the time guidelines above are limited to: (a) Disclosures required in the current year by the *Accounting Practices and Procedures Manual* and (b) those items providing instructional clarification of current reporting requirements. These proposals will modify the instructions only, including Notes to Financial Statements, and will not be data captured. If the proposal is to add a Note to Financial Statements that should be data captured, the Note may be added to the instructions in the current year and data captured the first subsequent year-end. The disclosure will not be data captured on a quarterly basis. Any new Note will be added as the last Note to avoid renumbering existing Notes. If necessary, the Note will be renumbered at the first subsequent year-end. IF a Note is deleted, the remaining Notes will not be renumbered in the current year but will be renumbered at the first subsequent year-end.

   ~~An illustration of the format of exhibits or schedules should accompany the Submission Form. In addition, if another NAIC Committee, Task Force or Working group is known to have considered this proposal, that Committee, Task Force or Working Group should provide any relevant information.~~

Upon receipt of a proposal 30 days prior to a scheduled meeting, t~~T~~he Blanks Working Group will review the proposal at the **next** scheduled meeting and determine whether to 1) receive the proposal for public comment ~~and consideration at its next meeting~~ or 2) ~~whether to~~ reject the proposal. The public comment period ends 30 days prior to the next designated national or interim meeting of the

Working Group. The Working Group will consider comments received on each proposal at its next meeting and take action. Proposals under consideration may be deferred by the Working Group until the ~~next~~ following scheduled meeting. However, the Working Group will limit the number of deferrals to "two" based upon the belief the proposal should be revised and resubmitted if it required further work or input after two meetings At the third meeting, the proposal cannot be deferred again and must be otherwise acted upon. The Working Group may also refer proposals to other NAIC groups due to their technical expertise or for other review. If a proposal has been referred to another NAIC group, the proposal will come off the Working Group's agenda and will only be considered again in the form of a new proposal.

4. The NAIC Executive Headquarters shall prepare an agenda of all suggestions. One copy of the agenda shall be sent to each member of the Blanks Working Group or his/her representative, at least two weeks prior to the next regularly scheduled meeting.

5. a. The agenda shall be divided into two sections. NAIC Staff will complete the initial classification of the submissions into one of the two sections prior to exposure of the agenda. The criteria for classification into one of the two sections are as follows:

   i. ITEMS PREVIOUSLY EXPOSED - The first section of the agenda will be limited to items that the Blanks Working Group received for public comment at its prior meeting.

   ii. NEW ITEMS - The second section of the agenda will be limited to new items.

   b. At each meeting, the Blanks Working Group shall not hold any discussions on any substantive item in the agenda until (1) the chair has briefly stated the agenda item and (2) the chair has called for a motion from the members. If a motion is made and seconded, the item is then discussed and voted upon.

~~6. At each meeting, the Blanks Working Group will review comments for those proposals that the Blanks Working Group received for comments at a previous meeting.~~

~~7~~6. NAIC Staff will present to the Blanks Working Group a list of necessary non-substantive changes discovered in the process of implementing proposals., e.g., reference changes due to new SSAP's or required changes discovered in the process of implementing proposals. The Blanks Working Group will review these changes and may adopt the appropriate items at any regularly scheduled meeting. Such actions will be documented in the minutes of the Blanks Working Group. NAIC staff may also request that the Working Group reconsider items adopted, if these items contain substantial errors.

~~8~~7. The Working Group may, when deemed necessary, appoint an Ad Hoc Group to study and propose resolution of certain issues.

8~~9~~. The NAIC Executive Headquarters will publish each agenda approximately two weeks prior to each interim or national meeting (including proposals received for comment and comments received) on the NAIC Web site.

9~~10~~. The NAIC Executive Headquarters will publish the Blanks and Annual Statement Instructions for the next subsequent year on, or about November 1 each year. NAIC Staff will post to the NAIC Web site any subsequent corrections to these publications.

Instructions for Completing Blanks Agenda Item Submission Form

Blanks proposals must be completed using the most current blanks and instructions. NAIC staff will compile the appropriate form, blank and instructions, when requested.

1. Complete this form for EACH Blanks proposal. Under "Identification of Item(s) to be Changed", include the number for the Page, Schedule, Exhibit, Part, Column, Line or Item. Include the precise caption for each item, and the location of each item in the blanks.
2. Present all attachments in a format wherein new language is underscored and deletions struck through.
3. Include the appropriate new instructions or amendments to instructions, including crosschecks to other pages of the statement. Check the appropriate boxes on the proposal form. If the "crosschecks" box is checked, it must be accompanied by the "instructions" or "blank" box being checked. Consistency crosschecks should be written in the instructions or on the blank unless otherwise implied (e.g. adding down a column).
4. All Submission Forms and attachments must be typed originals. See the NAIC Web site at http://www.naic.org/frs/financial_statement_reporting/index.htm, Blanks Agenda Proposal Item - Standard Submission Form, Contacts, to obtain working copies.
5. If the proposal is from another NAIC Committee, Task Force or Working Group, the contact should be a person who served on the appropriate group and who is able to respond to questions related to this proposal.
6. The Reason, Justification For and/or Benefit of Change must contain:
   a. A concise statement of the disclosure issue addressed by the change;
   b. The specific reason or justification for the change together with background information relating to the change.
7. The submission form must contain the anticipated effective reporting date of each proposal. The ultimate "formal" effective reporting date will be based on the timing of the adoption of the proposal and the amount of lead-time, if any, required for implementation (e.g., required changes to data capture or software requirements).
8. Submit to Mary Caswell (mcaswell@naic.org) ~~and~~ and Calvin Ferguson (cferguso@naic.org).

The following time guidelines apply:~~.~~

Any proposal that affects a quarterly statement must be effective at the beginning of the year and any quarterly proposal must be adopted no later than the NAIC ~~Fall~~ Summer National Meeting for changes effective the following year (change effective 1st quarter 20~~06~~1011 must be adopted no later than the ~~Fall~~ Summer –200~~5~~910 meeting). To meet this requirement, quarterly proposals must be filed at least 30 days prior to the NAIC Spring National Meeting.

Changes that only affect the annual statement must be adopted no later than ~~the NAIC Summer National Meeting~~ ~~in~~June in the year of the change (change effective with annual statement for 200~~5~~911 ~~to be filed March 1, 2006~~ must be adopted no later than ~~Summer~~ -June 2011~~2005 meeting~~). To meet this requirement, annual proposals must be filed no later than 30 days prior to the NAIC Fall National Meeting of the prior year (change effective with annual statement 2011 must be submitted in October 2010). Annual statement proposals for the current year will also be accepted 30 days prior to the NAIC Spring National Meeting. At the Spring National Meeting, the annual proposals submitted subsequent to the submission deadline for the NAIC Fall National Meeting will be evaluated as to the appropriate effective date, either the coming year end or the following year end. Proposals that are deemed to be necessary for the current year end will be exposed with a comment deadline of 30 days prior to a scheduled June conference call of the Blanks Working Group. The June conference call will be only to discuss and decide on adoption of annual proposals for the current year end exposed or re-exposed at the Spring National Meeting.

Changes that do not conform to the time guidelines above are limited to: (a) Disclosures required in the current year by the *Accounting Practices and Procedures Manual* and (b) those items providing instructional clarification of current reporting requirements. These proposals will modify the instructions only, including Notes to Financial Statements, and will not be data captured. If the proposal is to add a Note to Financial Statements that should be data captured, the Note may be added to the instructions in the current year and data captured the first subsequent year-end. The disclosure will not be data captured on a quarterly basis. Any new Note will be added as the last Note to avoid renumbering existing Notes. If necessary, the Note will be renumbered at the first subsequent year-end. If a Note is deleted, the remaining Notes will not be renumbered in the current year but will be renumbered at the first subsequent year-end.

NAIC BLANKS (E) WORKING GROUP

Blanks Agenda Item Submission Form

DATE: ____________	**FOR NAIC USE ONLY**
CONTACT PERSON: ____________	Agenda Item # ____________
TELEPHONE: ____________	Year ____________
EMAIL ADDRESS: ____________	Changes to Existing Reporting [ ]
ON BEHALF OF: ____________	New Reporting Requirement [ ]
NAME: ____________	**REVIEWED FOR ACCOUNTING PRACTICES AND PROCEDURES IMPACT**
TITLE: ____________	No Impact [ ]
AFFILIATION: ____________	Modifies Required Disclosure [ ]
ADDRESS: ____________	**DISPOSITION**
____________	[ ] Rejected For Public Comment
~~**TELEPHONE:**~~ ____________	[ ] Referred To Another NAIC Group
	[ ] Received For Public Comment
	[ ] Adopted Date ____________
	[ ] Rejected Date ____________
	[ ] Deferred Date ____________
	[ ] Other (Specify) ____________

BLANK(S) TO WHICH PROPOSAL APPLIES

[ ] **ANNUAL STATEMENT** [ ] **QUARTERLY STATEMENT**
[ ] **INSTRUCTIONS** [ ] **CROSSCHECKS** [ ] **BLANK**

[ ] Life and Accident & Health [ ] Property/Casualty [ ] Health
[ ] Separate Accounts [ ] Fraternal [ ] Title
[ ] Other Specify

Anticipated Effective Date: ____________

IDENTIFICATION OF ITEM(S) TO CHANGE

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

NAIC STAFF COMMENTS

Comment on Effective Reporting Date: ____________

Other Comments:

** **This section must be completed on all forms.** **Revised ~~01/18/05~~ 6/13/2009**

Draft: 9/30/09

Property and Casualty Reinsurance (E) Study Group
Conference Call
September 15, 2009

The Property and Casualty Reinsurance (E) Study Group of the Emerging Accounting Issues (E) Working Group of the Accounting Practices and Procedures (E) Task Force met via conference call Sept. 15, 2009. The following Study Group members participated: Joseph Fritsch, Chair (NY); Kim Hudson (CA); Linda Sizemore (DE); Robin Westcott (FL); Jim Hanson (IL); Thomas Burke (NH); Doug Stolte (VA); and Peter Medley (WI).

1. Discuss Referral from the Statutory Accounting Principles Working Group: *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Agreements in Run-Off* and the related changes to *SSAP No. 62—Property and Casualty Reinsurance*

Mr. Fritsch directed the Study Group to an exposure draft of Issue Paper No. 137 and the related changes to SSAP No. 62 (Attachment One). During the Summer National Meeting, the Statutory Accounting Principles Working Group voted to expose this item for public comment, and in addition, voted to refer the issue to the Study Group for review and discussion.

Joe Sieverling (Reinsurance Association of America—RAA) summarized that the intent of the proposal is to create an exception to retroactive accounting rules for property and casualty run-off agreements meeting certain requirements. He noted that the initial proposal to the Statutory Accounting Principles Working Group recommended prospective accounting treatment for qualifying agreements. However, subsequent to this initial submission, it was determined that pure prospective accounting treatment would not be appropriate, and the accounting and reporting requirements needed further clarification. He referred to an example of the proposed accounting entries for these agreements and summarized the differences between the proposed entries and typical prospective reinsurance accounting entries (Attachment Two). The primary difference is that under this proposal, the paid loss method would be followed—i.e., consideration paid by the ceding entity would be reported as a paid loss as opposed to ceded premium. Mr. Sieverling said the paid loss method would avoid distortions in the statutory financial statements that would result from applying typical prospective reinsurance accounting treatment to this type of reinsurance agreement. He noted that the paid loss method would provide for the most accurate reflection within Schedule P and Schedule F of the Annual Statutory Financial Statement. Mr. Fritsch agreed the paid loss method would be appropriate for these agreements, and agreed distortions would occur if typical prospective accounting treatment was applied. Mr. Burke said the paid loss method seemed to most accurately reflect the economics of the transaction.

Mr. Sieverling summarized additional language proposed to be included as a new paragraph 70 within SSAP No. 62. Robert Solitro (Swiss Re) said the intent of the new paragraph is to promote consistency in accounting and reporting for the ceding and assuming entities throughout all U.S. jurisdictions. It was suggested the language be further clarified. Mr. Sieverling said the proposed language is intended to provide that the consideration paid would be recorded as a paid loss by the ceding entity regardless of whether the amount is less than, equal to, or greater than the amount of the transferred loss reserves. Marty Carus (American International Group—AIG) suggested it would be highly unlikely for a ceding entity to pay more in consideration than the amount of the transferred loss reserves in such a transaction. As such, he noted that it would be unnecessary to include language within the paragraph to address such a scenario. It was suggested that in certain transactions, an assuming entity might indeed require consideration in excess of the carried reserves. Mr. Fritsch suggested the language in paragraph 70 be further clarified to address all three possible scenarios.

Mr. Medley expressed concern with respect to the proposal, noting that it effectively grants novation accounting treatment without requiring the ceding entity to obtain a true novation, as the ceding entity will remain liable to the policyholder. He noted that retroactive accounting guidance has been in effect for a number of years and includes the provision that the ceding entity must segregate any gain on the transaction within special surplus. The current proposal does not include such a provision. Mr. Medley said the result of a transaction contemplated within the proposal would be a lower surplus requirement for the ceding entity. Mr. Medley discussed additional concerns with respect to company ratings, authorized vs. unauthorized status of the assuming entity, and whether an SSAP is the appropriate place to grant authority to a commissioner to approve such agreements. It was recommended the language in paragraph 69 be clarified with respect to approval of the accounting treatment for these agreements. Mr. Medley also recommended the last sentence of paragraph nine be removed from Issue Paper No. 137, if the Study Group approves the proposed guidance. Mr. Sieverling agreed with removal of paragraph nine.

Mr. Fritsch noted that unauthorized assuming entities would not be excluded from participating in these agreements; however, they would be required to meet the applicable collateral requirements for the obligations assumed, and the transaction would be reported on Schedule F of the Annual Statutory Financial Statement. Mr. Fritsch said that under the proposal, the ceding entity's rating would establish a floor for the assuming entity; however, a regulator would have the discretion to require that the business be ceded to an assuming entity with a higher rating. He said agreements would have to be arms-length transactions with a non-affiliated party and meet risk transfer requirements, and the regulator would have discretion to approve the agreement for the proposed accounting treatment.

Robin Marcotte (NAIC) recommended the proposed journal entries be included in the appendix to SSAP No. 62. Mr. Medley concurred, noting that the appendix currently includes examples of journal entries for retrospective accounting as well as accounting for adverse development cover. As the proposed accounting treatment under discussion does not appear to be intuitive, an example would be appropriate. Mr. Sieverling and Mr. Fritsch also agreed with placing the examples in the appendix.

Mr. Hudson made a motion that the Study Group refer the issue back to the Statutory Accounting Principles Working Group with a recommendation that Issue Paper No. 137, and the related changes to SSAP No. 62, be adopted with the following technical clarifications: Within Issue Paper No. 137, the last sentence of paragraph 9 should be deleted; the language within paragraph 69 of SSAP No. 62 should be clarified with respect to the commissioner's approval of the accounting treatment for such agreements; additional clarification of the language within the proposed new paragraph 70 of SSAP No. 62 with respect to the specific accounting treatment; and the example journal entries should be included within the appendix to SSAP No. 62. Ms. Sizemore seconded the motion, and the motion passed. Mr. Hanson and Mr. Medley opposed; Ms. Westcott abstained. NAIC staff was directed to work with interested parties and NAIC legal staff in determining clarifications for paragraphs 69 and 70.

2. Update on Contract Certainty

Mr. Fritsch said the Study Group would schedule a conference call after the Fall National Meeting to discuss issues related to contract certainty and risk transfer.

Having no further business, the Property and Casualty Reinsurance (E) Study Group adjourned.

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Exposure Draft

Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Agreements in Run-Off (Issue Paper No. 137)

Notice of Public Hearing and Request for Written Comments

Hearing Date: NAIC 2009 Fall National Meeting	**Location:** Washington D.C.
Deadline for Written Notice of Intent to speak: August 7, 2009	**Deadline for Receipt of Written Comments:** August 7, 2009

Basis for hearings. The Statutory Accounting Principles Working Group (SAPWG) will hold a public hearing to obtain information from and views of interested individuals and organizations about the standards proposed in this Exposure Draft. The SAPWG will conduct the hearing in accordance with the National Association of Insurance Commissioners (NAIC) policy statement on open meetings. An individual or organization desiring to speak must notify the NAIC in writing by **August 7, 2009**. Speakers will be notified as to the date, location, and other details of the hearings.

Oral presentation requirements. The intended speaker must submit a position paper, a detailed outline of a proposed presentation or comment letter addressing the standards proposed in the Exposure Draft by **August 7, 2009**. Individuals or organizations whose submission is not received by that date will only be granted permission to present at the discretion of the SAPWG chair. All submissions should be addressed to the NAIC staff at the address listed below. Comments can also be submitted by electronic mail to statacct@naic.org.

Format of the hearings. Speakers will be allotted up to 10 minutes for their presentations to be followed by a period for answering questions from the SAPWG. Speakers should use their allotted time to provide information in addition to their already submitted written comments as those comments will have been read and analyzed by the SAPWG. Those submissions will be included in the public record and will be available at the hearings for inspection.

Copies. Exposure Drafts can be obtained on the Internet at the NAIC Home Page (http://www.naic.org). The documents can be downloaded using Microsoft Word.

Written comments. Participation at a public hearing is not a prerequisite to submitting written comments on this Exposure Draft. Written comments are given the same consideration as public hearing testimony.

The Statutory Accounting Principles Statement of Concepts was adopted by the Accounting Practices & Procedures (EX4) Task Force on September 20, 1994, in order to provide a foundation for the evaluation of alternative accounting treatments. All issues considered by the SAPWG will be evaluated in conjunction with the objectives of statutory reporting and the concepts set forth in the Statutory Accounting Principles Statement of Concepts. Whenever possible, establish a relationship between your comments and the principles defining statutory accounting.

The exposure period is not meant to measure support for, or opposition to, a particular accounting treatment but rather to accumulate an analysis of the issues from other perspectives and persuasive comments supporting them. Therefore, form letters and objections without valid support for their conclusions are not helpful in the deliberations of the working group. Comments should not simply register your agreement or disagreement without a detailed explanation, a description of the impact of the proposed guidelines, or possible alternative recommendations for accomplishing the regulatory objective.

Any individual or organization may send written comments addressed to the Working Group to the attention of John Tittle, at **Jtittle@naic.org** or the address listed below, no later than **August 7, 2009**. Comments can also be submitted by electronic mail to statacct@naic.org. Electronic submission is preferred.

National Association of Insurance Commissioners
2301 McGee Street, Suite 800 Kansas City, MO 64108-2604
(816) 842-3600

Robin Marcotte, rmarcott@naic.org, is the NAIC Staff that is the project lead for this topic.

Statutory Issue Paper No. 137

Transfer of Property and Casualty Reinsurance Agreements in Run-off

STATUS:
Exposure Draft: June 13, 2009

Type of Issue:
Common Area

SUMMARY OF ISSUE

1. Current statutory guidance relating to property and casualty reinsurance agreements is found in *Statement of Statutory Accounting Principle No. 62—Property and Casualty Reinsurance* (SSAP No. 62). SSAP No. 62 currently requires that property and casualty reinsurance agreements which transfer insurance risk, but cover liabilities which occurred prior to the effective date of the agreement receive retroactive accounting treatment unless specified exceptions are met.

2. SSAP No. 62 currently allows four specified exceptions to retroactive reinsurance accounting including: structured settlements; novations; termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business; or intercompany reinsurance agreements, provided there is no gain in surplus as a result of the transaction.

3. The purpose of this issue paper is to amend SSAP No. 62 to expand the exceptions to retroactive accounting treatment to include property and casualty reinsurance run-off agreements which meet specified criteria. Reinsurance agreements and retrocession agreements which meet insurance risk transfer requirements and meet the specified criteria will receive prospective accounting treatment.

SUMMARY CONCLUSION

4. This issue paper shall amend SSAP No. 62 to insert the following subparagraph e into paragraph 31:

> 31. The accounting principles for retroactive reinsurance agreements in paragraph 29 shall not apply to the following types of agreements (which shall be accounted for as prospective reinsurance agreements):
>
> a. Structured settlement annuities for individual claims purchased to implement settlements of policy obligations;
>
> b. Novations, (i.e., (i) transactions in which the original direct insurer's obligations are completely extinguished, resulting in no further exposure to loss arising on the business novated or (ii) transactions in which the original assuming entity's obligations are completely extinguished) resulting in no further exposure to loss arising on the business novated, provided that (1) the parties to the transaction are not affiliates (or if affiliates, that the transaction has the prior approval of the domiciliary regulators of the parties) and (2) the accounting for the original reinsurance agreement will not be altered from retroactive to prospective;
>
> c. The termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business; or

d. Intercompany reinsurance agreements and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction; or

e. Reinsurance and or retrocession agreements that meet the criteria of property and casualty run-off agreements described in paragraphs 68-70.

5. This issue paper shall amend SSAP No. 62 to insert and renumber the remaining paragraphs of the statement:

Accounting for the Transfer of Property and Casualty Run-off Agreements

68. Property and casualty run-off agreements are reinsurance or retrocession agreements that are intended to transfer essentially all of the risks and benefits of a specific line of business or market segment that is no longer actively marketed by the transferring insurer or reinsurer. A property and casualty run-off agreement is not a novation as the transferring insurer or reinsurer remains primarily liable to the ceding entity under the original contracts of insurance or reinsurance. Reinsurance agreements between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) are not eligible for the exception for property and casualty run-off agreements in paragraph 31. e of SSAP No. 62.

Criteria

69. Property and casualty run-off agreements must be approved by the domiciliary regulators of the transferring entity (either the original direct insurer in the case of a reinsurance agreement or the original assuming reinsurer in the case of a retrocession agreement) and the assuming entity. If the transferring entity and assuming entity are domiciled in the same state, then the regulator of the state where the majority of the transferred liabilities is located shall be asked to approve the agreement. In determining whether to approve an agreement, the regulators shall require the following:

a. Assuming Entity Properly Licensed – The entity assuming the run-off agreement must have the appropriate authority or license to write the business being assumed.

b. Limits and Coverages – the reinsurance or retrocession agreement shall provide the same limits and coverages that were afforded in the original insurance or reinsurance agreement.

c. Non-Recourse – The reinsurance or retrocession agreement shall not contain any adjustable features or profit share or retrospective rating, and there shall be no recourse (other than normal representations and warranties that would be associated with a purchase and sale agreement) directly or indirectly against the transferring entity.

d. Risk Transfer – the reinsurance or retrocession agreement must meet the requirements of risk transfer as described in this statement.

e. Financial Strength of Reinsurer– the assuming reinsurer shall have a financial strength rating from at least two independent rating agencies (from NAIC acceptable rating agencies) which is equal to or greater than the current ratings of the transferring entity. The lowest financial strength rating received from an

NAIC acceptable rating organization rating agency will be used to compare the financial strength ratings of the transferring and assuming entities.

f. Assessments – the assuming reinsurer or retrocessionaire (if required in the original reinsurance contract) shall be financially responsible for any and all assessments, including guaranty fund assessments, that are assessed against the transferring entity related to the insurance business being assumed.

g. Applicable Only to "Run-off" Business – the reinsurance or retrocession agreement shall only cover liabilities relating to a line(s) of business or specific market segments no longer actively marketed by the transferring entity.

h. Non-Cancelable Reinsurance – the reinsurance or retrocession agreement shall provide that the reinsurance or retrocessional coverage provided by the proposed agreement cannot be cancelable by either party for any reason. (However, this provision will not override standard contracts law and principles and will not prevent any remedies, including rescission or termination that might be available for breach, misrepresentation, etc.)

Statutory Schedules and Exhibits

70. The assuming entity will report the business in the same line of business as reported by the original insurer or reinsurer. The assuming entity will report the business at the same level of detail using the appropriate statutory schedules and exhibits.

Disclosures

6. This issue paper amends the disclosures section of SSAP No. 62 to add new paragraph 86 requiring additional disclosures and renumbering subsequent paragraphs:

85. Disclosures for the Transfer of Property and Casualty Run-off Agreements

a. Disclose if the reporting entity has entered into any agreements which have been approved by their domiciliary regulator and have qualified pursuant to SSAP No. 62, paragraph 31.e., Accounting for the Transfer of Property and Casualty Run-off Agreements.

b. If affirmative, provide a description of the agreement and the amount of consideration paid and liabilities transferred.

Effective Date and Transition

7. After adoption of this issue paper, the NAIC will release an amended Statement of Statutory Accounting Principle (SSAP) for comment. The initial draft of the amended SSAP will contain the adopted Summary Conclusion of this issue paper. 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 SSAP has been adopted by the Plenary of the NAIC. It is expected that the SSAP will be effective for reporting periods beginning on or after January 1, 2010.

DISCUSSION

8. This issue paper will expand the exceptions to retroactive reinsurance to more easily allow property and casualty reinsurers to transfer existing blocks of business that the company is no longer actively writing and marketing. Although paragraph 28 of SSAP No. 62 notes that reinsurance of existing liabilities is subject to abuse, the Statutory Accounting Principles Working Group determined that the requirements in this statement were sufficient to mitigate the concerns which would otherwise require retroactive accounting treatment.

9. It is contemplated that insurers and reinsurers would primarily use this option to exit unprofitable lines or products or as a way to cede off business the company is no longer writing. As it is possible that circumstances that might have made the product unattractive can change, this guidance is not intended to permanently prevent a company from reentering a line that was previously ceded in run-off. If questioned, the reporting entity shall be able to explain to the satisfaction of the affected states the change in circumstances regarding why a product that was previously considered a run-off product is now actively marketed. A partial list of examples of reasonable explanations might include a material change in policy form, legal reforms in the geographic area, material changes in underwriting standards and or pricing etc.

10. Reinsurance between affiliates can result in abuse that retroactive reinsurance accounting is designed to prevent. The paragraph 31.e. exception for property and casualty run-off agreements is not intended to be applied to agreements between affiliated reinsurers or reinsurers under common control. There is a currently existing exception to retroactive reinsurance accounting for intercompany reinsurance agreements and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction in paragraph 31.d. This issue paper does not affect or modify that guidance.

11. Retroactive reinsurance agreements between affiliates that result in surplus gain to the ceding entity, receive an accounting penalty under SSAP No. 62, paragraph 32. This issue paper does not affect or modify that guidance.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

12. As noted above existing property and casualty reinsurance accounting guidance is in SSAP No. 62. Tracked changes to SSAP No. 62 proposed by this statement are shown in appendix A. The exceptions to retroactive reinsurance accounting are a statutory accounting concept.

RELEVANT LITERATURE

Statutory Accounting

- *SSAP No. 62—Property and Casualty Reinsurance*
- *Issue Paper No. 75—Property and Casualty Reinsurance*

Generally Accepted Accounting Principles

- *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts* (FAS 113) with modification and FASB Emerging Issues Task Force No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises is adopted with modification in SSAP No. 62 and discussed in Issue Paper No. 75. This issue paper does not change the previous review of GAAP statements.

State Regulations

- No additional guidance obtained from state statutes or regulations.

EXHIBIT A: Illustration of Marked Changes to Amended SSAP No. 62 R

The following depicts the amendments this issue paper as "marked changes": (new text underlined):

STATEMENT OF STATUTORY ACCOUNTING PRINCIPLES NO. 62 R
PROPERTY AND CASUALTY REINSURANCE

Status

Type of Issue:	Common Area
Issued:	Finalized March 13, 2000
Effective Date:	January 1, 2001, Substantive revisions in paragraphs 31e, 68-70 and 85 are effective January 1, 2010
Affects:	No other pronouncements
Affected by:	Paragraph 35 superseded by SSAP No. 75, Substantively revised in TBD 2009 (Detail of revisions are included within Issue Paper No. 137)
Interpreted by:	INT 01-33, INT 02-01, INT 02-06, INT 02-09, INT 02-22, INT 03-02

Property and Casualty Reinsurance

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for property and casualty reinsurance. A wide range of methods for structuring reinsurance arrangements can be employed depending on the requirements of individual companies. This statement deals with the more commonly employed methods.

SUMMARY CONCLUSION

General

2. Reinsurance is the assumption by an insurer of all or part of a risk undertaken originally by another insurer. The transaction whereby a reinsurer cedes all or part of the reinsurance it has assumed to another reinsurer is known as a retrocession.

3. Reinsurance has many beneficial purposes. Among them are that it enables an insurance entity to (a) expand its capacity, (b) share large risks with other insurers, (c) spread the risk of potential catastrophes and stabilize its underwriting results, (d) finance expanding volume by sharing the financial burden of reserves, (e) withdraw from a line or class of business, and (f) reduce its net liability to amounts appropriate to its financial resources.

4. Reinsurance agreements are generally classified as treaty or facultative. Treaty reinsurance refers to an arrangement involving a class or type of business written, while facultative reinsurance involves individual risks offered and accepted.

5. Reinsurance coverage can be pro rata (i.e., proportional reinsurance) where the reinsurer shares a pro rata portion of the losses and premium of the ceding entity or excess of loss (i.e., non-proportional) where the reinsurer, subject to a specified limit, indemnifies the ceding entity against the amount of loss in excess of a specified retention. Most reinsurance agreements fall into one of the following categories:

I. Treaty Reinsurance Contracts—Pro Rata:

A. Quota Share Reinsurance—The ceding entity is indemnified against a fixed percentage of loss on each risk covered in the agreement;

B. Surplus Share Reinsurance—The ceding entity establishes a retention or “line” on the risks to be covered and cedes a fraction or a multiple of that line on each policy subject to a specified maximum cession;

II. Treaty Reinsurance Contracts—Excess of Loss:

A. Excess Per Risk Reinsurance—The ceding entity is indemnified, subject to a specified limit, against the amount of loss in excess of a specified retention with respect to each risk covered by a treaty;

B. Aggregate Excess of Loss Reinsurance—The ceding entity is indemnified against the amount by which the ceding entity’s net retained losses incurred during a specific period exceed either a predetermined dollar amount or a percentage of the entity’s subject premiums for the specific period subject to a specified limit;

III. Treaty Reinsurance Contracts—Catastrophe: The ceding entity is indemnified, subject to a specified limit, against the amount of loss in excess of a specified retention with respect to an accumulation of losses resulting from a catastrophic event or series of events;

IV. Facultative Reinsurance Contracts—Pro Rata: The ceding entity is indemnified for a specified percentage of losses and loss expenses arising under a specific insurance policy in exchange for that percentage of the policy's premium;

V. Facultative Reinsurance Contracts—Excess of Loss: The ceding entity is indemnified, subject to a specified limit, for losses in excess of its retention with respect to a particular risk.

Characteristics of Reinsurance Agreements

6. Common contract provisions that may affect accounting practices include:

a. Reporting responsibility of the ceding entity—Details required and time schedules shall be established;

b. Payment terms—Time schedules, currencies intended, and the rights of the parties to withhold funds shall be established;

c. Payment of premium taxes—Customarily the responsibility of the ceding entity, a recital of nonliability of the reinsurer may be found;

d. Termination—May be on a cut-off or run-off basis. A cut-off provision stipulates that the reinsurer shall not be liable for loss as a result of occurrences taking place after the date of termination. A run-off provision stipulates that the reinsurer shall remain liable for loss under reinsured policies in force at the date of termination as a result of occurrences taking place after the date of termination until such time as the policies expire or are canceled; and

e. Insolvency clause—Provides for the survival of the reinsurer's obligations in the event of insolvency of the ceding entity, without diminution because of the insolvency.

7. Reinsurance contracts shall not permit entry of an order of rehabilitation or liquidation to constitute an anticipatory breach by the reporting entity, nor grounds for retroactive revocation or retroactive cancellation of any contracts of the reporting entity.

Required Terms for Reinsurance Agreements

8. In addition to credit for reinsurance requirements applicable to reinsurance transactions generally, no credit or deduction from liabilities shall be allowed by the ceding entity for reinsurance recoverable where the agreement was entered into after the effective date of these requirements (see paragraphs 89 and 90) unless each of the following conditions is satisfied:

a. The agreement must contain an acceptable insolvency clause;

b. Recoveries due the ceding entity must be available without delay for payment of losses and claim obligations incurred under the agreement, in a manner consistent with orderly payment of incurred policy obligations by the ceding entity;

c. The agreement shall constitute the entire contract between the parties and must provide no guarantee of profit, directly or indirectly, from the reinsurer to the ceding entity or from the ceding entity to the reinsurer;

d. The agreement must provide for reports of premiums and losses, and payment of losses, no less frequently than on a quarterly basis, unless there is no activity during the period. The report of premiums and losses shall set forth the ceding entity's total loss and loss expense reserves on the policy obligations subject to the agreement, so that the respective obligations of the ceding entity and reinsurer will be recorded and reported on a basis consistent with this statement; and

e. With respect to retroactive reinsurance agreements, the following additional conditions apply:

i. The consideration to be paid by the ceding entity for the retroactive reinsurance must be a sum certain stated in the agreement;

ii. Direct or indirect compensation to the ceding entity or reinsurer is prohibited;

iii. Any provision for subsequent adjustment on the basis of actual experience in regard to policy obligations transferred, or on the basis of any other formula, is prohibited in connection with a retroactive reinsurance transaction, except that provision may be made for the ceding entity's participation in the reinsurer's ultimate profit, if any, under the agreement;

iv. A retroactive reinsurance agreement shall not be canceled or rescinded without the approval of the commissioner of the domiciliary state of the ceding entity.

Reinsurance Agreements with Multiple Cedents

9. Reinsurance agreements with multiple cedents require allocation agreements. The allocation agreement can be part of the reinsurance agreement or a separate agreement. If the agreement has multiple cedents:

a. The allocation must be in writing and

b. The terms of the allocation agreement must be fair and equitable

Reinsurance Contracts Must Include Transfer of Risk

10. The essential ingredient of a reinsurance contract is the transfer of risk. The essential element of every true reinsurance agreement is the undertaking by the reinsurer to indemnify the ceding entity, i.e., reinsured entity, not only in form but in fact, against loss or liability by reason of the original insurance. Unless the agreement contains this essential element of risk transfer, no credit shall be recorded.

11. Insurance risk involves uncertainties about both (a) the ultimate amount of net cash flows from premiums, commissions, claims, and claims settlement expenses (underwriting risk) and (b) the timing of the receipt and payment of those cash flows (timing risk). Actual or imputed investment returns are not an element of insurance risk. Insurance risk is fortuitous—the possibility of adverse events occurring is outside the control of the insured.

12. Determining whether an agreement with a reinsurer provides indemnification against loss or liability (transfer of risk) relating to insurance risk requires a complete understanding of that contract and

other contracts or agreements between the ceding entity and related reinsurers. A complete understanding includes an evaluation of all contractual features that (a) limit the amount of insurance risk to which the reinsurer is subject (e.g., experience refunds, cancellation provisions, adjustable features, or additions of profitable lines of business to the reinsurance contract) or (b) delay the timely reimbursement of claims by the reinsurer (e.g., payment schedules or accumulating retentions from multiple years).

13. Indemnification of the ceding entity against loss or liability relating to insurance risk in reinsurance requires both of the following:

a. The reinsurer assumes significant insurance risk under the reinsured portions of the underlying insurance agreements; and

b. It is reasonably possible that the reinsurer may realize a significant loss from the transaction.

14. A reinsurer shall not have assumed significant insurance risk under the reinsured contracts if the probability of a significant variation in either the amount or timing of payments by the reinsurer is remote. Implicit in this condition is the requirement that both the amount and timing of the reinsurer's payments depend on and directly vary with the amount and timing of claims settled by the ceding entity. Contractual provisions that delay timely reimbursement to the ceding entity prevent this condition from being met.

15. The ceding entity's evaluation of whether it is reasonably possible for a reinsurer to realize a significant loss from the transaction shall be based on the present value of all cash flows between the ceding and assuming companies under reasonably possible outcomes, without regard to how the individual cash flows are described or characterized. An outcome is reasonably possible if its probability is more than remote. The same interest rate shall be used to compute the present value of cash flows for each reasonably possible outcome tested. A constant interest rate shall be used in determining those present values because the possibility of investment income varying from expectations is not an element of insurance risk. Judgment is required to identify a reasonable and appropriate interest rate.

16. Significance of loss shall be evaluated by comparing the present value of all cash flows, determined as described in paragraph 15, with the present value of the amounts paid or deemed to have been paid to the reinsurer. If, based on this comparison, the reinsurer is not exposed to the reasonable possibility of significant loss, the ceding entity shall be considered indemnified against loss or liability relating to insurance risk only if substantially all of the insurance risk relating to the reinsured portions of the underlying insurance agreements has been assumed by the reinsurer. In this narrow circumstance, the reinsurer's economic position is virtually equivalent to having written the insurance contract directly. This condition is met only if insignificant insurance risk is retained by the ceding entity on the retained portions of the underlying insurance contracts, so that the reinsurer's exposure to loss is essentially the same as the reporting entity's.

17. Payment schedules and accumulating retentions from multiple years are contractual features inherently designed to delay the timing of reimbursement to the ceding entity. Regardless of what a particular feature might be called, any feature that can delay timely reimbursement violates the conditions for reinsurance accounting. Transfer of insurance risk requires that the reinsurer's payment to the ceding entity depend on and directly vary with the amount and timing of claims settled under the reinsured contracts. Contractual features that can delay timely reimbursement prevent this condition from being met. Therefore, any feature that may affect the timing of the reinsurer's reimbursement to the ceding entity shall be closely scrutinized.

Accounting for Reinsurance

18. Reinsurance recoverables shall be recognized in a manner consistent with the liabilities (including estimated amounts for claims incurred but not reported) relating to the underlying reinsured contracts. Assumptions used in estimating reinsurance recoverables shall be consistent with those used in estimating the related liabilities. Certain assets and liabilities are created by entities when they engage in reinsurance contracts. Reinsurance assets meet the definition of assets as defined by *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted to the extent they conform to the requirements of this statement.

19. Accounting for members of a reinsurance pool shall follow the accounting for the pool member which issued the underlying policy. Specific accounting rules for underwriting pools and associations are addressed in SSAP No. 63—Underwriting Pools and Associations Including Intercompany Pools.

20. Reinsurance recoverable on loss payments is an admitted asset. Notwithstanding the fact that reinsurance recoverables on paid losses may meet the criteria for offsetting under the provisions of SSAP No. 64—Offsetting and Netting of Assets and Liabilities (SSAP No. 64), reinsurance recoverables on paid losses shall be reported as an asset without any available offset. Unauthorized reinsurance is included in this asset and reflected separately as a liability to the extent required. Penalty for overdue authorized reinsurance shall be reflected as a liability.

21. Funds held or deposited with reinsured companies, whether premiums withheld as security for unearned premium and outstanding loss reserves or advances for loss payments, are admitted assets provided they do not exceed the liabilities they secure and provided the reinsured is solvent. Those funds which are in excess of the liabilities, and any funds held by an insolvent reinsured shall be nonadmitted.

22. Prospective reinsurance is defined as reinsurance in which a reinsurer agrees to reimburse a ceding entity for losses that may be incurred as a result of future insurable events covered under contracts subject to the reinsurance. Retroactive reinsurance is defined as reinsurance in which a reinsurer agrees to reimburse a ceding entity for liabilities incurred as a result of past insurable events covered under contracts subject to the reinsurance. A reinsurance agreement may include both prospective and retroactive reinsurance provisions.

23. The distinction between prospective and retroactive reinsurance agreements is based on whether the agreement reinsures future or past insured events covered by the underlying insurance policies. For example, in occurrence-based insurance, the insured event is the occurrence of a loss covered by the insurance contract. In claims-made insurance, the insured event is the reporting to the insurer, within the period specified by the policy, of a claim for a loss covered by the insurance agreement. A claims-made reinsurance contract that reinsures claims asserted to the reinsurer in a future period as a result of insured events that occurred prior to entering into the reinsurance agreement is a retroactive agreement. (However, a reinsurance agreement that reinsures claims reported to an insurer that are covered under currently effective claims-made insurance policies is a prospective reinsurance agreement.)

24. It is not uncommon for a reinsurance arrangement to be initiated before the beginning of a policy period but not finalized until after the policy period begins. Whether there was agreement in principle at the beginning of the policy period and, therefore, the agreement is substantively prospective shall be determined based on the facts and circumstances. However, except as respects business assumed by a U.S. reinsurer from ceding companies domiciled outside the U.S. and not affiliated with such reinsurer, or business assumed by a U.S. reinsurer where either the lead reinsurer or a majority of the capacity on the agreement is domiciled outside the U.S. and is not affiliated with such reinsurer, if an agreement entered into, renewed or amended on or after January 1, 1994 has not been finalized, reduced to a written form and signed by the parties within nine months after the commencement of the policy period covered by the reinsurance arrangement, then the arrangement is presumed to be retroactive and shall be accounted for as

a retroactive reinsurance agreement. This presumption shall not apply to: (a) facultative reinsurance contracts, nor to (b) reinsurance agreements with more than one reinsurer which are signed by the lead reinsurer (i.e., the reinsurer setting the terms of the agreement for the reinsurers) within nine months after the commencement of the policy period covered by the reinsurance agreement, nor to (c) reinsurance agreements with more than one reinsurer (whether signed by the lead reinsurer or not) which were entered into, renewed or amended on or before December 31, 1996, (and which were not renewed or amended after that date) if reinsurers representing more than 50% of the capacity on the agreement have signed cover notes, placement slips or similar documents describing the essential terms of coverage and exclusions within nine months after the commencement of the policy period covered by the reinsurance arrangement. Also exempt from this presumption are reinsurance agreements where one of the parties is in conservation, rehabilitation, receivership or liquidation proceedings.

25. Prospective and retroactive provisions included within a single agreement shall be accounted for separately. If separate accounting for prospective and retroactive provisions included within a single agreement is impracticable, the agreement shall be accounted for as a retroactive agreement provided the conditions for reinsurance accounting are met.

Accounting for Prospective Reinsurance Agreements

26. Amounts paid for prospective reinsurance that meet the conditions for reinsurance accounting shall be reported as a reduction of written and earned premiums by the ceding entity and shall be earned over the remaining contract period in proportion to the amount of reinsurance protection provided or, if applicable, until the reinsurer's maximum liability under the agreement has been exhausted. If the amounts paid are subject to adjustment and can be reasonably estimated, the basis for amortization shall be the estimated ultimate amount to be paid. Reinstatement premium, if any, shall be earned over the period from the reinstatement of the limit to the expiration of the agreement.

27. Changes in amounts of estimated reinsurance recoverables shall be recognized as a reduction of gross losses and loss expenses incurred in the current period statement of income. Reinsurance recoverables on paid losses shall be reported as an asset, reinsurance recoverables on loss and loss adjustment expense payments, in the balance sheet. Reinsurance recoverables on unpaid case-basis and incurred but not reported losses and loss adjustment expenses shall be netted against the liability for gross losses and loss adjustment expenses.

Accounting for Retroactive Reinsurance Agreements

28. Certain reinsurance agreements which transfer both components of insurance risk cover liabilities which occurred prior to the effective date of the agreement. Due to potential abuses involving the creation of surplus to policyholders and the distortion of underwriting results, special accounting treatment for these agreements is warranted.

29. All retroactive reinsurance agreements entered into, renewed or amended on or after January 1, 1994 (including subsequent development of such transactions) shall be accounted for and reported in the following manner:

a. The ceding entity shall record, without recognition of the retroactive reinsurance, loss and loss expense reserves on a gross basis on the balance sheet and in all schedules and exhibits;

b. The assuming entity shall exclude the retroactive reinsurance from loss and loss expense reserves and from all schedules and exhibits;

c. The ceding entity and the assuming entity shall report by write-in item on the balance sheet, the total amount of all retroactive reinsurance, identified as retroactive reinsurance reserve ceded or assumed, recorded as a contra-liability by the ceding entity and as a liability by the assuming entity;

d. The ceding entity shall, by write-in item on the balance sheet, restrict surplus resulting from any retroactive reinsurance as a special surplus fund, designated as special surplus from retroactive reinsurance account;

e. The surplus gain from any retroactive reinsurance shall not be classified as unassigned funds (surplus) until the actual retroactive reinsurance recovered exceeds the consideration paid;

f. The special surplus from retroactive reinsurance account for each respective retroactive reinsurance agreement shall be reduced at the time the ceding entity begins to recover funds from the assuming entity in amounts exceeding the consideration paid by the ceding entity under such agreement, or adjusted as provided in subparagraph 29 j.;

g. For each agreement, the reduction in the special surplus from retroactive reinsurance account shall be limited to the lesser of (i) the actual amount recovered in excess of consideration paid or (ii) the initial surplus gain resulting from the respective retroactive reinsurance agreement. Any remaining balance in the special surplus from retroactive reinsurance account derived from any such agreement shall be returned to unassigned funds (surplus) upon elimination of all policy obligations subject to the retroactive reinsurance agreement;

h. The ceding entity shall report the initial gain arising from a retroactive reinsurance transaction (i.e., the difference between the consideration paid to the reinsurer and the total reserves ceded to the reinsurer) as a write-in item on the statement of income, to be identified as Retroactive Reinsurance Gain and included under Other Income;

i. The assuming entity shall report the initial loss arising from a retroactive reinsurance transaction, as defined in the preceding subparagraph 29 g., as a write-in item on the statement of income, to be identified as Retroactive Reinsurance Loss and included under Other Income;

j. Any subsequent increase or reduction in the total reserves ceded under a retroactive reinsurance agreement shall be reported in the manner described in the preceding subparagraphs 29 h. and 29 i., in order to recognize the gain or loss arising from such increase or reduction in reserves ceded. The Special Surplus from Retroactive Reinsurance Account write-in entry on the balance sheet shall be adjusted, upward or downward, to reflect such increase or reduction in reserves ceded. The Special Surplus from Retroactive Reinsurance Account write-in entry shall be equal to or less than the total ceded reserves under all retroactive reinsurance agreements in-force as of the date of the financial statement. Special surplus arising from a retroactive reinsurance transaction shall be considered to be earned surplus (i.e., transferred to unassigned funds (surplus)) only when cash recoveries from the assuming entity exceed the consideration paid by the ceding entity as respects such retroactive reinsurance transaction; and

k. The consideration paid for a retroactive reinsurance agreement shall be reported as a decrease in ledger assets by the ceding entity and as an increase in ledger assets by the assuming entity.

(For an illustration of ceding entity accounting entries see Question 33 in Exhibit A.)

30. Portfolio reinsurance is the transfer of an insurer's entire liability for in force policies or outstanding losses, or both, of a segment of the insurer's business. Loss portfolio transactions are to be accounted for as retroactive reinsurance.

31. The accounting principles for retroactive reinsurance agreements in paragraph 29 shall not apply to the following types of agreements (which shall be accounted for as prospective reinsurance agreements):

a. Structured settlement annuities for individual claims purchased to implement settlements of policy obligations;

b. Novations, (i.e., (i) transactions in which the original direct insurer's obligations are completely extinguished, resulting in no further exposure to loss arising on the business novated or (ii) transactions in which the original assuming entity's obligations are completely extinguished) resulting in no further exposure to loss arising on the business novated, provided that (1) the parties to the transaction are not affiliates (or if affiliates, that the transaction has the prior approval of the domiciliary regulators of the parties) and (2) the accounting for the original reinsurance agreement will not be altered from retroactive to prospective;

c. The termination of, or reduction in participation in, reinsurance treaties entered into in the ordinary course of business; or

d. Intercompany reinsurance agreements, and any amendments thereto, among companies 100% owned by a common parent or ultimate controlling person provided there is no gain in surplus as a result of the transaction. or

e. Reinsurance/retrocession agreements that meet the criteria of property/casualty run-off agreements described in paragraphs 68-70.

32. Retroactive reinsurance agreements resulting in surplus gain to the ceding entity (with or without risk transfer) entered into between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) shall be reported as follows:

a. The consideration paid by the ceding entity shall be recorded as a deposit and reported as a nonadmitted asset; and

b. No deduction shall be made from loss and loss adjustment expense reserves on the ceding entity's balance sheet, schedules, and exhibits.

33. The accounting and reporting provisions applicable to retroactive reinsurance apply to all transactions transferring liabilities in connection with a court-ordered rehabilitation, liquidation, or receivership. The requirement to include stipulated contract provisions in the reinsurance agreements shall not apply to these transactions, with written approval of the ceding entity's domiciliary commissioner.

34. Novations meeting the requirements of subparagraph 31 b. shall be accounted for as prospective reinsurance agreements. The original direct insurer, or the original assuming insurer, shall report amounts paid as a reduction of written and earned premiums, and unearned premiums to the extent that premiums have not been earned. Novated balances (e.g., loss and loss adjustment expense reserves) shall be written off through the accounts, exhibits, and schedules in which they were originally recorded. The assuming insurer shall report amounts received as written and earned premiums, and obligations assumed as incurred losses in the statement of income.

Deposit Accounting

35. To the extent that a reinsurance agreement does not, despite its form, transfer both components of insurance risk, all or part of the agreement shall be accounted for and reported as deposits in the following manner:

a. At the outset of the reinsurance agreement the net consideration paid by the ceding entity (premiums less commissions or other allowances) shall be recorded as a deposit by the ceding entity and as a liability by the assuming entity. The deposit shall be reported as an admitted asset by the ceding entity if (i) the assuming entity is licensed, accredited or otherwise qualified in the ceding entity's state of domicile as described in Appendix A-785 or (ii) there are funds held by or on behalf of the ceding entity as described in Appendix A-785;

b. Throughout the life of the agreement, receipts and disbursements shall be recorded through the deposit/liability accounts;

c. When individual case reserves are the basis for the deposit and the assuming entity pays in excess of the amount transferred by the ceding entity, the amount paid in excess of the deposit received shall be recognized as a loss by the assuming entity and as a gain by the ceding entity as Other Income in the statement of income;

d. When the agreement is completed, or when there is a loss payment in excess of the deposit, any difference between consideration and recoveries shall be recorded in the Other Income or Loss account as a loss to the reinsurer and as a gain in the Other Income or Loss account by the reinsured;

e. With regard to bulk reserves,(i.e., IBNR) it shall be assumed that any cash transactions for the settlement of losses will reduce the asset/liability accounts by the amount of the cash transferred. When the remaining losses are revalued upward, an increase in the liability shall be recorded as a loss recognized by the assuming entity. Conversely, the ceding entity shall increase its deposit (asset) and outstanding loss liability;

f. No deduction shall be made from the loss and loss adjustment expense reserves on the ceding entity's balance sheet, schedules, and exhibits; and

g. The assuming entity shall record net consideration to be returned to the ceding entity as liabilities.

Assumed Reinsurance

36. Reinsurance premiums receivable at the end of the accounting period are combined with direct business receivables and reported as agents' balances or uncollected premiums. Where the ceding entity withholds premium funds pursuant to the terms of the reinsurance agreement, such assets shall be shown by the assuming entity as funds held by or deposited with reinsured companies. Reporting entities shall record any interest earned or receivable on the funds withheld as a component of aggregate write-ins for miscellaneous income.

37. If the assuming entity receives reinsurance premium prior to the effective date of the reinsurance contract, consistent with *SSAP No. 53—Property Casualty Contracts-Premiums*, paragraph 14, advance premiums shall be reported as a liability in the statutory financial statement and not considered income until the effective date of the coverage. Such amounts are not included in written premium or the unearned premium reserve. If the assuming entity receives reinsurance premium after the effective date of

the reinsurance contract but prior to the due date, the amount received shall be reported as a reduction of the asset for deferred but not yet due (earned but unbilled premiums).

38. Reinsurance premiums more than 90 days overdue shall be nonadmitted except (a) to the extent the assuming entity maintains unearned premium and loss reserves as to the ceding entity, under principles of offset accounting as discussed in SSAP No. 64, or (b) where the ceding entity is licensed and in good standing in assuming entity's state of domicile. Reinsurance premiums are due pursuant to the original contract terms (as the agreement stood on the date of execution). In the absence of a specific contract date, reinsurance premiums will be deemed due thirty (30) days after the date on which (i) notice or demand of premium due is provided to the ceding entity or (ii) the assuming entity books the premium (see SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers).

39. A lag will develop between the time of the entry of the underlying policy transaction on the books of the ceding entity and the transmittal of information and entry on the books of the assuming entity. Assuming companies shall estimate unreported premiums and related costs to the extent necessary to prevent material distortions in the loss development contained in the assuming entity's annual statement schedules where calendar year premiums are compared to accident year losses.

40. Proportional reinsurance (i.e., first dollar pro rata reinsurance) premiums shall be allocated to the appropriate annual statement lines of business in the Underwriting and Investment exhibits. Non-proportional assumed reinsurance premiums shall be classified as reinsurance under the appropriate subcategories.

41. Assumed retroactive reinsurance premiums shall be excluded from all schedules and exhibits as addressed in subparagraph 29 k.

42. Amounts payable by reinsurers on losses shall be classified as unpaid losses. Assumed reinsurance payable on paid losses shall be classified as a separate liability item on the balance sheet. IBNR losses on assumed reinsurance business shall be netted with ceded losses on the balance sheet and listed separately by annual statement line of business in the Underwriting and Investment exhibits.

Ceded Reinsurance

43. Ceded reinsurance premiums payable (net of ceding commission) shall be classified as a liability. Consistent with SSAP No. 64, ceded reinsurance premiums payable may be deducted from amounts due from the reinsurer, such as amounts due on assumed reinsurance, when a legal right of offset exists.

44. With regard to reinsurance premium paid prior to the effective date of the contract, the ceding entity shall reflect the prepaid item as a write-in admitted asset and it should not be recognized in the income statement until the effective date of the coverage. Such amounts are not included in ceded written premiums or ceded unearned premium but should be subject to impairment analysis. With regard to reinsurance premium paid by ceding entity after the reinsurance contract is in effect but prior to the due date, the ceding entity shall treat this item as a reduction to the liability for ceded reinsurance premiums payable. That liability reflects not only premiums unpaid but also amounts booked but deferred and not yet due.

45. Amounts withheld by the ceding entity that would otherwise be payable under the reinsurance agreement shall be reported as funds held by entity under reinsurance treaties. Reporting entities shall record any interest due or payable on the amounts withheld as a component of aggregate write-ins for miscellaneous income.

46. Ceded reinsurance transactions shall be classified in the annual statement line of business which relates to the direct or assumed transactions creating the cession or retrocession.

47. Ceded retroactive reinsurance premiums shall be excluded from all schedules and exhibits as addressed in subparagraph 29 k.

Adjustable Features/Retrospective Rating

48. Reinsurance treaties may provide for adjustment of commission, premium, or amount of coverage, based on loss experience. The accounting for common examples is outlined in the following paragraphs:

Commission Adjustments

49. An accrual shall be maintained for the following adjustable features based upon the experience recorded for the accounting period:

a. Contingent or Straight Profit—The reinsurer returns to the ceding entity a stipulated percentage of the profit produced by the business assumed from the ceding entity. Profit may be calculated for any specified period of time, but the calculation is often based on an average over a period of years; and

b. Sliding Scale—A provisional rate of commission is paid over the course of the agreement, with a final adjustment based on the experience of the business ceded under the agreement.

Premium Adjustments

50. If the reinsurance agreement incorporates an obligation on the part of the ceding entity to pay additional premium to the assuming entity based upon loss experience under the agreement, a liability in the amount of such additional premium shall be recognized by the ceding entity during the accounting period in which the loss event(s) giving rise to the obligation to pay such additional premium occur(s). The assuming entity shall recognize an asset in a consistent manner. If the reinsurance agreement incorporates an obligation on the part of the assuming entity to refund to the ceding entity any portion of the consideration received by the assuming entity based upon loss experience under the agreement, an asset in the amount of any such refund shall be recognized by the ceding entity during the accounting period in which the loss event(s) giving rise to the obligation to make such refund occur(s). The initial provisional or deposit premium is recalculated retrospectively, based on loss experience under the agreement during a specified period of time; the calculation is often based on an average over a period of years. The assuming entity shall recognize a liability in a consistent manner.

Adjustments in the Amount of Coverage

51. The amount of coverage available for future periods is adjusted, upward or downward, based on loss experience under the agreement during a specified period of time. If the reinsurance agreement incorporates a provision under which the reinsurance coverage afforded to the ceding entity may be increased or reduced based upon loss experience under the agreement, an asset or a liability shall be recognized by the ceding entity in an amount equal to that percentage of the consideration received by the assuming entity which the increase or reduction in coverage represents of the amount of coverage originally afforded. The asset or liability shall be recognized during the accounting period in which the loss event(s) (or absence thereof) giving rise to the increase or decrease in reinsurance coverage occur(s), and shall be amortized over all accounting periods for which the increased or reduced coverage is applicable. The term "consideration" shall mean, for this purpose, the annualized deposit premium for the

period used as the basis for calculating the adjustment in the amount of coverage to be afforded thereafter under the agreement.

Impairment

52. Include as a nonadmitted asset, amounts accrued for premium adjustments on retrospectively rated reinsurance agreements with respect to which all uncollected balances due from the ceding company have been classified as nonadmitted.

Commissions

53. Commissions payable on reinsurance assumed business shall be included as an offset to Agents' Balances or Uncollected Premiums. Commissions receivable on reinsurance ceded business shall be included as an offset to Ceded Reinsurance Balances Payable.

54. If the ceding commission paid under a reinsurance agreement exceeds the anticipated acquisition cost of the business ceded, the ceding entity shall establish a liability, equal to the difference between the anticipated acquisition cost and the reinsurance commissions received, to be amortized pro rata over the effective period of the reinsurance agreement in proportion to the amount of coverage provided under the reinsurance contract.

Provision for Reinsurance

55. The NAIC Annual Statement Instructions for Property and Casualty Companies for Schedule F—Provision for Overdue Reinsurance, provide for a minimum reserve for uncollectible reinsurance with an additional reserve required if an entity's experience indicates that a higher amount should be provided. The minimum reserve Provision for Reinsurance is recorded as a liability and the change between years is recorded as a gain or loss directly to unassigned funds (surplus). Any reserve over the minimum amount shall be recorded on the statement of income by reversing the accounts previously utilized to establish the reinsurance recoverable.

56. The provision for reinsurance is calculated separately for unauthorized and authorized companies. An authorized reinsurer is licensed, accredited or approved by the ceding entity's state of domicile; an unauthorized reinsurer is not so licensed, accredited or approved.

Disputed Items

57. Occasionally a reinsurer will question whether an individual claim is covered under a reinsurance agreement or may even attempt to nullify an entire agreement. A ceding entity, depending upon the individual facts, may or may not choose to continue to take credit for such disputed balances. A ceding entity shall take no credit whatsoever for reinsurance recoverables in dispute with an affiliate.

58. Items in dispute are those claims with respect to which the ceding entity has received formal written communication from the reinsurer denying the validity of coverage.

Uncollectible Reinsurance

59. Uncollectible reinsurance balances shall be written off through the accounts, exhibits, and schedules in which they were originally recorded.

Commutations

60. A commutation of a reinsurance agreement, or any portion thereof, is a transaction which results in the complete and final settlement and discharge of all, or the commuted portion thereof, present and future obligations between the parties arising out of the reinsurance agreement.

61. In commutation agreements, an agreed upon amount determined by the parties is paid by the reinsurer to the ceding entity. The ceding entity immediately eliminates the reinsurance recoverable recorded against the ultimate loss reserve and records the cash received as a negative paid loss. Any net gain or loss shall be reported in underwriting income in the statement of income.

62. The reinsurer eliminates a loss reserve carried at ultimate cost for a cash payout calculated at present value. Any net gain or loss shall be reported in underwriting income in the statement of income.

63. Commuted balances shall be written off through the accounts, exhibits, and schedules in which they were originally recorded.

National Flood Insurance Program

64. The National Flood Insurance Program was created by the Federal Emergency Management Agency (FEMA) and is designed to involve private insurers in a write-your-own (WYO) flood insurance program financially backed by FEMA at no risk to the insurer. To become a participating WYO entity, the entity signs a document with the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency known as the Financial Assistance/Subsidy Arrangement.

65. Premium rates are set by FEMA. The WYO participating companies write the flood insurance coverage qualifying for the program on their own policies, perform their own underwriting, premium collections, claim payments, administration, and premium tax payments for policies written under the program.

66. Monthly accountings are made to FIA and participants draw upon FEMA letters of credit for deficiencies of losses, loss expenses, and administrative expenses in excess of premiums, subject to certain percentage limitations on expenses.

67. Balances due from or to FEMA shall be reported as ceded reinsurance balances receivable or payable.

Accounting for the Transfer of Property and Casualty Run-off Agreements

68. Property and casualty run-off agreements are reinsurance or retrocession agreements that are intended to transfer essentially all of the risks and benefits of a specific line of business or market segment that is no longer actively marketed by the transferring insurer or reinsurer. A property and casualty run-off agreement is not a novation as the transferring insurer or reinsurer remains primarily liable to the ceding entity under the original contracts of insurance or reinsurance. Reinsurance agreements between affiliates or between insurers under common control (as those terms are defined in Appendix A-440) are not eligible for the exception for property and casualty run-off agreements in paragraph 31. e of SSAP No. 62.

Criteria

69. Property and casualty run-off agreements must be approved by the domiciliary regulators of the transferring entity (either the original direct insurer in the case of a reinsurance agreement or the original assuming reinsurer in the case of a retrocession agreement) and the assuming entity. If the transferring entity and assuming entity are domiciled in the same state, then the regulator of the state where the majority of the transferred liabilities is located shall be asked to approve the agreement. In determining whether to approve an agreement, the regulators shall require the following:

a. Assuming Entity Properly Licensed – The entity assuming the run-off agreement must have the appropriate authority or license to write the business being assumed.

b. Limits and Coverages – the reinsurance or retrocession agreement shall provide the same limits and coverages that were afforded in the original insurance or reinsurance agreement.

c. Non-Recourse – The reinsurance or retrocession agreement shall not contain any adjustable features or profit share or retrospective rating, and there shall be no recourse (other than normal representations and warranties that would be associated with a purchase and sale agreement) directly or indirectly against the transferring entity.

d. Risk Transfer – the reinsurance or retrocession agreement must meet the requirements of risk transfer as described in this statement.

e. Financial Strength of Reinsurer– the assuming reinsurer shall have a financial strength rating from at least two independent rating agencies (from NAIC acceptable rating agencies) which is equal to or greater than the current ratings of the transferring entity. The lowest financial strength rating received from an NAIC acceptable rating organization rating agency will be used to compare the financial strength ratings of the transferring and assuming entities.

f. Assessments – the assuming reinsurer or retrocessionaire (if required in the original reinsurance contract) shall be financially responsible for any and all assessments, including guaranty fund assessments, that are assessed against the transferring entity related to the insurance business being assumed.

g. Applicable Only to "Run-off" Business – the reinsurance or retrocession agreement shall only cover liabilities relating to a line(s) of business or specific market segments no longer actively marketed by the transferring entity.

h. Non-Cancelable Reinsurance – the reinsurance or retrocession agreement shall provide that the reinsurance or retrocessional coverage provided by the proposed agreement cannot be cancelable by either party for any reason. (However, this provision will not override standard contracts law and principles and will not prevent any remedies, including rescission or termination that might be available for breach, misrepresentation, etc.)

Statutory Schedules and Exhibits

70. The assuming entity will report the business in the same line of business as reported by the original insurer or reinsurer. The assuming entity will report the business at the same level of detail using the appropriate statutory schedules and exhibits.

Disclosures

71. Unsecured Reinsurance Recoverables:

a. If the entity has with any individual reinsurers, authorized or unauthorized, an unsecured aggregate recoverable for losses, paid and unpaid including IBNR, loss adjustment expenses, and unearned premium, that exceeds 3% of the entity's policyholder surplus, list each individual reinsurer and the unsecured aggregate recoverable pertaining to that reinsurer; and

b. If the individual reinsurer is part of a group, list the individual reinsurers, each of its related group members having reinsurance with the reporting entity, and the total unsecured aggregate recoverables for the entire group.

72. Reinsurance Recoverables in Dispute—Reinsurance recoverable on paid and unpaid (including IBNR) losses in dispute by reason of notification, arbitration or litigation shall be identified if the amounts in dispute from any entity (and/or affiliate) exceed 5% of the ceding entity's policyholders surplus or if the aggregate of all disputed items exceeds 10% of the ceding entity's policyholders surplus. Notification means a formal written communication from a reinsurer denying the validity of coverage.

73. Uncollectible Reinsurance—Describe uncollectible reinsurance written off during the year reported in the following annual statement classifications, including the name(s) of the reinsurer(s):

a. Losses incurred;

b. Loss adjustment expenses incurred;

c. Premiums earned; and

d. Other.

74. Commutation of Ceded Reinsurance—Describe commutation of ceded reinsurance during the year reported in the following annual statement classifications, including the name(s) of the reinsurer(s):

a. Losses incurred;

b. Loss adjustment expenses incurred;

c. Premiums earned; and

d. Other.

75. Retroactive Reinsurance—The table illustrated in the NAIC Annual Statement Instructions for Property and Casualty Companies under Retroactive Reinsurance in the Notes to Financial Statements section shall be completed for all retroactive reinsurance agreements that transfer liabilities for losses that have already occurred and that will generate special surplus transactions. The insurer (assuming or ceding) shall assign a unique number to each retroactive reinsurance agreement and shall utilize this number for as long as the agreement exists. Transactions utilizing deposit accounting shall not be reported in this note.

76. Reinsurance Assumed and Ceded—The tables illustrated in the NAIC Annual Statement Instructions for Property and Casualty Companies under "Reinsurance Assumed and Ceded in the Notes to Financial Statements" section shall be completed as follows:

a. The financial statements shall disclose the maximum amount of return commission which would have been due reinsurers if all reinsurance were canceled with the return of the unearned premium reserve; and

b. The financial statements shall disclose the accrual of additional or return commission, predicated on loss experience or on any other form of profit sharing arrangements as a result of existing contractual arrangements.

77. A specific interrogatory requires information on reinsurance of risk accompanied by an agreement to release the reinsurer from liability, in whole or in part, from any loss that may occur on the risk or portion thereof.

78. Disclosures for paragraphs 79-84 represent annual statement interrogatories, which are required to be included with the annual audit report beginning with audit reports on financial statements as of and for the period ended December 31, 2006. The disclosures required within paragraphs 79-84 shall be included in accompanying supplemental schedules of the annual audit report beginning in year-end 2006. These disclosures shall be limited to reinsurance contracts entered into, renewed or amended on or after January 1, 1994. This limitation applies to the annual audit report only and does not apply to the statutory annual statement interrogatories and the reinsurance summary supplemental filing.

79. Disclose if any risks are reinsured under a quota share reinsurance contract with any other entity that includes a provision that would limit the reinsurer's losses below the stated quota share percentage (e.g. a deductible, a loss ratio corridor, a loss cap, an aggregate limit or any similar provisions)? If yes, indicate the number of reinsurance contracts containing such provisions and if the amount of reinsurance credit taken reflects the reduction in quota share coverage caused by any applicable limiting provision(s).

80. Disclose if the reporting entity ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates) for which during the period covered by the statement: (i) it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders; (ii) it accounted for that contract as reinsurance and not as a deposit; and (iii) the contract(s) contain one or more of the following features or other features that would have similar results:

a. A contract term longer than two years and the contract is noncancellable by the reporting entity during the contract term;

b. A limited or conditional cancellation provision under which cancellation triggers an obligation by the reporting entity, or an affiliate of the reporting entity, to enter into a new reinsurance contract with the reinsurer, or an affiliate of the reinsurer;

c. Aggregate stop loss reinsurance coverage;

d. A unilateral right by either party (or both parties) to commute the reinsurance contract, whether conditional or not, except for such provisions which are only triggered by a decline in the credit status of the other party;

e. A provision permitting reporting of losses, or payment of losses, less frequently than on a quarterly basis (unless there is no activity during the period); or

f. Payment schedule, accumulating retentions from multiple years or any features inherently designed to delay timing of the reimbursement to the ceding entity.

81. Disclose if the reporting entity during the period covered by the statement ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates) for which during the period covered by the statement it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders; excluding cessions to approved pooling arrangements or to captive insurance companies that are directly or indirectly controlling, controlled by, or under common control with (i) one or more unaffiliated policyholders of the reporting entity, or (ii) an association of which one or more unaffiliated policyholders of the reporting entity is a member, where:

a. The written premium ceded to the reinsurer by the reporting entity or its affiliates represents fifty percent (50%) or more of the entire direct and assumed premium written by the reinsurer based on its most recently available financial statement; or

b. Twenty–five percent (25%) or more of the written premium ceded to the reinsurer has been retroceded back to the reporting entity or its affiliates in separate reinsurance contract.

82. If affirmative disclosure is required for paragraph 80 or 81, provide the following information:

a. A summary of the reinsurance contract terms and indicate whether it applies to the contracts meeting paragraph 80 or 81;

b. A brief discussion of management's principal objectives in entering into the reinsurance contract including the economic purpose to be achieved; and

c. The aggregate financial statement impact gross of all such ceded reinsurance contracts on the balance sheet and statement of income.

83. Except for transactions meeting the requirements of paragraph 31 of SSAP No. 62—Property and Casualty Reinsurance, disclose if the reporting entity ceded any risk under any reinsurance contract (or multiple contracts with the same reinsurer or its affiliates) during the period covered by the financial statement, and either:

a. Accounted for that contract as reinsurance (either prospective or retroactive) under statutory accounting principles (“SAP”) and as a deposit under generally accepted accounting principles (“GAAP”); or

b. Accounted for that contract as reinsurance under GAAP and as a deposit under SAP?

84. If affirmative disclosure is required for paragraph 83, explain in a supplemental filing why the contract(s) is treated differently for GAAP and SAP.

85. Disclosures for the Transfer of Property and Casualty Run-off Agreements

a. Disclose if the reporting entity has entered into any agreements which have been approved by their domiciliary regulator and have qualified pursuant to SSAP No. 62, paragraph 31.e., Accounting for the Transfer of Property and Casualty Run-off Agreements.

b. If affirmative, provide a description of the agreement and the amount of consideration paid and liabilities transferred.

86. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

87. This statement adopts *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts* (FAS 113) with modification and FASB *Emerging Issues Task Force No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises* with modification for the following:

a. Reinsurance recoverables on unpaid case-basis and incurred but not reported losses and loss adjustment expenses shall be reported as a contra-liability netted against the liability for gross losses and loss adjustment expenses;

b. Amounts paid for prospective reinsurance that meet the conditions for reinsurance accounting shall be reported as a reduction of unearned premiums;

c. The gain created by a retroactive reinsurance agreement because the amount paid to the reinsurer is less than the gross liabilities for losses and loss adjustment expenses ceded to the reinsurer is reported in the statement of income as a write-in gain in other income by the ceding entity and a write-in loss by the assuming entity. The gain created by a retroactive reinsurance agreement is restricted as a special surplus account until the actual retroactive reinsurance recovered is in excess of the consideration paid;

d. This statement requires that a liability be established through a provision reducing unassigned funds (surplus) for unsecured reinsurance recoverables from unauthorized reinsurers and for certain overdue balances due from authorized reinsurers;

e. Some reinsurance agreements contain adjustable features that provide for adjustment of commission, premium or amount of coverage, based on loss experience. This statement requires that the asset or liability arising from the adjustable feature be computed based on experience to date under the agreement, and the impact of early termination may only be considered at the time the agreement has actually been terminated;

f. Structured settlements are addressed in *SSAP No. 65—Property and Casualty Contracts*. Statutory accounting and FAS 113 are consistent in accounting for structured settlement annuities where the reporting entity is the owner and payee and where the claimant is the payee and the reporting entity has been released from its obligation. FAS 113 distinguishes structured settlement annuities where the claimant is the payee and a legally enforceable release from the reporting entity's liability is obtained from those where the claimant is the payee but the reporting entity has not been released from its obligation. GAAP requires the deferral of any gain resulting from the purchase of a structured settlement annuity where the reporting entity has not been released from its obligation; and

g. This statement requires that reinsurance recoverables on unpaid losses and loss adjustment expenses be presented as a contra-liability. Requirements for offsetting and netting are addressed in SSAP No. 64.

88. This statement rejects AICPA *Statement of Position No. 92-5, Accounting for Foreign Property and Liability Reinsurance*. This statement incorporates Appendix A-785 as applicable.

Effective Date and Transition

89. This statement shall apply to:

a. Reinsurance agreements entered into, renewed, or amended on or after January 1, 1994. An amendment is any revision or adjustment of contractual terms. The payment of premiums or reimbursement of losses recoverable under the agreement shall not constitute an amendment; and

b. Reinsurance agreements in force on January 1, 1995, which cover losses occurring or claims made on or after that date on policies reinsured under such agreements.

90. The guidance shall not apply to:

a. Reinsurance agreements which cover only losses occurring or claims made before January 1, 1994, and which were entered into before January 1, 1994, and were not subsequently renewed or amended; and

b. Reinsurance agreements that expired before and were not renewed or amended after January 1, 1995.

91. The guidance in paragraphs 48 through 52 shall be effective for all accounting periods beginning on or after January 1, 1996, and shall apply to reinsurance agreements entered into, renewed or amended on or after January 1, 1994.

92. This statement is effective for years beginning January 1, 2001. Changes 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.* Revisions to paragraph 31e, and related paragraphs 68-70 and new disclosures in paragraph 86 documented in *Issue Paper No. 137—Transfer of Property and Casualty Reinsurance Run-off Agreements* are effective for contracts entered on or after January 1, 2010.

AUTHORITATIVE LITERATURE

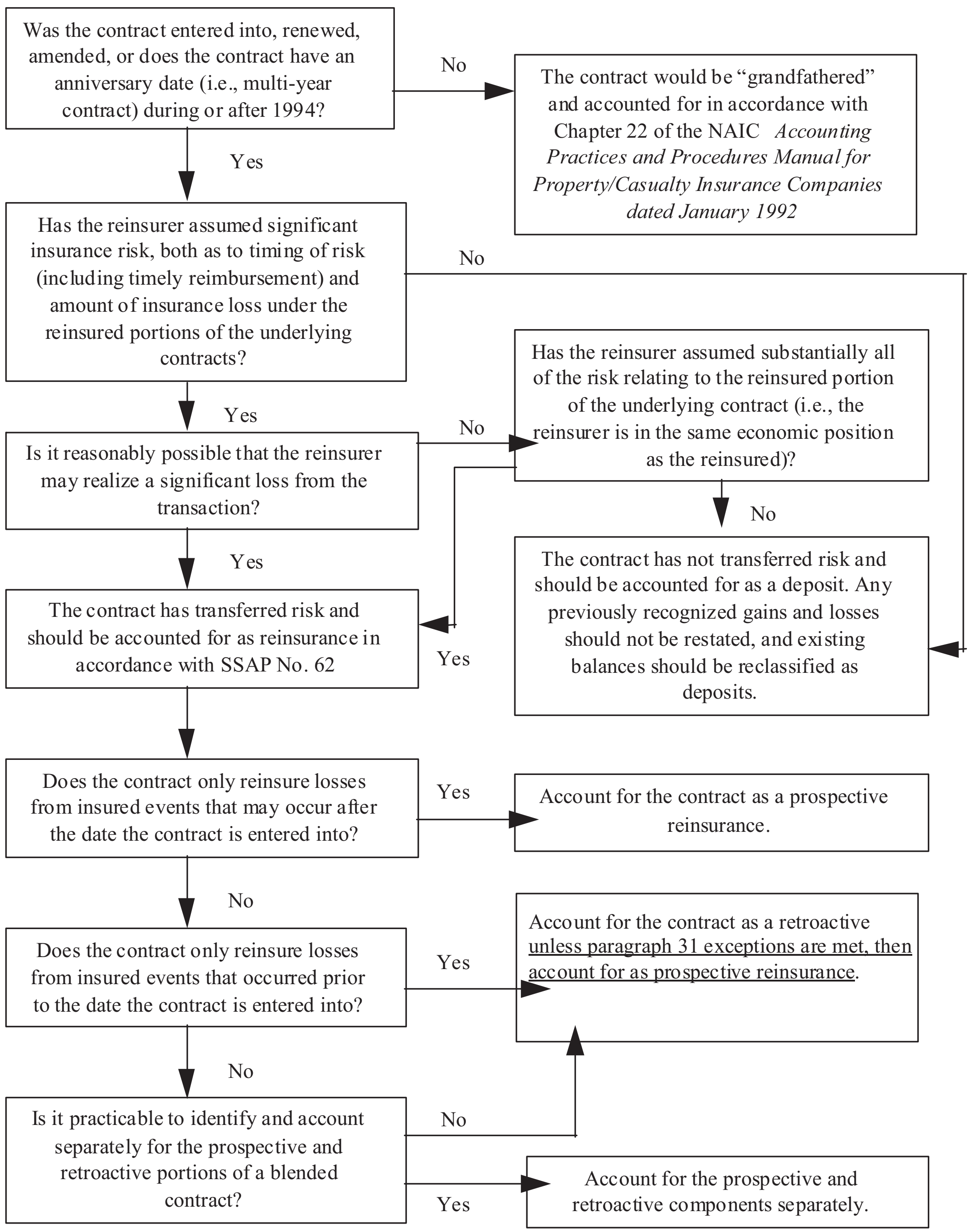
Generally Accepted Accounting Principles

- *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts*
- *FASB Emerging Issues Task Force Issue No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises*

RELEVANT ISSUE PAPERS

- Issue Paper No. 75—Property and Casualty Reinsurance
- Issue Paper No. 137— Transfer of Property and Casualty Reinsurance Run-off Agreements

CLASSIFYING REINSURANCE CONTRACTS



SSAP NO. 62—EXHIBIT A

Implementation Questions and Answers

Applicability

1. Q: The accounting practices in SSAP No. 62 specify the accounting and reporting for reinsurance contracts. What contracts are considered reinsurance contracts for purposes of applying these accounting practices?

   A: Any transaction that indemnifies an insurer against loss or liability relating to insurance risk shall be accounted for in accordance with the accounting practices included in SSAP No. 62. Therefore, all contracts, including contracts that may not be structured or described as reinsurance, shall be accounted for as reinsurance when those conditions are met.

2. Q: The provisions of this statement will apply to (a) reinsurance contracts entered into, renewed or amended on or after January 1, 1994, and (b) any other reinsurance contracts that are in force on January 1, 1995 and cover insurable events on the underlying insurance policies that occur on or after that date. What contracts would be exempt from the new accounting rules included in SSAP No. 62?

   A: The only exempt contracts are:

   1) Purely retroactive reinsurance contracts that cover only insured events occurring before January 1, 1994, provided those contracts were entered into before that date and are not subsequently amended and

   2) Contracts that expired before January 1, 1995 and are not amended after that date.

3. Q: This statement is to be applied to contracts which are amended on or after January 1, 1994. What if the change in terms is not significant, or the terms changed have no financial effect on the contract?

   A: In general, the term amendment should be viewed broadly to include all but the most trivial changes. Examples of amendments include, but are not limited to, replacing one assuming entity with another (including an affiliated entity), or modifying the contract's limit, coverage, premiums, commissions, or experience-related adjustable features. No distinction is made between financial and non-financial terms.

4. Q: Must the accounting provisions of SSAP No. 62 be applied to an *otherwise exempt* contract if the ceding entity pays additional premiums under the contract on or after January 1, 1994?

   A: The answer depends on why the additional premiums are paid. If the additional premiums are the result of a renegotiation, adjustment, or extension of terms, the contract is subject to the accounting provisions of SSAP No. 62. However, additional premiums paid without renegotiation, adjustment, or extension of terms would not make an otherwise exempt contract subject to those provisions.

5. Q: Prospective and retroactive portions of a reinsurance contract are allowed to be accounted for separately, if practicable. Can the retroactive portion of an existing contract be segregated and, therefore, exempted with other retroactive contracts covering insured events occurring prior to January 1, 1994?

A: No. The transition provisions apply to an entire contract, which is either subject to or exempt from the revised provisions of SSAP No. 62. A ceding entity may bifurcate a contract already subject to the new accounting rules in SSAP No. 62 and then account for both the prospective and retroactive portions in accordance with the new accounting standard.

Risk Transfer

6. Q: Do the new risk transfer provisions apply to existing contracts?

A: Yes, the new risk transfer provisions apply to some existing contracts. SSAP No. 62 applies in its entirety only to existing contracts which were renewed or amended on or after January 1, 1994, or which cover losses occurring or claims made after that date. Therefore, those contracts must be evaluated to determine whether they transfer risk and qualify for reinsurance accounting. For accounting periods commencing on or after January 1, 1995, balances relating to such contracts which do not transfer insurance risk shall be reclassified as deposits and shall be accounted for and reported in the manner described under the caption Reinsurance Contracts Must Include Transfer of Risk.

SSAP No. 62 does not apply to existing contracts which were entered into before, and were not renewed or amended on or after, January 1, 1994, and which cover only losses occurring or claims made before that date, nor to contracts which expired before, and were not renewed or amended on or after, January 1, 1995. Those contracts will continue to be accounted for in the manner provided by SSAP No. 62 before these revisions.

7. Q: How does the effective date affect the assessment of whether a significant loss to the reinsurer was reasonably possible?

A: The risk transfer assessment is made at contract inception, based on facts and circumstances known at the time. Because that point in time has passed for existing contracts, some have suggested that the risk transfer provisions be applied as of the effective date. However, that approach to the risk transfer assessment would violate the requirement to consider all cash flows from the contract. Therefore, the test must be applied from contract inception, considering the effect of any subsequent contract amendments. Careful evaluation and considered judgment will be required to determine whether a significant loss to the reinsurer was reasonably possible at inception.

8. Q: Should risk transfer be reassessed if contractual terms are subsequently amended?

A: Yes. When contractual terms are amended, risk transfer should be reassessed. For example, a contract that upon inception met the conditions for reinsurance accounting could later be amended so that it no longer meets those conditions. The contract should then be reclassified and accounted for as a deposit.

9. Q: How should the risk transfer assessment be made when a contract has been amended?

A: No particular method is prescribed for assessing risk transfer in light of a contract amendment. Whether an amended contract in substance transfers risk must be determined considering all of the facts and circumstances in light of the risk transfer requirements. Judgment also will be required to determine whether an amendment in effect creates a new contract.

10. Q: For purposes of evaluating whether a contract with a reinsurer transfers risk, what constitutes a contract?

A: A contract is not defined, but is essentially a question of substance. It may be difficult in some circumstances to determine the boundaries of a contract. For example, the profit-sharing provisions of one contract may refer to experience on other contracts and, therefore, raise the question of whether, in substance, one contract rather than several contracts exist.

The inconsistency that could result from varying interpretations of the term *contract* is limited by requiring that features of the contract or other contracts or agreements that directly or indirectly compensate the reinsurer or related reinsurers for losses be considered in evaluating whether a particular contract transfers risk. Therefore, if agreements with the reinsurer or related reinsurers, in the aggregate, do not transfer risk, the individual contracts that make up those agreements also would not be considered to transfer risk, regardless of how they are structured.

11. Q: If the assessment of risk transfer changes after the initial assessment at contract inception, how should the ceding entity account for the change?

A: The status of a contract should be determinable at inception and, absent amendment, subsequent changes should be very rare. If the risk of significant loss was not deemed reasonably possible at inception, and a significant loss subsequently occurred, the initial assessment was not necessarily wrong, because remote events do occur. Likewise, once a reasonable possibility of significant loss has been established, such loss need not occur in order to maintain the contract's status as reinsurance.

12. Q: SSAP No. 62 requires that reasonably possible outcomes be evaluated to determine the reinsurer's exposure to significant loss. What factors should be considered in determining whether a scenario being evaluated is reasonably possible?

A: The term *reasonably possible* means that the probability is more than remote. The test is applied to a particular scenario, not to the individual assumptions used in the scenario. Therefore, a scenario is not reasonably possible unless the likelihood of the entire set of assumptions used in the scenario occurring together is reasonably possible.

13. Q: In determining the amount of the reinsurer's loss under reasonably possible outcomes, may cash flows directly related to the contract other than those between the ceding and assuming companies, such as taxes and operating expenses of the reinsurer, be considered in the calculation?

A: No. The evaluation is based on the present value of all cash flows *between the ceding and assuming enterprises* under reasonably possible outcomes and, therefore, precludes considering other expenses of the reinsurer in the calculation.

14. Q: In evaluating the significance of a reasonably possible loss, should the reasonably possible loss be compared to gross or net premiums?

A: Gross premiums should be used.

15. Q: How does a commutation clause affect the period of time over which cash flows are evaluated for reasonable possibility of significant loss to the reinsurer?

A: All cash flows are to be assessed under reasonably possible outcomes. Therefore, unless commutation is expected in the scenario being evaluated, it should not be assumed in the calculation. Further, the assumptions used in a scenario must be internally consistent and economically rational in order for that scenario's outcome to be considered reasonably possible.

16. Q: What interest rate should be used in each evaluated scenario to make the present value calculation?

    A: A reasonable and appropriate rate is required, which generally would reflect the expected timing of payments to the reinsurer and the duration over which those cash flows are expected to be invested by the reinsurer.

17. Q: SSAP No. 62 refers to payment schedules and accumulating retentions from multiple years as features that delay timely reimbursement of claims. Does the presence of those features generally prevent a contract from meeting the conditions for reinsurance accounting?

    A: Yes. Payment schedules and accumulating retentions from multiple years are contractual features inherently designed to delay the timing of reimbursement to the ceding entity. Regardless of what a particular feature might be called, any feature that can delay timely reimbursement violates the conditions for reinsurance accounting. Transfer of insurance risk requires that the reinsurer's payments to the ceding entity depend on and directly vary with the amount and timing of claims settled under the reinsured contracts. Contractual features that can delay timely reimbursement prevent this condition from being met. Therefore, any feature that may affect the timing of the reinsurer's reimbursement to the ceding entity should be closely scrutinized.

18. Q: What if a contract contains a feature such as a payment schedule or accumulating retention but could still result in the reasonable possibility of significant loss to the reinsurer?

    A: Both of the following conditions are required for reinsurance accounting:

    a. Transfer of significant risk arising from uncertainties about both (i) the ultimate amount of net cash flows from premiums, commission, claims, and claim settlement expenses paid under a contract (underwriting risk) and (ii) the timing of the receipt and payment of those cash flows (timing risk); and

    b. Reasonable possibility of significant loss to the reinsurer.

    Because both condition (a) and condition (b) must be met, failure to transfer significant timing and underwriting risk is not overcome by the possibility of significant loss to the reinsurer.

19. Q: Is it permissible to evaluate timely reimbursement on a present value basis?

    A: No. The word timely is used in the ordinary temporal sense to refer to the length of time between payment of the underlying reinsured claims and reimbursement by the reinsurer.

    While the test for reasonable possibility of significant loss to the reinsurer provides for a present value-based assessment of the economic characteristics of the reinsurance contract, the concept of timely reimbursement relates to the transfer of insurance risk (condition a above), not the reasonable possibility of significant loss (condition b above). Accordingly, timely reimbursement should be evaluated based solely on the length of time between payment of the underlying reinsured losses and reimbursement by the reinsurer.

20. Q: Are there any circumstances under which the conditions for risk transfer need not be met?

    A: Yes. An extremely narrow and limited exemption is provided for contracts that reinsure either an individual risk or an underlying book of business that is inherently profitable. When substantially all of the insurance risk relating to the reinsured portions of the underlying insurance contracts has been assumed by the reinsurer, the contract meets the conditions for reinsurance accounting.

To qualify under this exception, no more than trivial insurance risk on the reinsured portions of the underlying insurance contracts may be retained by the ceding entity. The reinsurer's economic position must be virtually equivalent to having written the relevant portions of the reinsured contracts directly.

21. Q: In determining whether a reinsurance contract qualifies under the exception referred to in the preceding question, how should the economic position of the reinsurer be assessed in relation to that of the ceding entity?

A: The assessment should be made by comparing the net cash flows of the reinsurer under the reinsurance contract with the net cash flows of ceding entity on the reinsured portions of the underlying insurance contracts. This may be relatively easy for reinsurance of individual risks or for unlimited-risk quota-share reinsurance, because the premiums and losses on these types of reinsurance generally are the same as the premiums and losses on the reinsured portions of the underlying insurance policies.

In other types of reinsurance, determining the reinsurer's net cash flows relative to the insurer is likely to be substantially more difficult. For example, it generally would be difficult to demonstrate that the ceding entity's premiums and losses for a particular layer of insurance are the same as the reinsurer's premiums and losses related to that layer. If the economic position of the reinsurer relative to the insurer cannot be determined, the contract would not qualify under the exception.

<u>Accounting Provisions</u>

22. Q: An existing contract that was accounted for as reinsurance no longer qualifies for reinsurance accounting under the new accounting rules included in SSAP No. 62. How should the ceding and assuming companies account for the contract in future periods?

A: Because the statement of income cannot be restated, previously recognized gains and losses are not revised. If the contract was entered into before, and not renewed or amended on or after, January 1, 1994 and covers only losses occurring or claims made before that date, or the contract expired before January 1, 1995 and was not renewed or amended on or after that date, it would continue to be accounted for in the manner provided before these revisions.

For accounting periods commencing on or after January 1, 1995, existing balances relating to contracts which do not transfer insurance risk and which were entered into on or after January 1, 1994 (covering losses occurring or claims made after that date) would be reclassified as deposits.

Premium payments to a reinsurer would be recorded as deposits. Likewise, losses recoverable from a reinsurer would not be recognized as receivables. Rather, any reimbursement for losses would be accounted for upon receipt as a refund of a deposit.

23. Q: What is the definition of past insurable events that governs whether reinsurance coverage is prospective or retroactive? For example, could a reinsurance contract that covers losses from asbestos and pollution claims on occurrence-based insurance policies effective during previous periods be considered prospective if the reinsurance coverage is triggered by a court interpretation that a loss is covered within the terms of the underlying insurance policies?

A: The distinction between prospective and retroactive reinsurance is based on whether a contract reinsures future or past insured events covered by the underlying reinsurance contracts. In the example above, the insured event is the occurrence of loss within the coverage of the underlying insurance contracts, not the finding of a court. Therefore, the fact that the asbestos exposure or pollution is covered under insurance policies effective during prior periods makes the reinsurance coverage in this example retroactive.

24. Q: Would the answer to the above question change if the reinsurance were written on a claims-made basis?

A: No. The form of the reinsurance—whether claims-made or occurrence-based—does not determine whether the reinsurance is prospective or retroactive. A claims-made reinsurance contract that reinsures claims asserted to the reinsurer in a future period as a result of insured events that occurred prior to entering into the reinsurance contract is a retroactive contract.

25. Q: What is the effect of adjustments to future premiums or coverage in determining whether reinsurance is prospective or retroactive?

A: Adjustments to future premiums or coverage may affect the accounting for a reinsurance contract. Whenever an adjustment results in a reinsurer providing new or additional coverage for past insurable events, that coverage is retroactive. For example, if subsequent years' premiums under a multiple accident year contract create additional coverage for previous accident years, the additional coverage is retroactive, even if the original coverage provided in the contract for those accident years was prospective. Likewise, if current losses under a multiple-year contract eliminate coverage in future periods, some or all of the premiums to be paid in those future periods should be charged to the current period.

26. Q: A reinsurance contract is entered into after the contract's effective date. Is the coverage between the contract's effective date and the date the contract was entered into prospective or retroactive?

A: The portion of the contract related to the period of time between the effective date of the contract and the date the contract was entered into is retroactive because it covers insured events that occurred prior to entering into the reinsurance contract.

27. Q: How is the date the reinsurance contract was entered into determined?

A: It is not uncommon for a reinsurance arrangement to be initiated before the beginning of a policy period but not finalized until after the policy period begins. Whether there was agreement in principle at the beginning of the policy period and, therefore, the contract is substantively prospective must be determined based on the facts and circumstances. For example, a contract may be considered to have been substantively entered into even though regulatory approval of that contract has not taken place.

The absence of agreement on significant terms, or the intention to establish or amend those terms at a later date based on experience or other factors, generally indicates that the parties to the contract have not entered into a reinsurance contact, but rather have agreed to enter into a reinsurance contract at a future date. If contractual provisions under a contract substantively entered into at a future date covered insurable events prior to that date, that coverage is retroactive.

In any event, SSAP No. 62 provides that if a contract (except facultative contracts and contracts signed by the lead reinsurer and certain cover notes or similar documents signed by reinsurers representing more than 50% of the capacity on the contract) has not been finalized, reduced to written form and signed by the parties within 9 months after its effective date, it is presumed to be retroactive.

28. Q: Are contracts to reinsure calendar-year incurred losses considered blended contracts that have both prospective and retroactive elements?

A: Yes. Most reinsurance contracts covering calendar-year incurred losses combine coverage for insured events that occurred prior to entering into the reinsurance contract with coverage for future insured events and, therefore, include both prospective and retroactive elements.

In any event, SSAP No. 62 provides that if a contract (except facultative contracts, contracts signed by the lead reinsurer and certain cover notes or similar documents signed by reinsurers representing more than 50% of the capacity on the contract) has not been finalized, reduced to written form and signed by the parties within 9 months after its effective date it is presumed retroactive.

29. Q: When the prospective and retroactive portions of a contract are being accounted for separately, how should premiums be allocated to each portion of the contract?

A: No specific method for allocating the reinsurance premiums to the risks covered by the prospective and retroactive portions of a contract is required. However, separate accounting for the prospective and retroactive portions of a contract may take place only when an allocation is practicable.

Practicability requires a reasonable basis for allocating the reinsurance premiums to the risks covered by the prospective and retroactive portions of the contract, considering all amounts paid or deemed to have been paid regardless of the timing of payment. If a reasonable basis for allocating the premiums between the prospective and retroactive coverage does not exist, the entire contract must be accounted for as a retroactive contract.

30. Q: A retroactive reinsurance contract contains a cut-through provision that provides the ceding entity's policyholders and claimants with the right to recover their claims directly from the reinsurer. May the ceding entity immediately recognize earned surplus associated with this type of contract?

A: No. SSAP No. 62 states that earned surplus may not be recognized "until the actual retroactive reinsurance recovered exceeds the consideration paid".

31. Q: A ceding entity enters into a retroactive reinsurance agreement that gives rise to segregated surplus. If the reinsurer prepays its obligation under the contract, may the ceding entity recognize earned surplus at the time the prepayment is received?

A: Segregated surplus arising from retroactive reinsurance transactions is earned as actual liabilities that have been transferred are recovered or terminated. Therefore, earned surplus is based on when the reinsurer settles its obligations to the ceding entity, and it may be appropriate to recognize earned surplus at the time the prepayment is received.

However, all of the facts and circumstances must be considered to determine whether the ceding entity has substantively recovered the liabilities transferred to the reinsurer. For example, if the ceding entity agrees to compensate the reinsurer for the prepayment, such as by crediting the reinsurer with investment income on prepaid amounts or balances held, the ceding entity has not, in substance, recovered its transferred liabilities but rather has received a deposit from the reinsurer that should be accounted for accordingly.

32. Q: If the ceding entity does not expect to receive any recoveries because the reinsurer has agreed to reimburse claimants under the reinsured contracts directly, would the ceding entity be considered to have recovered or terminated its transferred liabilities?

A: No. In the example given, the reinsurer is substantively acting as disbursing agent for the ceding entity. Therefore, the ceding entity cannot be said to have recovered amounts due from the reinsurer before payment is made to the claimant.

33. Q: What accounting entries would a ceding entity make to report a retroactive reinsurance contract?

A: Accounting Entries for a Ceding Entity to Report a Retroactive Reinsurance Contract:

Entry 1

Retroactive Reinsurance Reserves Ceded or Assumed (B/S)	10,000	
Retroactive Reinsurance Gain (I/S)		2,000
Cash		8,000

To record initial portfolio transfer see items #3 and #8. The ceding entity must establish the segregated surplus per item #4.

Entry 1A

Retro. Reins. Gain	2,000	
Profit/Loss Account		2,000

To close gain from retroactive transaction.

Entry 1B

Profit/Loss Account	2,000	
Special Surplus from Retro. Reins.		2,000

To close profit from retroactive reinsurance to special surplus.

Entry 2

Cash	2,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		2,000

To record recovery of paid losses from the reinsurer. Outstanding ceded reserves after this recovery equals $8,000, and special surplus from retroactive reinsurance account equals $2,000; therefore, segregated surplus account is not changed per item #10.

Entry 3

Retroactive Reinsurance Reserves Ceded or Assumed (B/S)	3,000	
Retroactive Reinsurance Gain (I/S)		3,000

To record subsequent revision of the initial reserves ceded per item #10. The segregated surplus account is increased to $5,000 as a result of this upward development.

Entry 3A

Retro. Reinsurance Gain	3,000	
Profit/Loss Account		3,000

To close profit from retroactive reinsurance.

Entry 3B

Profit/Loss (I/S)	3,000	
Special Surplus from Retro. Reins.		3,000

To close profit and loss account to special surplus. (Retroactive reinsurance reserves ceded or assumed account balance equals $11,000. Special Surplus from retroactive reinsurance balance equals $5,000.)

Entry 4

Cash	4,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		4,000

To record recovery of paid losses from the reinsurer. Outstanding ceded reserves after this recovery equals $7,000, therefore segregated surplus account is not changed per item #10.

Entry 5

Cash	3,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		3,000

To record recovery of paid losses from reinsurer. Outstanding ceded reserves after recovery equals $4,000, therefore the following entry is needed per items #6 and #10.

Entry 5A

Special Surplus—Retro. Reins.	1,000	
Unassigned Funds		1,000

Retroactive Reinsurance reserves ceded or assumed after this entry equals $4,000.

Entry 6

Retroactive Reinsurance Loss (I/S)	1,000	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		1,000

To record subsequent revision of the initial reserves ceded per item #10. The segregated surplus account is decreased as a result of this downward development to $3,000. The following entry is needed per items #6 and #10.

Entry 6A

Profit/Loss Account	1,000	
Retro. Reins. Loss		1,000

To close loss to profit and loss account.

Entry 6B

Special Surplus from Retro. Reins.	1,000	
Profit/Loss Account		1,000

To close profit and loss account to special surplus. (Remaining balance of retroactive reinsurance reserve ceded or assumed account equals $3,000.) (Special surplus from retro. reins. account balance equals $3,000.)

Entry 7

Cash	2,500	
Retroactive Reinsurance Gain (I/S)	500	
Retroactive Reinsurance Reserves Ceded or Assumed (B/S)		3,000

Entry 7A

Profit and Loss Account	500	
Retro. Reins. Gain		500

To close other income to profit and loss account.

Entry 7B

Special Surplus from Retro. Reins.	500	
Profit/Loss Account		500

To close profit and loss account to special surplus. (Remaining balance of special surplus from retro. reins. account equals $2,500.) (Remaining balance of retroactive reinsurance reserve ceded or assumed account -0-.)

Entry 7C

Special Surplus from Retro. Reins.	2,500	
Unassigned Funds		2,500

To close remaining special surplus account to unassigned surplus.

34. Q: How should the parties account for an adverse loss development reinsurance contract where, as of the statement date, the attachment level of the contract exceeds the ceding company's current case and IBNR reserves for the covered accident years (i.e. no surplus gain and no reinsurance recoverable as of the statement date), and the ceding company transferred cash to the reinsurer at the inception of the contract?

A: An adverse loss development reinsurance contract covering prior accident years meets the definition of "retroactive reinsurance" set forth in paragraph 22 of SSAP No. 62:

> ….reinsurance in which a reinsurer agrees to reimburse a ceding entity for liabilities incurred as a result of past insurable events covered under contracts subject to the reinsurance….

Subparagraph 29 k of SSAP No. 62 specifically provides that the consideration paid for a retroactive reinsurance contract is to be recorded as a decrease in ledger assets by the ceding entity and an increase in ledger assets by the assuming entity.

Question 33 illustrates the accounting entries for retroactive reinsurance contracts.

If the retroactive reinsurance contract transfers both components of insurance risk then, pursuant to paragraph 29 of SSAP No. 62, the ceding company would record the consideration paid as a decrease in ledger assets, recognize an expense for the reinsurance ceded through Other Income or Loss accounts as a write-in item identified as "Retroactive Reinsurance Ceded", and record the recoverable from the reinsurer as a contra liability.

No contra liability is established until and unless (and then only to the extent that) the ceding company establishes reserves which exceed the attachment point.

For the contract described, at inception no contra liability is recorded to offset current liability for the business ceded, since the ceded retroactive reinsurance premium relates to coverage in excess of the current liabilities recorded by the ceding company.

Once the ceding company's recorded liabilities exceed the attachment point of the adverse loss development reinsurance contract and triggers reinsurance recoverable from the reinsurer, a contra liability is established by the ceding company for the amount of the reinsurance recoverable. Any surplus resulting from the retroactive reinsurance is carried as a write-in item on the balance sheet designated as "Special Surplus from Retroactive Reinsurance Account." The surplus gain may not be classified as unassigned funds (surplus) until the actual retroactive reinsurance recovered exceeds the consideration paid.

If any portion of a retroactive reinsurance contract does not transfer insurance risk, then the portion which does not transfer risk is accounted for as a deposit pursuant to paragraph 35 of SSAP No. 62. The deposit is reported as an admitted asset of the ceding company if the reinsurer is licensed, accredited or otherwise qualified in the ceding company's state of domicile as described in Appendix A-785, or if there are funds held by or on behalf of the ceding company as described in that appendix. Receipts and disbursements under the contract are recorded through the deposit/liability accounts. Amounts received in excess of the deposit made are recognized as a gain in the Other Income or Loss account.

Accounting entries for a ceding entity to report a retroactive reinsurance contract at the inception of which the cedent's reserves are lower than the attachment point of the reinsurance coverage:

Assume the company pays \$16m to purchase adverse development coverage of \$50m, above an attachment point.

Entry 1: Payment of Retrospective Reinsurance Premium

Retrospective Reinsurance Expense*	$16m	
Cash		$16m

The company pays $16m premium for the retrospective reinsurance contract
*This is an Other Expense item, it does not flow through Schedule F or Schedule P

Entry 2: Adverse Development reaches the Attachment Point

Losses Incurred	$25m	
Gross Loss Reserve		$25m
Recoverable on Retro Reinsurance Contract**	$25m	
Other Income*		$9m
Contra – Retro Reinsurance Expense*		$16m
Surplus***	$9m	
Segregated Surplus***		$9m

The company incurs $25m development on reserves related to the contract
*These are Other Income/Expense items, do not flow through Schedule F or Schedule P
**A contra-liability write-in item, not netted against loss reserves
***Surplus is segregated in the amount of [$25m - $16m = $9m] recoverables less consideration paid

Entry 3: Cash is Recovered on Paid Losses

Cash	$20m	
Recoverable on Retrospective Reinsurance Contract		$20m
Segregated Surplus	$4m	
Surplus		$4m

The company recovers $20m cash from reinsurer on this retro contract. Segregated Surplus decreases in the amount of [$20m - $16m = $4m] (decreases for amount recovered in excess of consideration paid)

35. Q: How should a ceding company account for payment of the premium for a retroactive reinsurance contract by the ceding company's parent company or some other person not a party to the reinsurance contract (for example, adverse loss development reinsurance contracts purchased by the parent company in the context of the purchase or sale of the ceding company)?

A: If the reinsurance premium is not paid directly by the ceding company but is instead paid on behalf of the ceding company by the ceding company's parent company or some other entity not a party to the reinsurance contract, then the ceding company should (1) record an increase in gross paid in and contributed surplus in the amount of the reinsurance premium to reflect the contribution to surplus by the parent or third party payor, and (2) record an expense in the amount of the reinsurance premium and account for the contract as provided in Questions 33 and 34.

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Accounting & Blank Reporting for P&C Runoff Reinsurance Transactions
09/11/09

The following provides illustrative journal entries for P&C Runoff Reinsurance Transactions.

Example 1: Transfer of existing block of runoff business with no residual UPR on books of Transferor

Cedent/Transferor		**DR**	**CR**
Day 1 - Cedent transfers 50,000 in reserves for 50,000			
Ceded Reinsurance Recoverable (U/W Part 2A & Sched F)	Contra Liab ↑	50,000	
Cash	Asset ↓		50,000
Losses Paid (U/W Part 2 & Sched P)	I/S ↓	50,000	
Change in Reserves - Incurred Losses (U/W Part 2.)	I/S ↑		50,000
Unlike novation –gross reserves stay on books of transferor			
Day 360 - Negative Development on Transferred Business -3,000:			
Reinsurance Recoverable on Unpaid Losses (Sched. F)	Contra Liab ↑	3,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss @ Reported Reserve			
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↓	53,000	
Ceded Reinsurance Recoverable (U/W Part 2A & Sched F)	Contra Liab ↓		53,000
Reinsurer/ Transferee			
Day 1 - Cedent transfers 50,000 in reserves for 50,000			
Cash	Asset ↑	50,000	
Reported Losses on Reins. Assumed (U/W Part 2A & Sched P)	Liab ↑		50,000
Change In Reserves – Incurred Losses (U/W Part 2.)	I/S ↓	50,000	
Losses Paid or Incurred (negative) (U/W Part 2 &Sched P)	I/S ↑		50,000
Day 360 - Negative Development on Transferred Business -3,000:			
Change in Reserves – Incurred Losses (U/W Part 2.)	I/S↓	3,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss			
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↓	53,000	
Cash	Asset ↓		53,000

Comments:
The above is the same as prospective accounting for an Assumption Reinsurance transaction or LPT(when there is no surplus gain). Since the Transferor is ceding incurred losses neither party should have premium impacted. To do that would distort many financial ratios.

To ensure consistent reporting, the RAA suggests the following language be added:
New Paragraph 70. Make the existing Paragraph 70 number 71 and renumber following paragraphs:

At the inception of the transaction, the transferring entity shall record the consideration paid to the assuming entity as a Paid Loss to the extent of the loss reserves transferred. If the consideration paid by the transferring entity is less than the loss reserves transferred, the difference is a decrease in losses incurred. The assuming entity shall record the consideration received as a Negative Paid Loss. In addition, the transferring entity shall record an increase to Ceded Reinsurance Recoverable for the amount of the transferred reserve.

Example 2: Transfer of existing block of runoff business <u>with some residual UPR</u> of 10,000 on books of Transferor (this should be less common)

Cedent/Transferor		**DR**	**CR**
<u>Day 1 - Cedent transfers 50k in reserves & 10k UPR for 60,000</u>			
Ceded Reinsurance Recoverable (U/W Part 2A & Sched F)	Contra Liab ↑	50,000	
Unearned Premium Reserve (U/W Part 1& 1A)	Liab ↓	10,000	
Cash	Asset ↓		60,000
Ceded Premium Written (U/W Part 1B)	I/S ↓	10,000	
Losses Paid (U/W Part 2 & Sched P)	I/S ↓	50,000	
Change in Reserves - Incurred Losses (U/W Part 2.)	I/S ↑		50,000
Change in UPR (U/W Part 1& 1A)	I/S ↑		10,000
Unlike novation –gross reserves stay on books of transferor			
<u>Day 180 – Premium is Fully Earned (Assumes 80% Loss Ratio)</u>			
Ceded Reinsurance Recoverable (U/W Part 2A & Sched F)	Contra Liab ↑	8,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		8,000
To mirror the increase in unpaid losses by the transferee			
<u>Day 360 - Negative Development on Transferred Business -3,000</u>:			
Reinsurance Recoverable on Unpaid Losses (Sched. F)	Contra Liab ↑	3,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		3,000
<u>Day 540 – Reinsurer Pays the Loss @ Reported Reserves (50+8+3)</u>			
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↓	61,000	
Ceded Reinsurance Recoverable (U/W Part 2A & Sched F)	Contra Liab ↓		61,000
Reinsurer/ Transferee			
<u>Day 1 - Cedent transfers 50k in reserves & 10k UPR for 60,000</u>			
Cash	Asset ↑	60,000	
Reported Losses on Reins. Assumed (U/W Part 2A & Sched P)	Liab ↑		50,000
Unearned Premium Reserve (U/W Part 1& 1A)	Liab ↑		10,000
Assumed Premium Written (U/W Part 1B)	I/S ↑		10,000
Change In Reserves – Incurred Losses (U/W Part 2.)	I/S ↓	50,000	
Change in UPR (U/W Part 1& 1A)	I/S ↓	10,000	

Losses Paid or Incurred (negative) (U/W Part 2 &Sched P)	I/S ↑		50,000
Day 180 – Premium is Fully Earned (Assumes 80% Loss Ratio)			
Unearned Premium Reserve (U/W Part 1& 1A)	Liab ↓	10,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		8,000
Change In Reserves – Incurred Losses (U/W Part 2.)	I/S↓	8,000	
Change in UPR (U/W Part 1& 1A)	I/S ↑		10,000
To record the increase in unpaid losses by the transferee			
Day 360 - Negative Development on Transferred Business -3,000:			
Change In Reserves – Incurred Losses (U/W Part 2.)	I/S↓	3,000	
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↑		3,000
Day 540 – Reinsurer Pays the Loss @ Reported Reserves (50+8+3)			
Reserves for Unpaid Losses (U/W Part 2A & Sched P)	Liab ↓	61,000	
Cash	Asset ↓		61,000

Comments:

In this second example, the portion of the runoff business that has an UPR associated with it is essentially booked as prospective reinsurance. Other elements of the example are the same except that we assumed an 80% loss ratio on the unearned portion of the business.

Initial Transaction
Paid Loss or Ceded Premium?

Illustration of the rationale for treating the initial transaction as a Paid Loss by the Cedent/Transferor and a negative paid loss by the Reinsurer/Transferee.

Rationale:

1. This is a transfer of an existing block of business in which typically all premiums have been earned. The cedent is essentially transferring the reserves on an existing block of runoff business for a final negotiated premium.
2. Treating the initial transaction as ceded premium would distort the I/S and standard ratios of the cedent.
3. Additionally, Schedule P for the Cedent/Transferor would be distorted since existing loss reserves would never be paid, resulting in favorable reserve development in Schedule P.
4. Treating the initial transaction as a paid loss is consistent with similar transactions like assumption reinsurance and LPTs(when there is no surplus gain) and better presents the true economics of the transaction.
5. Treating the initial transaction as a Paid Loss preserves the logical data flow in all of the U/W and investment exhibits, Schedule P and Schedule F.

Illustration: Assume $110,000 of earned premiums and the transfer of a runoff block of business representing $50,000 in reserves for $50,000 cash

Cedent I/S	Before Transaction	Recorded As Paid Loss	Recorded As Ceded Premium
Premiums Earned	110,000	110,000	**60,000**
Losses Incurred	85,000	85,000	**35,000**
Other U/W Expenses	30,000	30,000	30,000
Net U/W Gain (Loss)	(5,000)	(5,000)	(5,000)
Investment Income	7,000	7,000	7,000
Other Income	1,000	1,000	1,000
Net income	3,000	3,000	3,000
Loss Ratio	77%	77%	**58%**
Expense Ratio	27%	27%	**50%**
Combined Ratio	104%	104%	**108%**

Cedent B/S	Before Transaction	Recorded As Paid Loss	Recorded As Ceded Premium
Cash & Invested Assets	445,000	**395,000**	**395,000**
Reinsurance Recoverable on Unpaid Losses	45,000	45,000	45,000
EDP Equipment	1,000	1,000	1,000
Other Assets	9,000	9,000	9,000
Total Assets	500,000	450,000	450,000
Unpaid Losses and LAE	175,000	**125,000**	**125,000**
Unearned Premium	45,000	45,000	45,000
A/P and Accrued Expenses	3,000	3,000	3,000
Other Liabilities	2,000	2,000	2,000
Total Liabilities	225,000	175,000	175,000
Common Stock	10,000	10,000	10,000
PIC	90,000	90,000	90,000
Unassigned Surplus	175,000	175,000	175,000
Total Capital & Surplus	275,000	275,000	275,000
Total Liab. Capital & Surplus	500,000	450,000	450,000

Conclusion:

1. If you report the consideration paid by the Cedent/Transferor as a Paid Loss, there is no net effect on the B/S or I/S or key underwriting ratios.
2. If you report the consideration paid by the Cedent/Transferor as a Ceded Premium the effect on the I/S and underwriting ratios is dramatic.
3. Additionally, Schedule P for the Cedent/Transferor would be distorted since existing loss reserves would never be paid, resulting in favorable reserve development in Schedule P.

Reinsurer I/S	Before Transaction	Recorded As Paid Loss	Recorded As Ceded Premium
Premiums Earned	110,000	110,000	**160,000**
Losses Incurred	85,000	85,000	**135,000**
Other U/W Expenses	30,000	30,000	30,000
Net U/W Gain (Loss)	(5,000)	(5,000)	(5,000)
Investment Income	7,000	7,000	7,000
Other Income	1,000	1,000	1,000
Net income	3,000	3,000	3,000
Loss Ratio	77%	77%	**85%**
Expense Ratio	27%	27%	**19%**
Combined Ratio	104%	104%	**104%**
Reinsurer B/S	Before Transaction	As Paid Loss	As Ceded Premium
Cash & Invested Assets	445,000	**495,000**	**495,000**
Reinsurance Recoverable on paid Losses	45,000	45,000	45,000
EDP Equipment	1,000	1,000	1,000
Other Assets	9,000	9,000	9,000
Total Assets	500,000	550,000	550,000
Unpaid Losses and LAE	175,000	**225,000**	**225,000**
Unearned Premium	45,000	45,000	45,000
A/P and Accrued Expenses	3,000	3,000	3,000
Other Liabilities	2,000	2,000	2,000
Total Liabilities	225,000	275,000	275,000
Common Stock	10,000	10,000	10,000
PIC	90,000	90,000	90,000
Unassigned Surplus	175,000	175,000	175,000
Total Capital & Surplus	275,000	275,000	275,000
Total Liab. Capital & Surplus	500,000	550,000	550,000

Conclusion:
1. If you report the consideration received by the Reinsurer/ Transferee as a negative Paid Loss, there is no net effect on the B/S or I/S or key underwriting ratios.
2. If you report the consideration paid by the Reinsurer/ Transferee as a Ceded Premium the effect on the I/S and underwriting ratios is dramatic.

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2010 CHARGES

Draft: 9/17/09

ACCOUNTING PRACTICES AND PROCEDURES (E) TASK FORCE

The mission of the Accounting Practices and Procedures (E) Task Force is to identify, investigate and develop solutions to accounting problems, with the ultimate goal of guiding insurers in properly accounting for various aspects of their operations and to modify the *Accounting Practices and Procedures Manual* to reflect changes necessitated by Task Force action and to study innovative insurer accounting practices that affect the ability of regulators to determine the true financial condition of insurers.

Ongoing Support of NAIC Programs, Products or Services:

1. The Emerging Accounting Issues Working Group will:
   - Provide authoritative guidance on current statutory accounting issues, generally relating to application, interpretation and clarification of existing statutory accounting principles, by conducting meetings at NAIC national meeting sites when necessary.—*Essential*

   - Evaluate individual statutory accounting issues based on its established two-meeting timeline and report its findings to the Accounting Practices and Procedures Task Force.—*Essential*

2. The Statutory Accounting Principles Working Group will:
   - Maintain codified statutory accounting principles by providing periodic updates to the guidance that address new statutory issues and new GAAP pronouncements as they develop.—*Essential*

   - At the discretion of the chair, comment on exposed GAAP pronouncements affecting financial accounting and reporting.—*Essential*

   - Report its findings relative to these developing issues to the Accounting Practices and Procedures Task Force.—*Essential*

   - Accumulate and summarize information from regulators, the industry, auditors and others, on implementation issues related to transitioning to International Financial Reporting Standards (IFRS) for statutory reporting, as well as some of the more significant issues that would need to be considered in implementing such a change.—*Important*

   - Upon notice that a security has been placed under regulatory review, the chair of Statutory Accounting Principles Working Group, or his or her representative, will be deemed a member of the Invested Asset Working Group of the Valuation of Securities (E) Task Force. The chair, or his or her representative, is charged with contributing the perspective and expertise of the regulatory group to the development of NAIC regulatory guidance for the security under review.—Essential

3. The Blanks Working Group will:
   - Consider improvements and revisions to the various annual/quarterly statement blanks and to conform these blanks to changes made in other areas of the NAIC to promote uniformity in reporting of financial information by insurers; to develop reporting formats for other entities subject to the jurisdiction of state insurance departments; to conform the various NAIC blanks and instructions to adopted NAIC policy; and to oversee the development of additional reporting formats within the existing annual statements as needs are identified.—*Essential*

   - Continue to monitor state filing checklists to maintain current filing requirements.—*Essential*

   - Continue to monitor the quality of financial data filed by insurance companies and recommend improved or additional languages for the *Annual Statement Instructions* to improve the quality of these filings.—*Essential*

2010 CHARGES

ACCOUNTING PRACTICES AND PROCEDURES (E) TASK FORCE (Cont'd)

- Continue to monitor and review all proposals necessary for the implementation of statutory accounting guidance to ensure proper implementation of any action taken by the Accounting Practices and Procedures Task Force affecting annual statements and/or instructions.—*Essential*

- Continue to coordinate with other task forces of the NAIC to ensure proper implementation of reporting and instructions changes as proposed by these task forces.—*Essential*

- Upon notice that a security has been placed under regulatory review, the chair of Blanks Working Group, or his or her representative, will be deemed a member of the Invested Asset (E) Working Group of the Valuation of Securities (E) Task Force. The chair, or his or her representative, is charged with contributing the perspective and expertise of the regulatory group to the development of NAIC regulatory guidance for the security under review.—*Essential*

4. The Property and Casualty Reinsurance Study Group will:
   - Evaluate, on an ongoing basis, all issues and questions related to the accounting for or annual statement reporting of reinsurance transactions that might affect SSAP No. 62, SSAP No. 75 or other portions of the *Accounting Practices and Procedures Manual,* and make appropriate recommendations to the Accounting Practices and Procedures Task Force.—*Essential*

   - Monitor, on an ongoing basis, the development of "alternative risk transfer mechanisms" and consider whether broader annual statement disclosure might be appropriate.—*Essential*

Sponsors for 2010 Charges
(Except as noted, I support all charges)

Staff Support: Robin Marcotte/Dan Daveline

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Draft: 9/18/09

Statutory Accounting Principles (E) Working Group
Conference Call
September 14, 2009

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met via conference call Sept. 14, 2009. The following Working Group members participated: Joseph Fritsch, Chair (NY); Jim Armstrong, Vice Chair (IA); Kim Hudson (CA); Linda Sizemore (DE); Tom Ratsch (IL); Stewart Guerin (LA); Judith Weaver and Kristen Hynes (MI); Thomas Burke (NH); Matti Peltonen (NY); Dale Bruggeman (OH); Steve Johnson and Dave DelBiondo (PA); Jaime Walker (TX); Doug Stolte and David Smith (VA); and Peter Medley (WI).

1. Public Hearing

The Working Group held a public hearing to review comments (Attachment Five-A) on the exposed *SSAP No. 43—Loan-backed and Structured Securities – Revised* (SSAP No. 43R).

a. Agenda Item 2004-11 (Exposed SSAP No. 43R)

Mr. Fritsch identified that comments had been received from the exposure of SSAP No. 43R. Mr. Fritsch advised that the interested parties had submitted marked-draft changes on the exposed SSAP No. 43R addressing several technical items. Mr. Fritsch asked John Tittle (NAIC) to first present the proposed technical revisions. Mr. Tittle presented each technical revision proposed by the interested parties on a paragraph-by-paragraph basis. (The interested parties' proposed revisions were included as a supplement to their comment letter and are included within Attachment Five A) The Working Group agreed that several of the proposed changes improved the readability or clarity of the guidance and agreed to incorporate technical changes into SSAP No. 43R, as identified below:

- Proposed change in paragraph 4, modified to reflect "or other securities."

- Proposed changes in paragraph 6, only to revise all references of "loaned-backed" to "loan-backed."

- Proposed changes in paragraph 12, modified to reflect, "The following guidance applies to loan-backed and structured securities for which it is probable that the investors will be able to collect all contractually required payments receivable. (Paragraphs 17–19 provide guidance for securities in which collection of all contractual cash flows is not probable and paragraphs 20–24 provide guidance for beneficial interests.)"

- All proposed changes within paragraph 17.

- All proposed changes within paragraph 18.

- Proposed wording change in paragraph 19b.

- All proposed changes within paragraph 20, including footnote additions and changes.

- All proposed changes within paragraph 21.

- All proposed changes within paragraph 22.

- Proposed deletion of guidance within paragraph 27. The Working Group also agreed to modify this paragraph to incorporate new language and include clarifying paragraph references. The revised paragraph reads as follows: "The application of this reporting requirement resulting from NAIC designation (i.e., lower of cost or fair value) is not a substitute for other-than-temporary impairment recognition (paragraphs 32–36). For securities reported at fair value where an other-than-temporary impairment has been determined to have occurred, the realized loss recognized from the other-than-temporary impairment shall first be applied toward the realization of any unrealized losses previously recorded as a result of fluctuations in the security's fair value due to the reporting requirements. After the recognition of the other-than-temporary impairment, the security shall continue to report unrealized gains and losses as a result of fluctuations in fair value."

- All proposed changes within paragraph 36.

Julie Gann (NAIC) then presented the comments submitted by Sungard iWorks Financials (Sungard) on the exposed SSAP No. 43R regarding bifurcation of asset valuation reserve (AVR)/interest maintenance reserve (IMR). She noted that Sungard's comments indicated that the rules for AVR/IMR classification currently provide for a simple determination based on NAIC designation. The comments suggest that it is inconsistent to carve out the losses resulting from other-than-temporary impairment recognition per SSAP No. 43R using different standards and analysis. The comments propose a new project to revisit the rules for AVR/IMR classification as a larger project. Ms. Gann advised that the existing rules that detail the AVR/IMR determination based on NAIC designation are intended to address the classification of AVR and IMR when the security is sold. The proposed guidance within SSAP No. 43R is intended to only provide guidance when the security has a recognized loss for an other-than-temporary impairment. Sunguard is suggesting a larger project to reassess the classification of AVR and IMR. Ms. Gann also noted that, historically, there has been different treatment of impairment losses for loan-backed securities in the AVR and IMR. To address previous concerns with recording other-than-temporary impairments completely through the AVR, NAIC staff proposes that the Working Group retain the AVR/IMR bifurcation as exposed within SSAP No. 43R. Dennis Lebar (Sungard) advised that their concerns primarily focus on inconsistencies, as the same security could have different treatment among entities between AVR and IMR, depending on recognition of other-than-temporary impairments. He advised that all securities will have a component of "credit-related" impairment and stressed that a larger project would be more appropriate. After considering the comments, the Working Group did not support incorporating revisions into SSAP No. 43R and agreed to retained the exposed language.

Mr. Tittle then presented proposed revisions to the SSAP No. 43R disclosures submitted by interested parties. Mr. Tittle noted that the interested parties proposed retaining an existing disclosure from SSAP No. 43, which requires disclosure of the adjustment methodology for each type of security (i.e., whether it is prospective or retrospective). Mr. Tittle advised that NAIC staff is supportive of this proposed revision. The Working Group agreed to incorporate this disclosure. Mr. Tittle then advised that the interested parties are proposing aggregate disclosure presentation of the securities recognized as other-than-temporarily impaired based on the present value of cash flows expected to be collected. Mr. Smith advised that they strongly believe individual security disclosure for these items is necessary in order to allow appropriate regulator analysis of the cash-flow assessments. Mr. Smith advised that, although some information is included within Schedule D, the proposed disclosure information is desired on an individual basis within a note to the financial statements in order to assist regulators in identifying this information. Rose Albrizio (AXA Equitable) advised that the interested parties are proposing aggregation due to the extent of information that will be required in quarterly financials, as well as the fact that the information is already available within Schedule D. Mr. Medley advised that the information would likely be presented in the year-end Schedule D information, but that the Schedule D submitted with the quarterly financial statement might not include this information. In response to an inquiry from Mr. Fritsch, Ms. Albrizio advised that the extent of disclosures would depend on the type of portfolio for each specific insurance company, and could result in a significant number of disclosures. Ms. Albrizio stated that, from a reporting standpoint, the extent of disclosures required on a "per security basis" continues to grow. Rob Axel (Prudential) estimated that the number of securities reported could be 50 to 100 or more based on the reporting entity's portfolio. He advised that requiring this level of detail in a financial statement disclosure is not consistent with previous reporting decisions. Mr. Stolte stated that for consistency and comparability, as well as the ability to identify outliers on the valuation, this information is necessary within the financial statements. He advised that, with the allowances given to the industry from SSAP No. 43R, the industry should provide the desired disclosure information.

Alan Close (American Council of Life Insurers—ACLI) stated that the required aggregate summary disclosure would inform regulators of the magnitude of these other-than-temporary impairments. This aggregate disclosure could then point to Schedule D, and, as Schedule D provides the information on a "per security basis," the regulator could review this information if further scrutiny were desired. Mr. Medley advised that the Schedule D provided in the quarterly financial statements does not provide the detail necessary, and the disclosures within SSAP No. 43R are requested quarterly. Mr. Medley requested the inclusion of an electronic template to assist reporting entities in completing this disclosure uniformly, potentially in an additional schedule within the blanks. Mr. Close advised that Column 14 of Schedule D, Part 1 provides information on other-than-temporary impairments. Mr. Armstrong reiterated that the concern is with the quarterly financial statements, especially with the September 2009 transition period, as regulators are going to want to see the impact on a CUSIP-by-CUSIP basis. Mr. Armstrong expressed support for the individual disclosures, as suggested by Virginia and Wisconsin. Mr. Stolte advised that if the information is readily and easily available, the industry should include this information within the specific note to the financial statements.

Leigh Wilson (KPMG) inquired whether the detailed information included within the notes would also be included within the audited financial statements. Mr. Stolte advised that this information is included within the footnotes and, therefore, should be audited. Mr. Medley advised that these footnotes would assist regulators in identifying significant deviations among companies. Mr. Fritsch stated that it appears the will of the Working Group is to include the detail within the financial statements. He requested the creation of a template to assist with consistent disclosures. He stated that, after year-end 2009, the Working Group could re-evaluate and amend this disclosure requirement if they believe an aggregate disclosure would be sufficient. Mr. Smith reminded that this individual detail is only required for those securities that are considered other-than-temporarily impaired due to cash-flow assessments, and not securities recognized as other-than-temporarily impaired because the entity intends to sell, or because the entity does not have the intent and ability to hold.

Mr. Fritsch directed the interested parties to present their comments on the topic of "intent and ability to hold securities until the recovery of the cost basis" and their proposed alternative language for paragraph 30. Jay Muska (Travelers) stated that their proposed revisions were trying to clarify what it means for "intent and ability" at a point in time. The proposed revisions try to point to circumstances that could occur in the market that would justify changing a reporting entity's initial assertion. Mr. Fritsch inquired whether a reference to *SSAP No. 9—Subsequent Events* (SSAP No. 9) could be added, without adding the additional language proposed by the interested parties. Mr. Stolte expressed significant concerns with the interested parties' proposed language "shall not call into question," as this language seems to codify the ability for reporting entities to change assertions and thereby block regulators and auditors from questioning situations in which securities are sold after the company makes an assertion on the intent and ability to hold. Mr. Stolte stated support for the original language, without revisions. Mr. Medley expressed amazement when reading the interested parties' proposal, as he said the language seemed to imply that the interested parties want a safe harbor from applying this accounting guidance. Mr. Medley stated that this approach is inconsistent with any other SSAP. Mr. Smith stated that the audit guidance should not be incorporated within the accounting standards.

Lily Hu (Sun Life) stated that if there is an intent to sell the security, then an other-than-temporary impairment recognition is necessary. Thus, if there is no intent to sell, then an other-than-temporary impairment is not required. Robin Marcotte (NAIC) advised that if there is no intent to sell, then the entity must assess whether they have the intent and ability to hold the security until recovery of the cost basis. Also, if a non-interest related decline exists — when the present value of cash flows is less than the amortized cost of the security — the entity must also recognize an other-than-temporary impairment. Ms. Hu inquired what proof is necessary to verify a reporting entity's intent and ability to hold a security. Mr. Tittle stated that this would depend on the facts and circumstances of the situation. He advised that this issue would be more related to audit and examination requirements. Mr. Muska inquired whether "intent and ability" would be interpreted consistently. Ms. Hu inquired whether these assertions would be made by management assessments. Mr. Fritsch stated that the intent and ability assertions would be made by management assessments. Mr. Muska inquired whether the phrase "generally not call into question" would be considered as a modification from the interested parties' proposed guidance to replace the previously proposed "shall not call into question" language. Mr. Stolte and Mr. Medley both stated that, even with this revision, they would not support the interested parties' proposed language. Mr. Fritsch stated that it is difficult to put a bright-line test on this guidance.

Mr. Axel advised that paragraph 29 addresses the intent to sell, and paragraph 30 addresses the intent and ability to hold. He advised that experience has shown that there are operational challenges in applying and interpreting the guidance included within paragraph 30 of the exposed guidance. Without clarifying guidance, Mr. Axel stated that the interested parties foresee challenges with the actual application of this guidance. Mr. Stolte stated that regulators cannot support the "shall not call into question" language proposed by the interested parties. Mr. Fritsch noted that, with the safe harbor guidance proposed by the interested parties, it would seem that everyone would have the intent and ability to hold a security until the security was actually sold. Ms. Hu inquired whether the reporting entity would be required to provide their assessment of how long it would take before the security would recover the amortized cost basis. Mr. Axel advised that the language proposed by the interested parties is not intended to create a safe harbor, but is intended to identify specific events that would support changes from an original assertion on the intent and ability to hold. Mr. Medley stated that supporting documentation held by the reporting entity would likely be considered by auditors if actions occurred that were contrary to the original assertion, but the language proposed seems to incorporate a safe harbor for all circumstances. Mr. Stolte stated that an alternative to the requirement in paragraph 30 would be to retain SSAP No. 98. Mr. Fritsch stated that the guidance in SSAP No. 9 would address situations in which events subsequent to the balance-sheet date occurred. Mr. Fritsch inquired whether any of the Working Group members were interested in making changes to paragraph 30. As no Working Group members indicated interest in modifying this guidance, Mr. Fritsch stated that no changes would occur and the language exposed would be retained.

Ms. Gann presented the comments submitted by Sungard on the exposed SSAP No. 43R guidance regarding the proposed Sept. 30, 2009, effective date. Ms. Gann noted that Sungard's comments indicated that several issues make the proposed Sept. 30, 2009, effective date impractical. These issues include system considerations, educational and internal procedures, and that the exposed SSAP No. 43R guidance differs from GAAP. Ms. Gann noted that Sungard's comment letter was the only comment received on the effective date from the current exposure draft. She noted that from the prior exposure period, comments had been received from interested parties noting that they believed the Sept. 30, 2009, application of SSAP No. 43R was feasible. Ms. Gann reminded that SSAP No. 98 was previously adopted with a Sept. 30, 2009, effective date. Dave Zdechlik (Sungard) stated that pushing back the effective date would be beneficial. Mr. Fritsch stated that companies that have difficulty applying the guidance should approach their state for an extension in their third quarter financials. Mr. Fritsch advised that he would not support delaying the effective date of SSAP No. 43R past Sept. 30, 2009, and if it was delayed, he would support having SSAP No. 98 come into effect.

Wally Givler (Northwestern Mutual) presented the interested parties' comments on the transition guidance. He advised that the current draft does not allow those companies that early-adopted SSAP No. 98 in 2008, or those companies that had a prior policy to impair to fair value, to adjust the cost-basis of securities or make cumulative adjustments. Many interested parties believe this is punitive, as these companies had originally followed more conservative accounting. Mr. Givler advised that the interested parties have proposed two different options for revising the transition guidance, noting that either would eliminate this punitive impact. Mr. Fritsch stated that he was sympathetic to those companies that had early-adopted SSAP No. 98 in 2008 and agreed with allowing those companies to apply the proposed transition guidance. Mr. Fritsch stated that he was uncomfortable with expanding the transition guidance to companies that had previously adopted a policy to write-down securities to fair value, as this was a specific decision previously made by a company. Mr. Smith inquired whether the cumulative-effect adjustment would be made as of July 1, 2009. Mr. Fritsch agreed, as this would prevent reporting entities from having to amend their prior statements. Ms. Hu inquired whether the Sept. 30, 2009, effective date would require a transition to an earlier date. Mr. Tittle confirmed that that, under the transition guidance, the proposed guidance allows some reporting entities to have a cumulative-effect adjustment.

Mr. Givler confirmed that the interested parties' proposal would encompass reporting entities that had early-adopted SSAP No. 98 in 2008, as well as companies that had an a company policy to write other-than-temporary impaired securities to fair value. Mr. Givler advised that the interested parties had previously interpreted the transition guidance within the previous exposed version, dated July 15, 2009, to also include companies making write-downs to fair value in accordance with company policy. Mr. Givler advised that the proposed language included within the current interested parties' comment letter was developed in collaboration with members of the American Institute of Certified Public Accountants (AICPA). Mr. Fritsch reiterated that he agrees with modifying the transition guidance to include companies that had early-adopted SSAP No. 98 in 2008, but that he is concerned with including all companies that had previously written down other-than-temporarily impaired securities as part of company policy. In response to a request on the will of the Working Group on this issue, Mr. Hudson advised that the intent of the previously exposed guidance was to allow adjustment for only those companies that early-adopted SSAP No. 98.

Marty Carus (AIG) informed the Working Group that the proposed transition guidance would result with different treatments for different companies based on (1) whether they early-adopted SSAP No. 98; (2) when they early-adopted the SSAP No. 98 guidance; and (3) if the company did not early–adopt, because they already had a more conservative approach based on company policy. He stated that the accounting requirements should not result with this different treatment. Mr. Carus stated that the interested parties' proposal is not an attempt to "game" the system, but to allow consistent accounting treatment when SSAP No. 43R is effective, regardless of the prior treatment. Mr. Fritsch stated that, if desired, the Working Group could consider going back to SSAP No. 98, as this SSAP would allow consistent treatment, and this topic would be eliminated as an issue. Mr. Carus noted that SSAP No. 98, and the requirement to write-down to fair value when the company is going to generate cash flows that exceed fair value, is not appropriate.

Dan Ross (Scottish Re) advised that their comments mirror those presented by the interested parties, and the disparities that would result among companies. Mr. Smith stated that valuations between companies, as a result of insurers adopting company policies that differ from statutory accounting, have previously resulted with different measurements of the securities. Mr. Carus noted that his company did not previously see the need to make a formal declaration that they were early-adopting SSAP No. 98, as they were already following a more conservative approach to write-down securities to fair value. Mr. Carus noted that, if the transition guidance is revised as desired by interested parties, as of Sept. 30, 2009, the companies will be following the same guidance, as they will be afforded the same accounting treatment. Deborah Whitmore (Ernst & Young) advised that, under GAAP, all companies, once they adopted the GAAP guidance, were placed on the same basis. Thus, different companies with similar securities would be accounting for such securities on similar basis. She advised that GAAP is a bifurcated model, and is consistent with what is proposed under SSAP No. 43R. Mr. Tittle confirmed that these statements are accurate, but only for "credit-related" impairments under GAAP. Mr. Tittle confirmed that under statutory accounting, the security would have a much-higher reported value on the balance sheet then it would have under GAAP, as GAAP requires other-than-temporarily impaired securities to be written down to fair value. Under GAAP, the bifurcation of impairment is reflected within the income statement. In response to an inquiry from Ms. Hu, Mr. Fritsch reiterated the accounting treatment for situations in which an entity has an intent to sell, when the entity does not have the intent and ability to hold, and for situations of when a "non-interest" impairment is present.

In response to a request from Mr. Fritsch, Mr. Hudson, Mr. Smith and Mr. Medley stated that they were supportive of allowing the transition guidance only for the early-adopters of SSAP No. 98 — and not for reporting entities with company policies that resulted with previous impairment write-downs to fair value. In response to a request from Mr. Fritsch, none of the Working Group members indicated a desire to further expand the transition guidance. As a result of these inquiries, Mr. Fritsch stated that the transition guidance would be modified to incorporate all of the SSAP No. 98 early-adopters, regardless of the date for which early-adoption was elected, but continue to exclude from the transition guidance those reporting entities with company policies that resulted in previous impairment write-downs to fair value. Mr. Tittle advised that the original exposure draft incorporated language that was similar to the Working Group's decision. He advised that this language would be incorporated, with modification as necessary for clarity and to clearly exclude those companies that had company policies, but that did not early-adopt SSAP No. 98. Mr. Tittle advised that the exclusion language was included within the recent exposure draft. As such, all of the language that would be incorporated within the transition has previously been exposed.

Ms. Wilson clarified that companies that early-adopted prior to Jan. 1, 2009, would have a cumulative-effect adjustment as of July 1, 2009, for the prior-year impact, and the current year impact would be reflected within the third-quarter income statement, so the year-to-date income statement is comparable with the companies that did not early adopt. Mr. Tittle stated that this is intended, and he proposed minor modifications to clarify this within SSAP No. 43R. After additional discussion, Mr. Bell suggested following GAAP so that the cumulative-effect adjustment is taken at the start of the quarter in which the guidance was adopted, and the income statement effect was only for the current quarter. Mr. Fritsch stated that this is how SSAP No. 43R is currently written and would be retained.

On a motion from Mr. Hudson, seconded by Mr. Johnson, the Working Group agreed to conduct a roll-call vote to adopt SSAP No. 43R, with the modifications incorporated during the conference call. Mr. Ross provided additional comments regarding the transition guidance, stating that those companies that did not see the need to declare early adoption of SSAP No. 98, as they already had a more conservative accounting policy, are being adversely impacted. Mr. Carus stated similar comments, noting that he does not understand the rationale for requiring different accounting for companies with similar securities. Mr. Carus advised that a company's past accounting decisions should not drive different accounting treatment under a new accounting standard. Mr. Carus noted that it is those companies that had taken a better, more conservative approach that are being penalized with the transition guidance. In response to a request from Mr. Fritsch, none of the Working Group members vocalized a desire to make changes to the accounting guidance in response to these comments received.

Mr. Tittle then conducted the roll-call vote, with Iowa, California, Delaware, Illinois, Louisiana, Michigan, New Hampshire, Ohio, Pennsylvania and Texas voting affirmatively to adopt SSAP No. 43R, and with Virginia and Wisconsin abstaining. Mr. Fritsch declared that the motion carried (Attachment Five-B).

Mr. Tittle advised that SSAP No. 43R would be forwarded to the parent committees. A joint conference call of the Accounting Practices and Procedures Task Force and the Financial Condition Committee has been scheduled for Sept. 17 to consider adoption of SSAP No. 43R. If the item is adopted during that joint conference call, it will be presented to Executive (EX) Committee/Plenary for adoption at the Fall National Meeting.

Ms. Marcotte advised that an Issue Paper would be created for historical reference on the adoption of SSAP No. 43R.

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

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SunGard iWorks Financials
5619 DTC Parkway, Suite 600
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September 8, 2009

Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street
Kansas City, MO 64108

SunGard would like to thank you for the opportunity to comment on the 8/21/09 Discussion draft of SSAP No. 43R – *Loan-backed and Structured Securities*, dated July 15, 2009.

Company Background:

SunGard provides IT solutions for the insurance industry in each of the following major business lines: life/health/annuities/pensions, property and casualty, reinsurance, and asset management. Our software and services support functions from the front-office through the back-office—from customer service and policy administration to actuarial calculations, financial and investment accounting, and reporting. SunGard's insurance solutions help businesses capture growth opportunities, improve regulatory compliance and optimize overall performance.

- More than 2,500 customer sites use SunGard's iWorks solutions
- SunGard's iWorks solutions are used in more than 50 countries
- More than half of the top 50 life insurance companies ranked in the Global Fortune 500 use SunGard's insurance solutions

SSAP 43-R Comments:

While in general, we support the intent of the revisions to SSAP 43, there are a few particular items in this draft that we would ask the Working Group to reconsider or provide more clarification. These are:

- AVR / IMR treatment of OTTI loss
- Effective date
- Reversal of impacts of SSAP 98

AVR / IMR Treatment of OTTI Loss
Paragraph 35 of the discussion draft provides that the loss upon recognizing an Other-Than-Temporary Impairment be bifurcated between IMR recognition and AVR recognition if the write-down is a result of the intent to sell, or lack of intent or ability to hold the security. While we agree that there are usually elements of both interest related factors and non interest related factors which account for a decline in value leading to the recognition of OTTI, the same could be said about the capital loss on any security. Some of the loss may be due to the credit quality of the issuer, the quality of the collateral; and/or due to the economic environment at time of sale. The rules for AVR / IMR determination currently provide for a simple determination based upon the NAIC

designation. We believe it is inconsistent to carve out the losses resulting from OTTI recognition per SSAP 43R using different standards and analysis. When IMR was originally adopted by the NAIC, no one could have foreseen the economic environment which we now face. Our understanding is that the primary purpose of IMR at that time was to address gains trading. Rather than carve out an exception for asset backed and structured securities in SSAP 43R, we believe it may be more appropriate to revisit the rules for IMR / AVR recognition in general, as a larger project.

Effective Date:
Once again we would like to express our concern regarding the effective date of September 30, 2009. As stated previously we believe there are several issues that make this date impractical. Among these are:

- System considerations: The accounting changes that this SSAP mandates are substantial. This new guidance will require substantial changes in the logic within investment systems for determining Other-Than-Temporary impairments on asset backed securities, for writing down the security, and for the on-going accounting after the write down.
- Education and internal procedures: Many insurance companies are unaware of the proposed changes, and will have very little time to familiarize themselves with these changes. Not only will this affect their accounting systems, but will also impact their procedures and criteria for evaluating these securities.
- Not the same as GAAP: While the new standards for recognizing an OTTI impairment follow somewhat FSP FAS 115-2 & 124-2, there are significant differences. Companies familiar with the GAAP requirements will be not be able to simply do what they do for GAAP purposes for their statutory accounting and reporting. Additionally, many insurance companies do not file GAAP financials, so they do not even have this perspective to draw from. For these companies understanding and implementing the new guidance will be even more burdensome.

Reversal of Impact and retrospective application:
Paragraph 55 provides for reversing the impact of early adoption of SSAP 98 or previously writing down loan-backed or structured securities to fair value during 2009, prior to September 30. It also states that "reporting entities shall adopt the accounting requirements of this statement as of January 1, 2009." While we agree that having a consistent accounting methodology for the entire year is advisable, our primary concern again is one of timing. With such a short time period between when this SSAP is anticipated to be adopted and the Third Quarter filing deadline, determining the effects of prior write-downs and making the appropriate adjustment could prove to be very time consuming for companies that have had a substantial amount of write downs of their asset-backed and structured securities. Again, we would argue for a January 1, 2010 effective date. If that is not acceptable to the regulators, then a December 31, 2009 effective date would provide companies more time to do this analysis and make the proper adjustments. Providing more time for companies to prepare for these changes would provide for more consistency in the way these securities are evaluated and accounted for and would lessen the burden of the regulators and the NAIC staff in dealing with the confusion and misunderstanding of companies trying to comply.

Thanks once again for providing the opportunity to offer feedback on this proposal.

Sincerely,

Dennis Lebar, CPA
Senior Regulatory and Accounting Specialist
SunGard iWorks Financials
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September 8, 2009

Mr. Joe Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, KS 64108-2662

Re: Proposed Statement of Statutory Accounting Principles No 43 – Revised, "Loan-Backed and Structured Securities"

Dear Mr. Fritsch,

We appreciate the opportunity to comment on the Statutory Accounting Principles Working Group's ("SAPWG") Proposed Statutory Accounting Principles No 43 – Revised, "Loan-Backed and Structured Securities" ("Proposed SSAP No. 43R").

The Proposed SSAP No. – 43R, helps to reflect the economic reality of loan-backed and structured security losses. We agree that surplus should be impacted by true credit losses but should not be impacted by non-credit related factors. It also helps to promote consistency between US generally accepted accounting principles and statutory accounting principles.

While we generally support Proposed SSAP No – 43R, we disagree with the transition guidance that was included in the draft released on August 21, 2009. Specifically, we take exception with the following provision included in paragraph 55 of the proposed guidance:

> For reporting entities that early adopted the requirements of SSAP No. 98 in 2008 and recorded other-than-temporary impairments in 2008, or had previously adopted an accounting policy to impair loan-backed and structured securities to fair value when an impairment was determined to be other than temporary, no cumulative effect adjustment shall be recognized (the reporting entity will continue to carry the investment at amortized cost reflective of the other-than-temporary impairment adjustment to fair value in 2008 and prior).

During 2008, certain companies took a conservative approach and impaired loan-backed and structured securities to fair value when an impairment loss was determined to be other than temporary. Due to the deterioration of the structured paper market and resulting depressed market values, impairments charges were recorded far in excess of the expected economic losses on many of these securities. Other insurance companies did not take this position and chose to not record any impairment loss through earnings even though some economic loss likely was expected.

The proposed transition guidance does not allow those companies who in 2008 took a conservative position with respect to loan-backed and structured security impairments (impaired securities to fair value) to be on a consistent standing with the other insurers that did not impair to fair value. The integrity of statutory accounting principles is enhanced when there is consistency among all insurers with respect to the application of statutory accounting principles and the calculation of capital as it relates to the valuation of the loan-backed and structured securities.

The guidance should be applied to all applicable securities covered by the statement regardless of whether they have previously been other than temporarily impaired and not based on what year the impairment was recorded. Accordingly, we believe the sentence in paragraph 55 noted above should be struck from Proposed SSAP No. 43R and replaced with the following:

For reporting entities that early adopted the requirements of SSAP No. 98 in 2008 and recorded other-than-temporary impairments in 2008, or had previously adopted an accounting policy to impair loan-backed and structured securities to fair value when an impairment was determined to be other than temporary, a cumulative effect adjustment shall be recognized to surplus as of January 1, 2009. The adjustment to surplus shall be calculated by comparing the present value of the cash flows expected to be collected on the previously impaired securities determined in accordance with the methodology in paragraph 32 with the amortized cost basis of the security as of January 1, 2009. The cumulative-effect adjustment shall include related tax effects.

Thank you for considering our comments. In the event that you would like any further clarification of our position we are happy to explain them in greater detail.

Respectfully,

Don Seibel
Vice President – Finance

Scottish Re

September 8, 2009

Mr. Joe Fritsch,
Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 Mc Gee Street, suite 800
Kansas City,
MO 64108-2662

Dear Mr. Fritsch,

Re: Statement of Statutory Accounting Principles No. 43 – Revised: Loan–backed and Structured Securities – Discussion draft 8-21-2009

Scottish Re (U.S.), Inc., Scottish Re Life Corporation and Orkney Re, Inc. (collectively "Scottish Re") appreciates the opportunity to comment on the Statutory Accounting Principles Working Group's ("SAPWG") Proposed Statement of Statutory Accounting Principles No.43 – Revised: Loan-backed and Structured Securities ("Proposed SSAP No. 43-R").

The Proposed SSAP No.43-R appropriately addresses the challenges in accounting for loan-backed and structured securities. The proposed draft acknowledges that the appropriate impairment, when an entity has the intent and ability to hold such a security to recovery, should only be in respect of the amount and timing of true credit losses and that this is affected by impairing structured securities with Other Than Temporary Impairments ("OTTI") to the value of discounted cash flows.

It is our belief, however, that all structured securities with OTTI should be impaired to the value of their discounted cash flows irrespective of when such securities initially were impaired. Although paragraph 57 of the draft Proposed SSAP No.43-R, dated July 20, 2009, contained appropriate cumulative effect wording to ensure that at adoption all structured securities were measured on a consistent basis, subsequent drafts of Proposed SSAP No.43-R lack any such language. Accordingly, for the reasons set forth in this letter, Scottish Re urges SAPWG to reconsider its decision to remove this concept. We believe that the objectives of Proposed SSAP No.43-R should include consistent valuation of the same security between all insurance companies holding the security. However, for a subset of companies like Scottish Re that previously followed a statutory accounting policy to impair loan-backed and structured securities to fair value through December 31, 2008, this consistent valuation will not occur. This set of companies also will be required to continue to recognize and measure OTTI based on the effective yield that resulted from valuation at fair value at the last impairment date in 2008 (i.e., OTTI measurement will be based on the higher prospective effective yield established at the date of the previous impairment). This measurement will diminish estimated discounted cash flows and may result in additional impairments for companies that impaired to fair value prior to 2009. This difference in valuation upon implementation of Proposed SSAP No.43-R, as well as the increased disparate likelihood of future impairments, could create a situation where a company is competitively disadvantaged by its carrying value of certain securities, irrespective of the expected economic return on the related securities.

Below is an example demonstrating how the latest draft Proposed SSAP No.43-R will produce inconsistent valuations of structured securities. Specifically, there will be inconsistency because companies that impaired to undiscounted cash flows prior to 2009 will hold structured securities at a higher value than those that impaired to fair value prior to 2009.

Example:

- Company A and Company B both buy Bond X on the same day in July-2006 at par
- In July 2008, Bond X is trading at $0.50. Company A impairs the bond to fair value, recording a $0.50 OTTI. Company B generates estimated undiscounted cash flows and determines that a $0.30 OTTI charge is required
- Upon adoption of Proposed SSAP No.43-R in September 2009, Company A and Company B both generate identical estimated cash flows for Bond X in the amount of $0.65
- The cash flows are discounted at different implied yields with Company A having a greater implied yield than Company B producing discounted cash flows of $0.55 and $0.60 respectively
- Company A will not be permitted to adjust the value of the security and will maintain its valuation at $0.50 while Company B will record an additional $0.10 OTTI charge but will value the security at $0.60. Company B therefore attributes a 20% higher value to Bond X than does Company A for calculating its capital and surplus
- Following adoption of Proposed SSAP No. 43-R, subsequent impairment tests will also be performed by each company, with Company A continuing to use a greater discount factor and in turn having an increased likelihood of incurring additional impairment charges than Company B.

We believe that the foregoing example illustrates a likely case upon adoption of Proposed SSAP No. 43-R and does not promote consistent valuation of securities among insurance companies. Therefore, we believe that Proposed SSAP No.43-R necessarily should include the cumulative effect language in order to allow for consistent valuation of securities as of the date of adoption. Absent inclusion of this or similar language, implementation of Proposed SSAP No.43-R as drafted penalizes companies that previously followed a statutory accounting policy of impairing structured and loan-backed securities to fair value.

We thank you for this opportunity to comment on Proposed SSAP No. 43-R and welcome your questions should you require additional information in support of our comments.

Respectfully,

Meredith A. Ratajczak

Meredith Ratajczak

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September 8, 2009

Mr. Joe Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2604

RE: Comments on SSAP 43R Exposed by the NAIC Statutory Accounting Principles Working Group

Dear Mr. Fritsch,

We support and appreciate the effort put forth by the Working Group and NAIC staff in developing and exposing for comment SSAP 43R. Our comments highlight areas where additional discussion with the Working Group would be beneficial or involve clarifications where practitioners and auditors may otherwise be prone to develop inconsistent approaches when applying the guidance.

SSAP 43R as currently exposed represents a substantial re-write of SSAP 43 in order to update statutory accounting for structured securities. All of our suggested modifications are marked in the attached draft. Our most substantive comments are focused in the following key areas.

Collection of Cash Flows – Probable, Not Probable, Beneficial Interest

We have included some suggested changes to more clearly make the distinctions between the categories without changing the meaning of the draft guidance. This should reduce the judgment required to determine the appropriate guidance to apply at the security level.

In paragraph 12, we suggest defining the "probable" category of structured securities in the same way that it is done in the other two categories ("not probable" and "beneficial interest").

In paragraph 18 we have made a computational clarification to reflect that the excess of all cash flows expected at acquisition "over" the investor's initial investment is interest income which represents the accretable yield. We also inserted language which briefly defines the "nonaccretable difference" so that there is greater clarity when that term is used in the last sentence of the paragraph.

In paragraphs 20, 21 and 22 we have suggested a few changes to more clearly define the entity that should be following the guidance and its role in the transaction in question.

Impairment

In paragraph 27, we suggest deleting the last sentence which potentially reduces the clarity of this statement: "The application of this reporting requirement resulting from NAIC designation (i.e., lower of cost or fair value) is not a substitute for other-than-temporary impairment recognition." Accounting for assets at the lower of cost or fair value, and impairment accounting, are two independent requirements separately established within statutory accounting.

Paragraph 30 involves the intent and ability to retain the asset for a period of time sufficient to recover the amortized cost basis. The Working Group over the last several years has crafted impairment guidance which has allowed company accountants and portfolio managers to make timely write down determinations in part based on whether the insurer has the intent and ability, at the time of the impairment review, to retain the asset long enough to recover the amortized cost. Prompt and confident determinations are enabled by the knowledge that portfolio managers can act in the company's/policy owners' economic interest if new information produces a substantive change compelling a sale in a subsequent period without tainting previously made assertions concerning other assets. In practice, such subsequent sales tend to be rare. Auditors and company accountants review subsequent sales carefully for new information, the compelling nature of the changed circumstances and sufficient documentation. The changes we have suggested to paragraph 30 preserve this balance between the credibility of assertions and the need to act in the economic interest of the company/policy owner.

Disclosure

Our comments in the disclosure section (paragraph 48) primarily clarify what has been required in the exposed SSAP 43R. However, in 48d we have added a disclosure concerning the adjustment methodology. We also suggest aggregating the disclosures in 48g in light of the extensive and more frequent (quarterly) reporting that will now be required for structured securities.

Effective Date and Transition

In paragraph 55 we are suggesting some clarifications to the guidance which will simplify the transition and avoid potential revisions to 2009 quarterly statements which have already been filed.

We noted that there was a significant change in the transition guidance since the previously exposed version of SSAP 43R. It appears that companies using the practice of writing structured securities down to fair value in 2008 and prior, based on the early adoption encouragement reflected in several drafts and the final version of SSAP 98 or did so otherwise, will not be allowed to adjust the respective cost bases of the affected securities or make the usually required cumulative adjustment. This is competitively punitive for those companies who chose to do the more conservative accounting. We believe that those companies should be allowed to include the necessary adjustments to reverse the impact of recording structured security write downs to fair value. We suggest either using the transition guidance reflected in the previously exposed paragraphs 56 and 57 of the July 15, 2009 draft of SSAP 43R or use the guidance we have suggested in paragraph 55.

* * * * *

Thank you for considering our comments. We look forward to working with you, Mr. Armstrong, and the Working Group during the interim conference call and at the NAIC Fall meeting in Washington, D.C. If you have any questions in the interim, please do not hesitate to contact either one of us.

Sincerely,

D. Keith Bell

Sincerely,

Rose Albrizio

cc: Mr. James Armstrong, Iowa DOI
Robin Marcotte, NAIC staff
Interested Parties

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Discussion draft 8-21-2009

Statement of Statutory Accounting Principles No. 43 ~~-~~– Revised

IP draft of September 8, 2009 PM

Loan-backed and Structured Securities

STATUS

Type of Issue:	Common Area
Issued:	Initial Draft
Effective Date:	January 1, 2001; September 30, 2009
Affects:	Supersedes SSAP No. 98; supersedes paragraph 13 of SSAP No. 99;
Affected by:	Paragraphs 14-16 superseded by SSAP No. 98 (removed by 2009 revisions) New paragraph 17 added by SSAP No. 99 (removed by 2009 revisions) Substantively revised in September, 2009,
Interpreted by:	INT 00-11, INT 02-07; INT 06-07, INT 07-01

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Loan-backed and Structured Securities

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for investments in loan-backed securities and structured securities. In accordance with *SSAP No. 91R—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (SSAP No. 91R), retained beneficial interests from the sale of loan-backed securities and structured securities are accounted for in accordance with this statement. In this statement loan-backed securities and structured securities are collectively referred to as loan-backed securities.

SUMMARY CONCLUSION

2. Loan-backed securities are defined as pass-through certificates, collateralized mortgage obligations (CMOs), and other securitized loans not included in structured securities, as defined below, for which the payment of interest and/or principal is directly proportional to the interest and/or principal received by the issuer from the mortgage pool or other underlying securities.

3. Structured securities are defined as loan-backed securities which have been divided into two or more classes for which the payment of interest and/or principal of any class of securities has been allocated in a manner which is not proportional to interest and/or principal received by the issuer from the mortgage pool or other underlying securities.

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring parent organization. Mortgage loans or other securities securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer's obligation has been fully satisfied. The investor can look only to the issuer's assets (primarily the trusteed assets or third parties such as insurers or guarantors) for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying mortgage loans or securities. Some sponsors do guarantee the performance of the underlying loans.

5. Loan-backed securities meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement.

6. The scope of this statement encompasses all types of loan-backed and structured securities, including, but not limited to, the following:

a. Loan~~ed~~-backed and structured securities acquired at origination,

b. Loan~~ed~~-backed and structured securities acquired subsequent to origination for which it is probable, at acquisition, that the reporting entity will be **able** to collect all contractually required payments receivable, ~~and are accounted for at acquisition under SSAP No. 91R~~,

c. Loan~~ed~~-backed and structured securities for which it is probable, either known at acquisition or identified during the holding period[1], that the reporting entity will be **unable** to collect all ~~contractually required payments receivable~~contractual cash flows, and

[1] Securities classified within the type of paragraph 6.a. or 6.b. may be required to change classification to type 6.c. when it becomes probable that the reporting entity will be unable to collect all contractually required payments receivable.

d. Beneficial interests that continue to be held by a reporting entity (transferor) in securitization transactions that are accounted for as sales under SSAP No. 91R and purchased beneficial interests in securitized financial assets~~[2]~~.

7. At acquisition, loan-backed ~~securities~~and structured securities, except for those securities that are accounted for at acquisition under SSAP 91R , ~~except for loan-backed or structured securities that are beneficial interests that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount[3] (see paragraphs 20 through 24),~~ shall be reported at cost, including brokerage and related fees. Cost shall not exceed fair value. Loan backed and structured securities that are beneficial interests retained in a transfer shall be initially reported at allocated carrying amount after application of the relative fair value allocation method required by SSAP 91R. Acquisitions and dispositions shall be recorded on the trade date, not the settlement date, except for the acquisition of private placement loan-backed securities which shall be recorded on the funding date. For securities where all information is not known as of the trade date (e.g., actual payment factors and specific pools), a reporting entity shall make its best estimate based on known facts.

8. Amortization of premium or discount shall be calculated using the scientific (constant yield) interest method and shall be recorded as an adjustment to investment income. The interest method results in a constant effective yield equal to the prevailing rate at the time of purchase or at the time of subsequent adjustments to book value. The amortization period shall reflect estimates of the period over which repayment of principal of the loan-backed securities is expected to occur, not the stated maturity period.

9. Interest shall be accrued using the effective-yield method using the redemption prices and redemption dates used for amortizing premiums and discounts. Interest income consists of interest collected during the period, the change in the due and accrued interest between the beginning and end of the period as well as reductions for premium amortization and interest paid on acquisition of loan-backed securities, and the addition of discount accrual. Contingent interest may be accrued if the applicable provisions of the underlying contract and the prerequisite conditions have been met.

10. For reporting entities required to maintain an IMR, the accounting for realized capital gains and losses on sales of loan-backed securities shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*. For reporting entities not required to maintain an IMR, realized gains and losses on sales of loan-backed securities shall be recorded on the trade date and shall be reported as net realized capital gains or losses in the Statement of Income.

11. A loan-backed security may provide for a prepayment penalty or acceleration fee in the event the investment is liquidated prior to its scheduled termination date. These fees shall be reported as investment income when received.

Collection of All Contractual Cashflows is Probable

12. The following guidance applies to loan-backed and structured securities for which it is probable that the investor will be able to collect all contractually required payments receivable, except for loan-backed or structured securities accounted for under paragraphs 17 through 24. Prepayments are a

~~[2] The accounting requirements related to these type of securities included in paragraphs 20 through 24 shall be determined at acquisition or initial transfer.~~

~~[3] As referenced in the Relevant Literature section, this Statement adopts EITF 99-20, including the scope requirements of that guidance.~~

significant variable element in the cash flow of loan-backed securities because they affect the yield and determine the expected maturity against which the yield is evaluated. Falling interest rates generate faster prepayment of the mortgages underlying the security, shortening its duration. This causes the reporting entity to reinvest assets sooner than expected at potentially less advantageous rates. This is called prepayment risk. Extension risk is created by rising interest rates which slow repayment and can significantly lengthen the duration of the security. Differences in cash flows can also result from other changes in the cash flows from the underlying assets. If assets are delinquent or otherwise not generating cash flow, that should be reflected in the cash flow analysis through diminishing security cash flows, even if assets have not been liquidated and gain/losses have not been booked.

13. Changes in currently estimated cash flows, including the effect of prepayment assumptions, on loan-backed securities shall be reviewed periodically, at least quarterly. The prepayment rates of the underlying loans shall be used to determine prepayment assumptions. Prepayment assumptions shall be applied consistently across portfolios to all securities backed by similar collateral (similar with respect to coupon, issuer, and age of collateral). Reporting entities shall use consistent assumptions across portfolios for similar collateral within controlled affiliated groups. Since each reporting entity may have a unique method for determining the prepayment assumptions, it is impractical to set standard assumptions for the industry. Relevant sources and rationale used to determine each prepayment assumption shall be documented by the reporting entity.

14. Loan-backed securities shall be revalued using the currently estimated cash flows, including new prepayment assumptions, using either the prospective or retrospective adjustment methodologies, consistently applied by type of securities. However, if at anytime during the holding period, the reporting entity determines it is no longer probable that they will collect all contractual cashflows, the reporting entity shall apply the accounting requirements in paragraphs 17 through 19.

15. The prospective approach recognizes, through the recalculation of the effective yield to be applied to future periods, the effects of all cash flows whose amounts differ from those estimated earlier and the effects and changes in projected cash flows. Under the prospective method, the recalculated effective yield will equate the carrying amount of the investment to the present value of the anticipated future cash flows. The recalculated yield is then used to accrue income on the investment balance for subsequent accounting periods. There are no accounting changes in the current period unless the security is determined to be other than temporarily impaired.

16. The retrospective methodology changes both the yield and the asset balance so that expected future cash flows produce a return on the investment equal to the return now expected over the life of the investment as measured from the date of acquisition. Under the retrospective method, the recalculated effective yield will equate the present value of the actual and anticipated cash flows with the original cost of the investment. The current balance is then increased or decreased to the amount that would have resulted had the revised yield been applied since inception, and investment income is correspondingly decreased or increased.

Collection of All Contractual Cashflows is Not Probable

17. The following guidance applies to loan-backed and structured securities with evidence of deterioration of credit quality since origination for which it is probable, either known at acquisition or identified during the holding period, that the investor will be unable to collect all contractually required payments receivable, except for ~~loan-backed or structured securities that are~~those beneficial interests that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount determined at acquisition (see paragraphs 20 through 24).

18. The reporting entity shall recognize the excess of all cash flows expected at acquisition ~~of~~ over the investor's initial investment in the loan-backed or structured security as interest income on an effective-yield basis over the life of the loan-backed or structured security (accretable yield).[4] Any excess of contractually required cash flows over the cash flows expected to be collected is the nonaccretable difference. ~~In addition, E~~Eexpected prepayments shall be treated consistently for determining cash flows expected to be collected and projections of contractual cash flows such that the nonaccretable difference is not affected. Similarly, the difference between actual prepayments and expected prepayments shall not affect the nonaccretable difference.

19. An investor shall continue to estimate cash flows expected to be collected over the life of the loan-backed or structured security. If, upon subsequent evaluation:

a. The fair value of the loan-backed or structured security has declined below its amortized cost basis, an entity shall determine whether the decline is other than temporary. For example, if, based on current information and events, there is a decrease in cash flows expected to be collected (that is, the investor is unable to collect all cash flows expected at acquisition plus any additional cash flows expected to be collected arising from changes in estimate after acquisition (in accordance with paragraph 19.b.), an other-than-temporary impairment shall be considered to have occurred. The investor shall consider both the timing and amount of cash flows expected to be collected in making a determination about whether there has been a decrease in cash flows expected to be collected.

b. Based on current information and events, if there is a significant increase in cash flows previously expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, the investor shall recalculate the amount of accretable yield for the loan-backed or structured security as the excess of the revised cash flows expected to be collected over the sum of (1) the initial investment less (2) cash collected less (3) other-than-temporary impairments plus (4) amount of yield accreted to date. The investor shall adjust the amount of accretable yield by reclassification from nonaccretable difference. The adjustment shall be accounted for as a change in estimate in conformity with *SSAP No. 3—Accounting Changes and Corrections of Errors* (SSAP No. 3), with the amount of periodic accretion adjusted over the remaining life of the loan-backed or structured security (prospective method).

Beneficial Interests

20. The following paragraphs provide statutory accounting guidance for interest income and impairment for a ~~transferor~~ reporting entity that continues to hold an interest in securitized financial assets accounted for as sales under SSAP No. 91R, or ~~for a reporting entity~~ that purchases a beneficial interest in securitized financial assets that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount, determined at acquisition or the date of transfer[5]. Beneficial interests that are of high credit quality and cannot contractually be prepaid or otherwise settled in such a way that the reporting entity would not

[4] A loan-backed or structured security may be acquired at a discount because of a change in credit quality or rate or both. When a loan-backed or structured security is acquired at a discount that relates, at least in part, to the security's credit quality, the effective interest rate is the discount rate that equates the present value of the investor's estimate of the security's future cash flows with the purchase price of the loan-backed or structured security ~~security~~.

[5] The accounting requirements related to these type of securities included in paragraphs 20 through 24 shall be determined at acquisition or initial transfer. As referenced in the Relevant Literature section, this Statement adopts EITF 99-20, including the scope requirements of that guidance.

recover substantially all of its recorded investment, shall be accounted for in accordance with paragraphs 12 through 16~~9~~.

21. The reporting entity shall recognize the excess of all cash flows attributable to the beneficial interest estimated at the acquisition/transaction date (referred to herein as the transaction date) over the initial investment (the accretable yield) as interest income over the life of the beneficial interest using the effective yield method. If the holder of the beneficial interest is the ~~transferor~~reporting entity which transferred the financial assets for securitization, the initial investment would be the allocated carrying amount after application of the relative fair value allocation method required by SSAP No. 91R. The amount of accretable yield shall not be displayed in the balance sheet.

22. The reporting entity ~~of~~ which holds a beneficial interest shall continue to update the estimate of cash flows over the life of the beneficial interest. If upon evaluation:

a. Based on current information and events it is probable that there is a favorable (or an adverse) change in estimated cash flows from the cash flows previously projected, then the investor shall recalculate the amount of accretable yield for the beneficial interest on the date of evaluation as the excess of estimated cash flows over the beneficial interest's reference amount (the reference amount is equal to (1) the initial investment less (2) cash received to date less (3) other-than-temporary impairments recognized to date [as described in paragraph 22(b)] plus (4) the yield accreted to date. The adjustment shall be accounted for prospectively as a change in estimate in conformity with SSAP No. 3, with the amount of periodic accretion adjusted over the remaining life of the beneficial interest. Based on estimated cash flows, interest income may be recognized on a beneficial interest even if the net investment in the beneficial interest is accreted to an amount greater than the amount at which the beneficial interest could be settled if prepaid immediately in its entirety.

b. The fair value of the beneficial interest has declined below its reference amount; a reporting entity shall determine whether the decline is other-than-temporary. If, based on current information and events it is probable that there has been an adverse change in estimated cash flows (in accordance with paragraph 22(a) above), then (1) an other-than-temporary impairment shall be considered to have occurred and (2) the beneficial interest shall be written down to the current estimate of cash flows at the financial reporting date discounted at a rate equal to the current yield used to accrete the beneficial interest with the resulting change being recognized as a realized loss. Determining whether there has been a favorable (or an adverse) change in estimated cash flows from the cash flows previously projected (taking into consideration both the timing and amount of the estimated cash flows) involves comparing the present value of the remaining cash flows as estimated at the initial transaction date (or at the last date previously revised) against the present value of the cash flows estimated at the current financial reporting date. The cash flows shall be discounted at a rate equal to the current yield used to accrete the beneficial interest. If the present value of the original cash flows estimated at the initial transaction date (or the last date previously revised) is less than the present value of the current estimate of cash flows expected to be collected, the change is considered favorable (that is, an other-than-temporary impairment shall be considered to have not occurred). If the present value of the original cash flows estimated at the initial transaction date (or the last date previously revised) is greater than the present value of the current estimated cash flows, the change is considered adverse (that is, an other-than-temporary impairment shall be considered to have occurred). However, absent any other factors that indicate an other-than-temporary impairment has occurred, changes in the interest rate of a "plain-vanilla," variable-rate beneficial interest generally shall not result in the recognition of an other-than-temporary impairment[6] (a plain-vanilla, variable-rate beneficial interest does not include those variable-rate beneficial interests with interest rate reset formulas that involve either leverage or an inverse floater).

23. All cash flows estimated at the transaction date are defined as the holder's estimate of the amount and timing of estimated future principal and interest cash flows used in determining the purchase price or the holder's fair value determination for purposes of determining a gain or loss under SSAP No. 91R. Subsequent to the transaction date, estimated cash flows are defined as the holder's estimate of the amount and timing of estimated principal and interest cash flows based on the holder's best estimate of current information and events. A change in estimated cash flows is considered in the context of both timing and amount of the estimated cash flows.

24. In situations in which it is not practicable for a transferor to estimate the fair value of the beneficial interest at the initial transfer date, interest income shall not be recognized using the interest method. For these beneficial interests (that is, those beneficial interests that continue to be held by a transferor that are recorded at $0 pursuant to SSAP No. 91R), the transferor shall use the cash basis for recognizing interest income because the beneficial interest will have an allocated carrying amount of zero.

Reporting and Impairment Guidance for All Loan-Backed and Structured Securities

25. Loan-backed securities shall be valued and reported in accordance with this statement, the *NAIC Purposes and Procedures of the Securities Valuation Office* manual, and the designation assigned in the NAIC Valuations of Securities product prepared by the NAIC Securities Valuation Office. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed securities shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value. For reporting entities that do not maintain an AVR, loan-backed securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively) shall be reported at amortized cost; loan-backed securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

26. For reporting entities required to maintain an AVR, the accounting for unrealized gains and losses shall be in accordance *with SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve* (SSAP No. 7). For reporting entities not required to maintain an AVR, unrealized gains and losses shall be recorded as a direct credit or charge to unassigned funds (surplus).

27. The application of this reporting requirement resulting from NAIC designation (i.e., lower of cost or fair value) is not a substitute for other-than-temporary impairment recognition. ~~In addition, a reporting entity shall continue to apply the reporting requirements for lower of cost or fair value resulting for NAIC ratings of the security and shall not reverse the unrealized gain or loss that was recorded in surplus unless a portion or all of the unrealized gain or loss recorded in surplus must be recognized as a realized loss as a component of the recognition of an other-than-temporary impairment.~~

[6] Changes in the interest rate of a "plain-vanilla," variable-rate beneficial interest (a plain-vanilla, variable-rate beneficial interest does not include those variable-rate beneficial interests with interest rate reset formulas that involve either leverage or an inverse floater) generally should not result in the recognition of an other-than-temporary impairment. For plain-vanilla, variable-rate beneficial interests, the yield is changed to reflect the revised interest rate based on the contractual interest rate reset formula. For example, if a beneficial interest pays interest quarterly at a rate equal to LIBOR plus 2 percent, the yield of that beneficial interest is changed prospectively to reflect changes in LIBOR. However, changes in the fair value of a plain-vanilla, variable-rate beneficial interest due to credit events should be considered when evaluating whether there has been an other-than-temporary impairment.

28. If the fair value of a loan-backed or structured security is less than its amortized cost basis at the balance sheet date, an entity shall assess whether the impairment is other than temporary. Amortized cost basis includes adjustments made to the cost of an investment for accretion, amortization, collection of cash, previous other-than-temporary impairments recognized as a realized loss (including any cumulative-effect adjustments recognized in accordance with paragraph~~s~~ 55 ~~and 57~~ of this Statement).

29. If an entity intends to sell the loan-backed or structured security (that is, it has decided to sell the security), an other-than-temporary impairment shall be considered to have occurred.

30. If an entity does not intend to sell the loan-backed or structured security, the entity shall assess, as of the most recent balance sheet presented, whether it has the intent and ability~~[7]~~ to retain the investment in the security for a period of time sufficient to recover the amortized cost basis. The entity should consider whether its cash or working capital requirements and contractual or regulatory obligations indicate that the investment may need to be sold before the forecasted recovery occurs. The sale of an impaired loan-backed or structured security after a reporting period, due to changes in economic facts and circumstances related to the invested asset (both positive and negative) that arose after the related reporting period such as significant unforeseen changes in liquidity needs, or other changes such as changes in tax laws or regulatory requirements, shall not call into question an entity's intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis as of the prior reporting period. If the entity does not have the intent and ability to retain the investment for the time sufficient to recover the amortized cost basis, an other-than-temporary impairment shall be considered to have occurred.

31. If the entity does not expect to recover the entire amortized cost basis of the security, the entity would be unable to assert that it will recover its amortized cost basis even if it does not intend to sell the security and the entity has the intent and ability to hold. Therefore, in those situations, an other-than temporary impairment shall be considered to have occurred. In assessing whether the entire amortized cost basis of the security will be recovered, an entity shall compare the present value of cash flows expected to be collected from the security with the amortized cost basis of the security. If present value of cash flows expected to be collected is less than the amortized cost basis of the security, the entire amortized cost basis of the security will not be recovered (that is, a non-interest related decline[8] exists), and an other-than-temporary impairment shall be considered to have occurred. A decrease in cashflows expected to be collected on a loaned-backed or structured security that results from an increase in prepayments on the underlying assets shall be considered in the estimate of the present value of cashflows expected to be collected.

32. In determining whether a non-interest related decline exists, an entity shall calculate the present value of cash flows expected to be collected based on an estimate of the expected future cash flows of the impaired loan-backed or structured security, discounted at the security's effective interest rate.

a. For securities accounted for under paragraphs 12 through 16 – the effective interest rate of the loan-backed or structured security is the rate of return implicit in the security (that is, the contractual interest rate adjusted for any net deferred fees or costs, premium, or discount existing at the origination or acquisition of the security). [9]

~~[7] This assessment shall be considered a high standard due to the accounting measurement method established for the securities within the scope of this Statement (amortized cost).~~

[8] A non-interest related decline is a decline in value due to fundamental credit problems of the issuer. Fundamental credit problems exist with the issuer when there is evidence of financial difficulty that may result in the issuer being unable to pay principal or interest when due. An interest related decline in value may be due to both increases in the risk-free interest rate and general credit spread widening.

[9] See Footnote 1.

b. For securities accounted for under paragraphs 17 through 19 – the effective interest rate is the rate implicit immediately prior to the recognition of the other-than-temporary impairment.

c. For securities accounted for under paragraphs 20 through 24 – the reporting entity shall apply the guidance in paragraph 22.b.

33. When an other-than-temporary impairment has occurred because the entity intends to sell the security or has assessed that that they do not have the intent and ability to retain the investments in the security for a period of time sufficient to recover the amortized cost basis, the amount of the other-than-temporary impairment recognized in earnings as a realized loss shall equal the entire difference between the investment's amortized cost basis and its fair value at the balance sheet date. (This guidance includes loan-backed securities previously held at lower of cost or market. For these securities, upon recognition of an other-than-temporary impairment, unrealized losses would be considered realized.)

34. When an other-than-temporary impairment has occurred because the entity does not expect to recover the entire amortized cost basis of the security even if the entity has no intent to sell and the entity has the intent and ability to hold, the amount of the other-than-temporary impairment recognized as a realized loss shall equal the difference between the investment's amortized cost basis and the present value of cash flows expected to be collected, discounted at the loan-backed or structured security's effective interest rate in accordance with paragraph 32. (This guidance includes loan-backed securities previously held at lower of cost or market. For these securities, upon recognition of an other-than-temporary impairment, unrealized lossess would be considered realized for the non-interest related decline. Hence, unrealized losses could continue to be reflected for these securities due to the reporting requirements.)

35. For reporting entities required to maintain an AVR or IMR, the accounting for the other-than-temporary impairment shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*. Non-interest related other-than-temporary impairment losses shall be recorded through the AVR. If the reporting entity wrote the security down to fair value due to the intent to sell or does not have the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, the non-interest related portion of the other-than-temporary impairment losses shall be recorded through the AVR; the interest related other-than-temporary impairment losses shall be recorded through the IMR.

36. For situations where an other-than-temporary impairment is recognized pursuant to paragraphs 33 and 34 of this Statement, the previous amortized cost basis less the other-than-temporary impairment recognized as a realized loss shall become the new amortized cost basis of the investment. That new amortized cost basis shall not be adjusted for subsequent recoveries in fair value. Therefore, the prospective adjustment method shall be used for periods subsequent to loss recognition. ~~However, the amortized cost basis shall be adjusted for accretion and amortization as prescribed in paragraph 37.~~

37. In periods subsequent to the recognition of an other than temporary impairment loss for a loan-backed or structured security, the reporting entity shall account for the other-than-temporarily impaired security as if the security had been purchased on the measurement date of the other-than-temporary impairment at an amortized cost basis equal to the previous amortized cost basis less the other-than-temporary impairment recognized as a realized loss. The difference between the new amortized cost basis and the cash flows expected to be collected shall be accreted as interest income. A reporting entity shall continue to estimate the present value of cash flows expected to be collected over the life of the loan-backed or structured security.

a. For securities accounted for under paragraphs 12 through 19, if upon subsequent evaluation, there is a significant increase in the cash flows expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, such changes shall be accounted for as a prospective adjustment to the accretable yield in accordance with paragraphs 17 through 19.The security shall continue to be subject to impairment analysis for each subsequent reporting period. The new amortized cost basis shall not be changed for subsequent recoveries in fair value. Future declines in fair value which are determined to be other-than-temporary shall be recorded as realized losses.

b. For beneficial interests accounted for under paragraphs 20 through 24, a reporting entity shall apply the guidance in paragraphs 21 through 22 to account for changes in cash flows expected to be collected.

38. It is inappropriate to automatically conclude that a security is not other-than-temporarily impaired because all of the scheduled payments to date have been received. However, it also is inappropriate to automatically conclude that every decline in fair value represents an other-than-temporary impairment. Further analysis and judgment are required to assess whether a decline in fair value indicates that it is probable that the holder will not collect all of the contractual or estimated cash flows from the security. In addition, the length of time and extent to which the fair value has been less than cost can indicate a decline is other than temporary. The longer and/or the more severe the decline in fair value, the more persuasive the evidence that is needed to overcome the premise that it is probable that the holder will not collect all of the contractual or estimated cash flows from the issuer of the security.

39. In making its other-than-temporary impairment assessment, the holder shall consider all available information relevant to the collectibility of the security, including information about past events, current conditions, and reasonable and supportable forecasts, when developing the estimate of future cash flows. Such information generally shall include the remaining payment terms of the security, prepayment speeds, the financial condition of the issuer(s), expected defaults, and the value of any underlying collateral. To achieve that objective, the holder shall consider, for example, industry analyst reports and forecasts, sector credit ratings, and other market data that are relevant to the collectibility of the security. The holder also shall consider how other credit enhancements affect the expected performance of the security, including consideration of the current financial condition of the guarantor of a security (if the guarantee is not a separate contract) and/or whether any subordinated interests are capable of absorbing estimated losses on the loans underlying the security. The remaining payment terms of the security could be significantly different from the payment terms in prior periods (such as for some securities backed by "nontraditional loans"[10]). Thus, the holder shall consider whether a security backed by currently performing loans will continue to perform when required payments increase in the future (including "balloon" payments). The holder also shall consider how the value of any collateral would affect the expected performance of the security. If the fair value of the collateral has declined, the holder needs to assess the effect of that decline on the ability of the holder to collect the balloon payment.

[10] A nontraditional loan may have features such as (a) terms that permit principal payment deferral or payments smaller than interest accruals (negative amortization), (b) a high loan-to-value ratio, (c) multiple loans on the same collateral that when combined result in a high loan-to value ratio, (d) option adjustable-rate mortgages (option ARMs) or similar products that may expose the borrower to future increases in repayments in excess of increases that result solely from increases in the market interest rate (for example, once negative amortization results in the loan reaching a maximum principal accrual limit), (e) an initial interest rate that is below the market interest rate for the initial period of the loan term and that may increase significantly when that period ends, and (f) interest-only loans that should be considered in developing an estimate of future cash flows.

Origination Fees

40. Origination fees represent fees charged to the borrower in connection with the process of originating or restructuring a transaction. The fees include, but are not limited to, points, management, arrangement, placement, application, underwriting, and other fees pursuant to such a transaction. Origination fees shall not be recorded until received in cash. Origination fees intended to compensate the reporting entity for interest rate risks (e.g., points), shall be amortized into income over the term of the loan-backed security consistent with paragraph 8 of this statement. Other origination fees shall be recorded as income upon receipt.

Origination, Acquisition, and Commitment Costs

41. Costs related to origination when paid in the form of brokerage and other related fees shall be capitalized as part of the cost of the loan-backed security, consistent with paragraph 7 of this statement. All other costs, including internal costs or costs paid to an affiliated entity related to origination, purchase, or commitment to purchase loan-backed securities, shall be charged to expense when incurred.

Commitment Fees

42. Commitment fees are fees paid to the reporting entity that obligate the reporting entity to make available funds for future borrowing under a specified condition. A fee paid to the reporting entity to obtain a commitment to make funds available at some time in the future, generally, is refundable only if the loan-backed security is issued. If the loan-backed security is not issued, then the fees shall be recorded as investment income by the reporting entity when the commitment expires.

43. A fee paid to the reporting entity to obtain a commitment to borrow funds at a specified rate and with specified terms quoted in the commitment agreement, generally, is not refundable unless the commitment is refused by the reporting entity. This type of fee shall be deferred, and amortization shall depend on whether or not the commitment is exercised. If the commitment is exercised, then the fee shall be amortized in accordance with paragraph 8 of this statement over the life of the loan-backed security as an adjustment to the investment income on the loan-backed security. If the commitment expires unexercised, the commitment fee shall be recognized in income on the commitment expiration date.

Giantization/Megatization of FHLMC or FNMA Mortgage Backed Securities

44. Giantization/megatization of mortgage backed securities is defined as existing pools of FHLMC or FNMA mortgage-backed securities (MBS) with like coupon and prefix which are repooled together by the issuing agency creating a new larger security. The new Fannie Mae "Mega" or Freddie Mac "Giant" is a guaranteed MBS pass-through representing an undivided interest in the underlying pools of loans.

45. The benefits derived from giantization/megatization include:

a. Increased liquidity: Smaller MBS pools (particularly those with current face of less than $1 million) are less liquid than mortgage pools with current faces exceeding $5 million. Repooling smaller MBS pools into one larger pool improves the marketability for the aggregate package;

b. Geographic diversity: Regrouping of multiple pools generally will create greater geographic pool loan diversity resulting in less prepayment variation due to regional economic factors;

c. Reduced administrative expenses: The reduced number of pools lowers bank custodial fees, pricing/factor service fees, and increases efficiency for the accounting and investment departments.

46. Repooled FHLMC and FNMA securities meet the definition of substantially the same as defined in *SSAP No. 91R—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. The transaction shall not be considered a sale/purchase and no gain or loss shall be recognized. To properly document the repooling, the transaction shall be reported through Schedule D of the Annual Statement as a disposition and an acquisition.

47. Transaction fees charged by the issuing agencies shall be capitalized and amortized over the life of the repooled security.

Disclosures

48. In addition to the disclosures required for invested assets in general, the following disclosures regarding loan-backed securities shall be made in the financial statements. Regardless of the allowances within paragraph 59 of the Preamble, the disclosures in paragraph 49e, 49f and 49g are required in separate, distinct notes to the financial statements:

a. Fair values in accordance with *SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments* (SSAP No. 27);

b. Concentrations of credit risk in accordance with SSAP No. 27;

c. Basis at which the loan-backed securities are stated;

d. The adjustment methodology used for each type of security (prospective or retrospective).

e. Descriptions of sources used to determine prepayment assumptions.

f. All securities within the scope of this statement with a recognized other-than-temporary impairment, disclosed in the aggregate, classified on the basis for the other-than-temporary impairment: (1) intent to sell, (2) inability or lack of intent to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, or (3) present value of cash flows expected to be collected is less than the amortized cost basis of the security.

g. For ~~each~~ all securit~~y~~ies with a recognized other-than-temporary impairment, currently held by the reporting entity, as the present value of cash flows expected to be collected is less than the amortized cost basis of the securities disclose in the aggregate the following:

i. The amortized cost basis, prior to any current-period other-than-temporary impairment.

ii. The other-than-temporary impairment recognized in earnings as a realized loss.

iii. The fair value of the security.

iv. The amortized cost basis after the current-period other-than-temporary impairment.

h. All impaired securities (fair value is less than cost or amortized cost) for which an other-than-temporary impairment has not been recognized in earnings as a realized loss (including securities with a recognized other-than-temporary impairment for non-interest related declines when a non-recognized interest related impairment remains):

i. The aggregate amount of unrealized losses (that is, the amount by which cost or amortized cost exceeds fair value) and

ii. The aggregate related fair value of securities with unrealized losses.

The disclosures in (i) and (ii) above should be segregated by those securities that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. 27.

i. Additional information should be included describing the general categories of information that the investor considered in reaching the conclusion that the impairments are not other-than-temporary.

j. When it is not practicable to estimate fair value in accordance with SSAP No. 27, the investor should disclose the following additional information, if applicable:

i. The aggregate carrying value of the investments not evaluated for impairment, and

ii. The circumstances that may have a significant adverse effect on the fair value.

49. Refer to the preamble for further discussion regarding disclosure requirements. All disclosures within this Statement shall be included within the interim and annual statutory financial statements.

Relevant Literature

50. This statement adopts *FASB Emerging Issues Task Force No. 99-20*, *Exchange of Interest-Only and Principal-Only Securities for a Mortgage-Backed Security and FASB Staff Position EITF 99-20-1, Amendments to the Impairment Guidance of EITF Issue No. 99-20.* This statement adopts paragraphs 5, 7 and 9 of AICPA *Statement of Position 03-03, Accounting for Certain Loans or Debt Securities Acquired in a Transfer* (SOP 03-03) for loan-backed and structured securities only. With the exception of this specific adoption, consideration of SOP 03-03 is still pending consideration for statutory accounting.

51. This statement rejects *FASB Statement No. 115, Accounting for Certain Investments in Debt and Equity Securities* and *FASB Statement No. 91, Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases*.

52. This statement also rejects *FASB Emerging Issues Task Force No. 89-4, Accounting for a Purchased Investment in a Collateralized Mortgage Obligation Instrument or in a Mortgage-Backed Interest-Only Certificate, FASB Emerging Issues Task Force No. 90-2, Exchange of Interest-Only and Principal-Only Securities for a Mortgage-Backed Security, FASB Emerging Issues Task Force No. 93-18, Recognition of Impairment for an Investment in a Collateralized Mortgage Obligation Instrument or in a Mortgage-Backed Interest-Only Certificate*, and *FASB Emerging Issues Task Force No. 96-12, Recognition of Interest Income and Balance Sheet Classification of Structured Notes*.

Effective Date and Transition

53. 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*.

54. For securities purchased prior to January 1, 1994, where historical cash flows are not readily available for applying the retrospective method, the reporting entity may use January 1, 1994 as the acquisition date and the then book value as the cost for purposes of determining yield adjustments in future periods.

55. This revised statement supersedes SSAP No. 98 and paragraph 13 of SSAP No. 99 and is effective as of September 30, 2009. For reporting entities that did not early adopt SSAP 98 or had not previously adopted an accounting policy to impair loan-backed and structured securities to fair value, the effect of adoption shall be reflected in the third quarter of 2009 similar to a change in accounting estimate.~~ effective September 30, 2009.~~ For reporting entities that early adopted SSAP 98 ~~the requirements of SSAP No. 98 in 2008 and recorded other than temporary impairments in 2008,~~ or had previously adopted an accounting policy to impair loan-backed and structured securities to fair value when an impairment was determined to be other than temporary, the entity shall recognize the cumulative effect of initially applying this guidance as an adjustment to the opening balance of surplus as of July 1, 2009. The cumulative effect on surplus shall be calculated by comparing the present value of cash flows expected to be collected determined in accordance with paragraphs 19 and 22 as applicable with the amortized cost of the debt security as of July 1, 2009. The cumulative adjustment shall include related tax effects. The discount rate used to calculate the present value of the cash flows expected to be collected shall be the rate in effect before recognizing any other than temporary impairments and not a rate that has been adjusted to reflect those impairments. The amortized cost basis of a security for which an other than temporary impairment was previously recognized shall be adjusted by the amount of the cumulative effect adjustment before taxes.~~no cumulative effect adjustment shall be recognized (the reporting entity will continue to carry the investment at amortized cost reflective of the other than temporary impairment adjustment to fair value in 2008 and prior). For reporting entities that early adopted the requirements of SSAP No. 98 in 2008 or 2009, or had previously adopted an accounting policy to impair loan backed and structured securities to fair value when an impairment was determined to be other than temporary and recorded other than temporary impairments in 2009, reporting entities shall reverse the impact[11] of early adoption of SSAP No. 98 or application of the accounting policy, as well as any entries related to paragraph 13 of SSAP No. 99, as of September 30, 2009.~~ The accounting and reporting requirements of this revised statement shall be applied to existing and new investments held by the reporting entity ending on or after September 30, 2009.~~ On September 30, 2009, reporting entities shall adopt the accounting requirements of this statement as of January 1, 2009[12].~~

56. In the period of adoption, an entity shall provide the disclosures required by SSAP No. 3, for changes in accounting principles.

~~[11] The reporting entity shall not record a cumulative effect adjustment and restate the opening balance of surplus. The reporting entity shall reverse the journal entries recorded for the other than temporary impairments recorded in 2009 in accordance with SSAP No. 98 or application of the accounting policy. The reporting entity shall also reverse the journal entries recorded to amortize the discount or reduced premium in accordance with paragraph 13 of SSAP No. 99.~~

~~[12] This transition guidance shall result in one basis of accounting for valuation and impairment of loan-backed and structured securities for the 2009 reporting period (although 2008 and prior periods will be on a different basis).~~

AUTHORITATIVE LITERATURE

Statutory Accounting

- NAIC *Purposes and Procedures of the Securities Valuation Office*
- NAIC *Valuations of Securities* manual prepared by the Securities Valuation Office

RELEVANT ISSUE PAPERS

- Issue Paper No. 43—Loan-backed and Structured Securities

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Statement of Statutory Accounting Principles No. 43 - Revised

Loan-backed and Structured Securities

STATUS

Type of Issue:	Common Area
Issued:	Initial Draft
Effective Date:	January 1, 2001; September 14, 2009
Affects:	Supersedes SSAP No. 98; supersedes paragraph 13 of SSAP No. 99
Affected by:	Substantively revised in September 2009 (Detail of revisions are included within Issue Paper No. 140)
Interpreted by:	INT 00-11, INT 02-07; INT 06-07, INT 07-01

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Loan-backed and Structured Securities

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for investments in loan-backed securities and structured securities. In accordance with *SSAP No. 91R—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (SSAP No. 91R), retained beneficial interests from the sale of loan-backed securities and structured securities are accounted for in accordance with this statement. In this statement loan-backed securities and structured securities are collectively referred to as loan-backed securities.

SUMMARY CONCLUSION

2. Loan-backed securities are defined as pass-through certificates, collateralized mortgage obligations (CMOs), and other securitized loans not included in structured securities, as defined below, for which the payment of interest and/or principal is directly proportional to the interest and/or principal received by the issuer from the mortgage pool or other underlying securities.

3. Structured securities are defined as loan-backed securities which have been divided into two or more classes for which the payment of interest and/or principal of any class of securities has been allocated in a manner which is not proportional to interest and/or principal received by the issuer from the mortgage pool or other underlying securities.

4. Loan-backed securities are issued by special-purpose corporations or trusts (issuer) established by a sponsoring parent organization. Mortgage loans or other securities securing the loan-backed obligation are acquired by the issuer and pledged to an independent trustee until the issuer's obligation has been fully satisfied. The investor can look only to the issuer's assets (primarily the trusteed assets or third parties such as insurers or guarantors) for repayment of the obligation. As a result, the sponsor and its other affiliates may have no financial obligation under the instrument, although one of those entities may retain the responsibility for servicing the underlying mortgage loans or other securities. Some sponsors do guarantee the performance of the underlying loans.

5. Loan-backed securities meet the definition of assets as defined in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement.

6. The scope of this statement encompasses all types of loan-backed and structured securities, including, but not limited to, the following:

a. Loan-backed and structured securities acquired at origination,

b. Loan-backed and structured securities acquired subsequent to origination for which it is probable, at acquisition, that the reporting entity will be **able** to collect all contractually required payments receivable, and are accounted for at acquisition under SSAP No. 91R,

c. Loan-backed and structured securities for which it is probable, either known at acquisition or identified during the holding period[1], that the reporting entity will be **unable** to collect all contractually required payments receivable, and

[1] Securities classified within the type of paragraph 6.a. or 6.b. may be required to change classification to type 6.c. when it becomes probable that the reporting entity will be unable to collect all contractually required payments receivable.

d. Beneficial interests that continue to be held by a reporting entity (transferor) in securitization transactions that are accounted for as sales under SSAP No. 91R and purchased beneficial interests in securitized financial assets[2].

7. At acquisition, loan-backed securities, except for loan-backed or structured securities that are beneficial interests that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount[3] (see paragraphs 20 through 24), shall be reported at cost, including brokerage and related fees. Cost shall not exceed fair value. Acquisitions and dispositions shall be recorded on the trade date, not the settlement date, except for the acquisition of private placement loan-backed securities which shall be recorded on the funding date. For securities where all information is not known as of the trade date (e.g., actual payment factors and specific pools), a reporting entity shall make its best estimate based on known facts.

8. Amortization of premium or discount shall be calculated using the scientific (constant yield) interest method and shall be recorded as an adjustment to investment income. The interest method results in a constant effective yield equal to the prevailing rate at the time of purchase or at the time of subsequent adjustments to book value. The amortization period shall reflect estimates of the period over which repayment of principal of the loan-backed securities is expected to occur, not the stated maturity period.

9. Interest shall be accrued using the effective-yield method using the redemption prices and redemption dates used for amortizing premiums and discounts. Interest income consists of interest collected during the period, the change in the due and accrued interest between the beginning and end of the period as well as reductions for premium amortization and interest paid on acquisition of loan-backed securities, and the addition of discount accrual. Contingent interest may be accrued if the applicable provisions of the underlying contract and the prerequisite conditions have been met.

10. For reporting entities required to maintain an IMR, the accounting for realized capital gains and losses on sales of loan-backed securities shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*. For reporting entities not required to maintain an IMR, realized gains and losses on sales of loan-backed securities shall be recorded on the trade date and shall be reported as net realized capital gains or losses in the Statement of Income.

11. A loan-backed security may provide for a prepayment penalty or acceleration fee in the event the investment is liquidated prior to its scheduled termination date. These fees shall be reported as investment income when received.

Collection of All Contractual Cashflows is Probable

12. The following guidance applies to loan-backed and structured securities for which it is probable that the investor will be able to collect all contractually required payments receivable. (Paragraphs 17-19 provide guidance for securities in which collection of all contractual cash flows is not probable and paragraphs 20-24 provide guidance for beneficial interests.) Prepayments are a significant variable element in the cash flow of loan-backed securities because they affect the yield and determine the expected maturity against which the yield is evaluated. Falling interest rates generate faster prepayment of the mortgages underlying the security, shortening its duration. This causes the reporting entity to reinvest assets sooner than expected at potentially less advantageous rates. This is called prepayment risk. Extension risk is created by rising interest rates which slow repayment and can significantly lengthen the

[2] The accounting requirements related to these type of securities included in paragraphs 20 through 24 shall be determined at acquisition or initial transfer.

[3] As referenced in the Relevant Literature section, this Statement adopts EITF 99-20, including the scope requirements of that guidance.

duration of the security. Differences in cash flows can also result from other changes in the cash flows from the underlying assets. If assets are delinquent or otherwise not generating cash flow, which should be reflected in the cash flow analysis through diminishing security cash flows, even if assets have not been liquidated and gain/losses have not been booked.

13. Changes in currently estimated cash flows, including the effect of prepayment assumptions, on loan-backed securities shall be reviewed periodically, at least quarterly. The prepayment rates of the underlying loans shall be used to determine prepayment assumptions. Prepayment assumptions shall be applied consistently across portfolios to all securities backed by similar collateral (similar with respect to coupon, issuer, and age of collateral). Reporting entities shall use consistent assumptions across portfolios for similar collateral within controlled affiliated groups. Since each reporting entity may have a unique method for determining the prepayment assumptions, it is impractical to set standard assumptions for the industry. Relevant sources and rationale used to determine each prepayment assumption shall be documented by the reporting entity.

14. Loan-backed securities shall be revalued using the currently estimated cash flows, including new prepayment assumptions, using either the prospective or retrospective adjustment methodologies, consistently applied by type of securities. However, if at anytime during the holding period, the reporting entity determines it is no longer probable that they will collect all contractual cashflows, the reporting entity shall apply the accounting requirements in paragraphs 17 through 19.

15. The prospective approach recognizes, through the recalculation of the effective yield to be applied to future periods, the effects of all cash flows whose amounts differ from those estimated earlier and the effects and changes in projected cash flows. Under the prospective method, the recalculated effective yield will equate the carrying amount of the investment to the present value of the anticipated future cash flows. The recalculated yield is then used to accrue income on the investment balance for subsequent accounting periods. There are no accounting changes in the current period unless the security is determined to be other than temporarily impaired.

16. The retrospective methodology changes both the yield and the asset balance so that expected future cash flows produce a return on the investment equal to the return now expected over the life of the investment as measured from the date of acquisition. Under the retrospective method, the recalculated effective yield will equate the present value of the actual and anticipated cash flows with the original cost of the investment. The current balance is then increased or decreased to the amount that would have resulted had the revised yield been applied since inception, and investment income is correspondingly decreased or increased.

Collection of All Contractual Cashflows is Not Probable

17. The following guidance applies to loan-backed and structured securities with evidence of deterioration of credit quality since origination for which it is probable, either known at acquisition or identified during the holding period, that the investor will be unable to collect all contractually required payments receivable, except for those beneficial interests that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount determined at acquisition (see paragraphs 20 through 24).

18. The reporting entity shall recognize the excess of all cash flows expected at acquisition over the investor's initial investment in the loan-backed or structured security as interest income on an effective-yield basis over the life of the loan-backed or structured security (accretable yield).[4] Any excess of

[4] A loan-backed or structured security may be acquired at a discount because of a change in credit quality or rate or both. When a loan-backed or structured security is acquired at a discount that relates, at least in part, to the security's credit quality, the effective interest rate is the discount rate that equates the present value of the investor's estimate of the security's future cash flows with the purchase price of the loan-backed or structured security.

contractually required cash flows over the cash flows expected to be collected is the nonaccretable difference. Expected prepayments shall be treated consistently for determining cash flows expected to be collected and projections of contractual cash flows such that the nonaccretable difference is not affected. Similarly, the difference between actual prepayments and expected prepayments shall not affect the nonaccretable difference.

19. An investor shall continue to estimate cash flows expected to be collected over the life of the loan-backed or structured security. If, upon subsequent evaluation:

a. The fair value of the loan-backed or structured security has declined below its amortized cost basis, an entity shall determine whether the decline is other than temporary. For example, if, based on current information and events, there is a decrease in cash flows expected to be collected (that is, the investor is unable to collect all cash flows expected at acquisition plus any additional cash flows expected to be collected arising from changes in estimate after acquisition (in accordance with paragraph 19.b.), an other-than-temporary impairment shall be considered to have occurred. The investor shall consider both the timing and amount of cash flows expected to be collected in making a determination about whether there has been a decrease in cash flows expected to be collected.

b. Based on current information and events, if there is a significant increase in cash flows previously expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, the investor shall recalculate the amount of accretable yield for the loan-backed or structured security as the excess of the revised cash flows expected to be collected over the sum of (1) the initial investment less (2) cash collected less (3) other-than-temporary impairments plus (4) amount of yield accreted to date. The investor shall adjust the amount of accretable yield by reclassification from nonaccretable difference. The adjustment shall be accounted for as a change in estimate in conformity with *SSAP No. 3—Accounting Changes and Corrections of Errors* (SSAP No. 3), with the amount of periodic accretion adjusted over the remaining life of the loan-backed or structured security (prospective method).

Beneficial Interests

20. The following paragraphs provide statutory accounting guidance for interest income and impairment for a reporting entity that continues to hold an interest in securitized financial assets accounted for as sales under SSAP No. 91R, or that purchases a beneficial interest in securitized financial assets that are not of high credit quality or can contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded amount, determined at acquisition or the date of transfer[5]. Beneficial interests that are of high credit quality and cannot contractually be prepaid or otherwise settled in such a way that the reporting entity would not recover substantially all of its recorded investment, shall be accounted for in accordance with paragraphs 12 through 16.

21. The reporting entity shall recognize the excess of all cash flows attributable to the beneficial interest estimated at the acquisition/transaction date (referred to herein as the transaction date) over the initial investment (the accretable yield) as interest income over the life of the beneficial interest using the effective yield method. If the holder of the beneficial interest is the reporting entity that transferred the financial assets for securitization, the initial investment would be the allocated carrying amount after

[5] The accounting requirements related to these type of securities included in paragraphs 20 through 24 shall be determined at acquisition or initial transfer. As referenced in the Relevant Literature section, this Statement adopts EITF 99-20, including the scope requirements of that guidance.

application of the relative fair value allocation method required by SSAP No. 91R. The amount of accretable yield shall not be displayed in the balance sheet.

22. The reporting entity that holds a beneficial interest shall continue to update the estimate of cash flows over the life of the beneficial interest. If upon evaluation:

a. Based on current information and events it is probable that there is a favorable (or an adverse) change in estimated cash flows from the cash flows previously projected, then the investor shall recalculate the amount of accretable yield for the beneficial interest on the date of evaluation as the excess of estimated cash flows over the beneficial interest's reference amount (the reference amount is equal to (1) the initial investment less (2) cash received to date less (3) other-than-temporary impairments recognized to date [as described in paragraph 22(b)] plus (4) the yield accreted to date. The adjustment shall be accounted for prospectively as a change in estimate in conformity with SSAP No. 3, with the amount of periodic accretion adjusted over the remaining life of the beneficial interest. Based on estimated cash flows, interest income may be recognized on a beneficial interest even if the net investment in the beneficial interest is accreted to an amount greater than the amount at which the beneficial interest could be settled if prepaid immediately in its entirety.

b. The fair value of the beneficial interest has declined below its reference amount; a reporting entity shall determine whether the decline is other-than-temporary. If, based on current information and events it is probable that there has been an adverse change in estimated cash flows (in accordance with paragraph 22(a) above), then (1) an other-than-temporary impairment shall be considered to have occurred and (2) the beneficial interest shall be written down to the current estimate of cash flows at the financial reporting date discounted at a rate equal to the current yield used to accrete the beneficial interest with the resulting change being recognized as a realized loss. Determining whether there has been a favorable (or an adverse) change in estimated cash flows from the cash flows previously projected (taking into consideration both the timing and amount of the estimated cash flows) involves comparing the present value of the remaining cash flows as estimated at the initial transaction date (or at the last date previously revised) against the present value of the cash flows estimated at the current financial reporting date. The cash flows shall be discounted at a rate equal to the current yield used to accrete the beneficial interest. If the present value of the original cash flows estimated at the initial transaction date (or the last date previously revised) is less than the present value of the current estimate of cash flows expected to be collected, the change is considered favorable (that is, an other-than-temporary impairment shall be considered to have not occurred). If the present value of the original cash flows estimated at the initial transaction date (or the last date previously revised) is greater than the present value of the current estimated cash flows, the change is considered adverse (that is, an other-than-temporary impairment shall be considered to have occurred). However, absent any other factors that indicate an other-than-temporary impairment has occurred, changes in the interest rate of a "plain-vanilla," variable-rate beneficial interest generally shall not result in the recognition of an other-than-temporary impairment[6] (a plain-vanilla, variable-rate

[6] Changes in the interest rate of a "plain-vanilla," variable-rate beneficial interest (a plain-vanilla, variable-rate beneficial interest does not include those variable-rate beneficial interests with interest rate reset formulas that involve either leverage or an inverse floater) generally should not result in the recognition of an other-than-temporary impairment. For plain-vanilla, variable-rate beneficial interests, the yield is changed to reflect the revised interest rate based on the contractual interest rate reset formula. For example, if a beneficial interest pays interest quarterly at a rate equal to LIBOR plus 2 percent, the yield of that beneficial interest is changed prospectively to

beneficial interest does not include those variable-rate beneficial interests with interest rate reset formulas that involve either leverage or an inverse floater).

23. All cash flows estimated at the transaction date are defined as the holder's estimate of the amount and timing of estimated future principal and interest cash flows used in determining the purchase price or the holder's fair value determination for purposes of determining a gain or loss under SSAP No. 91R. Subsequent to the transaction date, estimated cash flows are defined as the holder's estimate of the amount and timing of estimated principal and interest cash flows based on the holder's best estimate of current information and events. A change in estimated cash flows is considered in the context of both timing and amount of the estimated cash flows.

24. In situations in which it is not practicable for a transferor to estimate the fair value of the beneficial interest at the initial transfer date, interest income shall not be recognized using the interest method. For these beneficial interests (that is, those beneficial interests that continue to be held by a transferor that are recorded at $0 pursuant to SSAP No. 91R), the transferor shall use the cash basis for recognizing interest income because the beneficial interest will have an allocated carrying amount of zero.

Reporting and Impairment Guidance for All Loan-Backed and Structured Securities

25. Loan-backed securities shall be valued and reported in accordance with this statement, the *NAIC Purposes and Procedures of the Securities Valuation Office* manual, and the designation assigned in the NAIC Valuations of Securities product prepared by the NAIC Securities Valuation Office. For reporting entities that maintain an Asset Valuation Reserve (AVR), loan-backed securities shall be reported at amortized cost, except for those with an NAIC designation of 6, which shall be reported at the lower of amortized cost or fair value. For reporting entities that do not maintain an AVR, loan-backed securities designated highest-quality and high-quality (NAIC designations 1 and 2, respectively) shall be reported at amortized cost; loan-backed securities that are designated medium quality, low quality, lowest quality and in or near default (NAIC designations 3 to 6, respectively) shall be reported at the lower of amortized cost or fair value.

26. For reporting entities required to maintain an AVR, the accounting for unrealized gains and losses shall be in accordance *with SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve* (SSAP No. 7). For reporting entities not required to maintain an AVR, unrealized gains and losses shall be recorded as a direct credit or charge to unassigned funds (surplus).

27. The application of this reporting requirement resulting from NAIC designation (i.e., lower of cost or fair value) is not a substitute for other-than-temporary impairment recognition (paragraphs 32-36). For securities reported at fair value where an other-than-temporary impairment has been determined to have occurred, the realized loss recognized from the other-than-temporary impairment shall first be applied towards the realization of any unrealized losses previously recorded as a result of fluctuations in the security's fair value due to the reporting requirements. After the recognition of the other-than-temporary impairment, the security shall continue to report unrealized gains and losses as a result of fluctuations in fair value.

28. If the fair value of a loan-backed or structured security is less than its amortized cost basis at the balance sheet date, an entity shall assess whether the impairment is other than temporary. Amortized cost basis includes adjustments made to the cost of an investment for accretion, amortization, collection of cash, previous other-than-temporary impairments recognized as a realized loss (including any cumulative-effect adjustments recognized in accordance with paragraphs 55 through 57 of this Statement).

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reflect changes in LIBOR. However, changes in the fair value of a plain-vanilla, variable-rate beneficial interest due to credit events should be considered when evaluating whether there has been an other-than-temporary impairment.

29. If an entity intends to sell the loan-backed or structured security (that is, it has decided to sell the security), an other-than-temporary impairment shall be considered to have occurred.

30. If an entity does not intend to sell the loan-backed or structured security, the entity shall assess whether it has the intent and ability[7] to retain the investment in the security for a period of time sufficient to recover the amortized cost basis. If the entity does not have the intent and ability to retain the investment for the time sufficient to recover the amortized cost basis, an other-than-temporary impairment shall be considered to have occurred.

31. If the entity does not expect to recover the entire amortized cost basis of the security, the entity would be unable to assert that it will recover its amortized cost basis even if it does not intend to sell the security and the entity has the intent and ability to hold. Therefore, in those situations, an other-than temporary impairment shall be considered to have occurred. In assessing whether the entire amortized cost basis of the security will be recovered, an entity shall compare the present value of cash flows expected to be collected from the security with the amortized cost basis of the security. If present value of cash flows expected to be collected is less than the amortized cost basis of the security, the entire amortized cost basis of the security will not be recovered (that is, a non-interest related decline[8] exists), and an other-than-temporary impairment shall be considered to have occurred. A decrease in cashflows expected to be collected on a loaned-backed or structured security that results from an increase in prepayments on the underlying assets shall be considered in the estimate of the present value of cashflows expected to be collected.

32. In determining whether a non-interest related decline exists, an entity shall calculate the present value of cash flows expected to be collected based on an estimate of the expected future cash flows of the impaired loan-backed or structured security, discounted at the security's effective interest rate.

a. For securities accounted for under paragraphs 12 through 16 – the effective interest rate of the loan-backed or structured security is the rate of return implicit in the security (that is, the contractual interest rate adjusted for any net deferred fees or costs, premium, or discount existing at the origination or acquisition of the security).[9]

b. For securities accounted for under paragraphs 17 through 19 – the effective interest rate is the rate implicit immediately prior to the recognition of the other-than-temporary impairment.

c. For securities accounted for under paragraphs 20 through 24 – the reporting entity shall apply the guidance in paragraph 22.b.

33. When an other-than-temporary impairment has occurred because the entity intends to sell the security or has assessed that that they do not have the intent and ability to retain the investments in the security for a period of time sufficient to recover the amortized cost basis, the amount of the other-than-temporary impairment recognized in earnings as a realized loss shall equal the entire difference between the investment's amortized cost basis and its fair value at the balance sheet date. (This guidance includes

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[7] This assessment shall be considered a high standard due to the accounting measurement method established for the securities within the scope of this Statement (amortized cost).

[8] A non-interest related decline is a decline in value due to fundamental credit problems of the issuer. Fundamental credit problems exist with the issuer when there is evidence of financial difficulty that may result in the issuer being unable to pay principal or interest when due. An interest related decline in value may be due to both increases in the risk-free interest rate and general credit spread widening.

[9] See Footnote 1.

loan-backed securities previously held at lower of cost or market. For these securities, upon recognition of an other-than-temporary impairment, unrealized losses would be considered realized.)

34. When an other-than-temporary impairment has occurred because the entity does not expect to recover the entire amortized cost basis of the security even if the entity has no intent to sell and the entity has the intent and ability to hold, the amount of the other-than-temporary impairment recognized as a realized loss shall equal the difference between the investment's amortized cost basis and the present value of cash flows expected to be collected, discounted at the loan-backed or structured security's effective interest rate in accordance with paragraph 32. (This guidance includes loan-backed securities previously held at lower of cost or market. For these securities, upon recognition of an other-than-temporary impairment, unrealized losses would be considered realized for the non-interest related decline. Hence, unrealized losses could continue to be reflected for these securities due to the reporting requirements.)

35. For reporting entities required to maintain an AVR or IMR, the accounting for the other-than-temporary impairment shall be in accordance with *SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve*. Non-interest related other-than-temporary impairment losses shall be recorded through the AVR. If the reporting entity wrote the security down to fair value due to the intent to sell or does not have the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, the non-interest related portion of the other-than-temporary impairment losses shall be recorded through the AVR; the interest related other-than-temporary impairment losses shall be recorded through the IMR.

36. For situations where an other-than-temporary impairment is recognized pursuant to paragraphs 33 and 34 of this Statement, the previous amortized cost basis less the other-than-temporary impairment recognized as a realized loss shall become the new amortized cost basis of the investment. That new amortized cost basis shall not be adjusted for subsequent recoveries in fair value. Therefore, the prospective adjustment method shall be used for periods subsequent to loss recognition.

37. In periods subsequent to the recognition of an other than temporary impairment loss for a loan-backed or structured security, the reporting entity shall account for the other-than-temporarily impaired security as if the security had been purchased on the measurement date of the other-than-temporary impairment at an amortized cost basis equal to the previous amortized cost basis less the other-than-temporary impairment recognized as a realized loss. The difference between the new amortized cost basis and the cash flows expected to be collected shall be accreted as interest income. A reporting entity shall continue to estimate the present value of cash flows expected to be collected over the life of the loan-backed or structured security.

a. For securities accounted for under paragraphs 12 through 19, if upon subsequent evaluation, there is a significant increase in the cash flows expected to be collected or if actual cash flows are significantly greater than cash flows previously expected, such changes shall be accounted for as a prospective adjustment to the accretable yield in accordance with paragraphs 17 through 19. The security shall continue to be subject to impairment analysis for each subsequent reporting period. The new amortized cost basis shall not be changed for subsequent recoveries in fair value. Future declines in fair value which are determined to be other-than-temporary shall be recorded as realized losses.

b. For beneficial interests accounted for under paragraphs 20 through 24, a reporting entity shall apply the guidance in paragraphs 21 through 22 to account for changes in cash flows expected to be collected.

38. It is inappropriate to automatically conclude that a security is not other-than-temporarily impaired because all of the scheduled payments to date have been received. However, it also is

inappropriate to automatically conclude that every decline in fair value represents an other-than-temporary impairment. Further analysis and judgment are required to assess whether a decline in fair value indicates that it is probable that the holder will not collect all of the contractual or estimated cash flows from the security. In addition, the length of time and extent to which the fair value has been less than cost can indicate a decline is other than temporary. The longer and/or the more severe the decline in fair value, the more persuasive the evidence that is needed to overcome the premise that it is probable that the holder will not collect all of the contractual or estimated cash flows from the issuer of the security.

39. In making its other-than-temporary impairment assessment, the holder shall consider all available information relevant to the collectibility of the security, including information about past events, current conditions, and reasonable and supportable forecasts, when developing the estimate of future cash flows. Such information generally shall include the remaining payment terms of the security, prepayment speeds, the financial condition of the issuer(s), expected defaults, and the value of any underlying collateral. To achieve that objective, the holder shall consider, for example, industry analyst reports and forecasts, sector credit ratings, and other market data that are relevant to the collectibility of the security. The holder also shall consider how other credit enhancements affect the expected performance of the security, including consideration of the current financial condition of the guarantor of a security (if the guarantee is not a separate contract) and/or whether any subordinated interests are capable of absorbing estimated losses on the loans underlying the security. The remaining payment terms of the security could be significantly different from the payment terms in prior periods (such as for some securities backed by "nontraditional loans"[10]). Thus, the holder shall consider whether a security backed by currently performing loans will continue to perform when required payments increase in the future (including "balloon" payments). The holder also shall consider how the value of any collateral would affect the expected performance of the security. If the fair value of the collateral has declined, the holder needs to assess the effect of that decline on the ability of the holder to collect the balloon payment.

Origination Fees

40. Origination fees represent fees charged to the borrower in connection with the process of originating or restructuring a transaction. The fees include, but are not limited to, points, management, arrangement, placement, application, underwriting, and other fees pursuant to such a transaction. Origination fees shall not be recorded until received in cash. Origination fees intended to compensate the reporting entity for interest rate risks (e.g., points), shall be amortized into income over the term of the loan-backed security consistent with paragraph 8 of this statement. Other origination fees shall be recorded as income upon receipt.

Origination, Acquisition, and Commitment Costs

41. Costs related to origination when paid in the form of brokerage and other related fees shall be capitalized as part of the cost of the loan-backed security, consistent with paragraph 7 of this statement. All other costs, including internal costs or costs paid to an affiliated entity related to origination, purchase, or commitment to purchase loan-backed securities, shall be charged to expense when incurred.

[10] A nontraditional loan may have features such as (a) terms that permit principal payment deferral or payments smaller than interest accruals (negative amortization), (b) a high loan-to-value ratio, (c) multiple loans on the same collateral that when combined result in a high loan-to value ratio, (d) option adjustable-rate mortgages (option ARMs) or similar products that may expose the borrower to future increases in repayments in excess of increases that result solely from increases in the market interest rate (for example, once negative amortization results in the loan reaching a maximum principal accrual limit), (e) an initial interest rate that is below the market interest rate for the initial period of the loan term and that may increase significantly when that period ends, and (f) interest-only loans that should be considered in developing an estimate of future cash flows.

Commitment Fees

42. Commitment fees are fees paid to the reporting entity that obligate the reporting entity to make available funds for future borrowing under a specified condition. A fee paid to the reporting entity to obtain a commitment to make funds available at some time in the future, generally, is refundable only if the loan-backed security is issued. If the loan-backed security is not issued, then the fees shall be recorded as investment income by the reporting entity when the commitment expires.

43. A fee paid to the reporting entity to obtain a commitment to borrow funds at a specified rate and with specified terms quoted in the commitment agreement, generally, is not refundable unless the commitment is refused by the reporting entity. This type of fee shall be deferred, and amortization shall depend on whether or not the commitment is exercised. If the commitment is exercised, then the fee shall be amortized in accordance with paragraph 8 of this statement over the life of the loan-backed security as an adjustment to the investment income on the loan-backed security. If the commitment expires unexercised, the commitment fee shall be recognized in income on the commitment expiration date.

Giantization/Megatization of FHLMC or FNMA Mortgage Backed Securities

44. Giantization/megatization of mortgage backed securities is defined as existing pools of FHLMC or FNMA mortgage-backed securities (MBS) with like coupon and prefix which are repooled together by the issuing agency creating a new larger security. The new Fannie Mae “Mega” or Freddie Mac “Giant” is a guaranteed MBS pass-through representing an undivided interest in the underlying pools of loans.

45. The benefits derived from giantization/megatization include:

a. Increased liquidity: Smaller MBS pools (particularly those with current face of less than $1 million) are less liquid than mortgage pools with current faces exceeding $5 million. Repooling smaller MBS pools into one larger pool improves the marketability for the aggregate package;

b. Geographic diversity: Regrouping of multiple pools generally will create greater geographic pool loan diversity resulting in less prepayment variation due to regional economic factors;

c. Reduced administrative expenses: The reduced number of pools lowers bank custodial fees, pricing/factor service fees, and increases efficiency for the accounting and investment departments.

46. Repooled FHLMC and FNMA securities meet the definition of substantially the same as defined in *SSAP No. 91R—Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. The transaction shall not be considered a sale/purchase and no gain or loss shall be recognized. To properly document the repooling, the transaction shall be reported through Schedule D of the Annual Statement as a disposition and an acquisition.

47. Transaction fees charged by the issuing agencies shall be capitalized and amortized over the life of the repooled security.

Disclosures

48. In addition to the disclosures required for invested assets in general, the following disclosures regarding loan-backed securities shall be made in the financial statements. Regardless of the allowances within paragraph 59 of the Preamble, the disclosures in paragraph 48f, 48g and 48h are required in separate, distinct notes to the financial statements:

a. Fair values in accordance with *SSAP No. 27—Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk, Financial Instruments with Concentrations of Credit Risk and Disclosures about Fair Value of Financial Instruments* (SSAP No. 27);

b. Concentrations of credit risk in accordance with SSAP No. 27;

c. Basis at which the loan-backed securities are stated;

d. The adjustment methodology used for each type of security (prospective or retrospective);

e. Descriptions of sources used to determine prepayment assumptions.

f. All securities within the scope of this statement with a recognized other-than-temporary impairment, disclosed in the aggregate, classified on the basis for the other-than-temporary impairment: (1) intent to sell, (2) inability or lack of intent to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, or (3) present value of cash flows expected to be collected is less than the amortized cost basis of the security.

g. For each security with a recognized other-than-temporary impairment, currently held by the reporting entity, as the present value of cash flows expected to be collected is less than the amortized cost basis of the securities:

   i. The amortized cost basis, prior to any current-period other-than-temporary impairment.

   ii. The other-than-temporary impairment recognized in earnings as a realized loss.

   iii. The fair value of the security.

   iv. The amortized cost basis after the current-period other-than-temporary impairment.

h. All impaired securities (fair value is less than cost or amortized cost) for which an other-than-temporary impairment has not been recognized in earnings as a realized loss (including securities with a recognized other-than-temporary impairment for non-interest related declines when a non-recognized interest related impairment remains):

   i. The aggregate amount of unrealized losses (that is, the amount by which cost or amortized cost exceeds fair value) and

   ii. The aggregate related fair value of securities with unrealized losses.

i. The disclosures in (i) and (ii) above should be segregated by those securities that have been in a continuous unrealized loss position for less than 12 months and those that have been in a continuous unrealized loss position for 12 months or longer using fair values determined in accordance with SSAP No. 27.

j. Additional information should be included describing the general categories of information that the investor considered in reaching the conclusion that the impairments are not other-than-temporary.

k. When it is not practicable to estimate fair value in accordance with SSAP No. 27, the investor should disclose the following additional information, if applicable:

i. The aggregate carrying value of the investments not evaluated for impairment, and

ii. The circumstances that may have a significant adverse effect on the fair value.

49. Refer to the preamble for further discussion regarding disclosure requirements. All disclosures within this Statement shall be included within the interim and annual statutory financial statements.

Relevant Literature

50. This statement adopts *FASB Emerging Issues Task Force No. 99-20*, *Exchange of Interest-Only and Principal-Only Securities for a Mortgage-Backed Security and FASB Staff Position EITF 99-20-1, Amendments to the Impairment Guidance of EITF Issue No. 99-20.* This statement adopts paragraphs 5, 7 and 9 of AICPA *Statement of Position 03-03, Accounting for Certain Loans or Debt Securities Acquired in a Transfer* (SOP 03-03) for loan-backed and structured securities only. With the exception of this specific adoption, consideration of SOP 03-03 is still pending consideration for statutory accounting.

51. This statement rejects *FASB Statement No. 115, Accounting for Certain Investments in Debt and Equity Securities* and *FASB Statement No. 91, Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases*.

52. This statement also rejects *FASB Emerging Issues Task Force No. 89-4, Accounting for a Purchased Investment in a Collateralized Mortgage Obligation Instrument or in a Mortgage-Backed Interest-Only Certificate, FASB Emerging Issues Task Force No. 90-2, Exchange of Interest-Only and Principal-Only Securities for a Mortgage-Backed Security, FASB Emerging Issues Task Force No. 93-18, Recognition of Impairment for an Investment in a Collateralized Mortgage Obligation Instrument or in a Mortgage-Backed Interest-Only Certificate*, and *FASB Emerging Issues Task Force No. 96-12, Recognition of Interest Income and Balance Sheet Classification of Structured Notes*.

Effective Date and Transition

53. 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*.

54. For securities purchased prior to January 1, 1994, where historical cash flows are not readily available for applying the retrospective method, the reporting entity may use January 1, 1994 as the acquisition date and the then book value as the cost for purposes of determining yield adjustments in future periods.

55. This revised statement supersedes SSAP No. 98 and paragraph 13 of SSAP No. 99 effective September 30, 2009. For reporting entities that early adopted the requirements of SSAP No. 98 for which an other-than-temporary impairment was previously recognized, and if a reporting entity does not intend to sell the security, and has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, the reporting entity shall recognize the cumulative effect of reversing the adoption of SSAP No. 98 and paragraph 13 of SSAP No. 99 as an adjustment to the opening balance of unassigned funds (surplus) as of July 1, 2009, with a corresponding adjustment to applicable financial statement elements. For reporting entities that had previously adopted an accounting policy to impair loan-backed and structured securities to fair value when an impairment was determined to be other than temporary, no cumulative effect adjustment shall be recognized (the reporting entity shall continue to carry the investment at amortized cost reflective of the other-than-temporary impairment adjustment to fair value).

56. The accounting and reporting requirements of this revised statement shall be applied to existing and new investments held by a reporting entity on or after September 30, 2009. For loan-backed and structured securities held at the beginning of the interim period of adoption (July 1, 2009) for which an other-than-temporary impairment was previously recognized under SSAP No. 43, if a reporting entity does not intend to sell the security, and has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis, the reporting entity shall recognize the cumulative effect of initially applying this revised statement as an adjustment to the opening balance of unassigned funds (surplus) as of July 1, 2009, with a corresponding adjustment to applicable financial statement elements. The cumulative effect on unassigned funds (surplus) shall be calculated by comparing the present value of the cash flows expected to be collected determined in accordance with the methodology in paragraph 32, as applicable, with the amortized cost basis of the loan-backed and structured security as of the beginning of the interim period in which this revised statement is adopted (July 1, 2009). The cumulative-effect adjustment shall include related tax effects. The discount rate used to calculate the present value of the cash flows expected to be collected shall be the rate in effect before recognizing any other-than-temporary impairments and not a rate that has been adjusted to reflect those impairments.

57. The amortized cost basis of a security for which an other-than-temporary impairment was previously recognized shall be adjusted by the amount of the cumulative-effect adjustment before taxes. The difference between the new amortized cost basis and the cash flows expected to be collected shall be accreted as interest income (see paragraph 37).

58. In the period of adoption, an entity shall provide the disclosures required by SSAP No. 3 for changes in accounting principles.

AUTHORITATIVE LITERATURE

Statutory Accounting

- NAIC *Purposes and Procedures of the Securities Valuation Office*
- NAIC *Valuations of Securities* manual prepared by the Securities Valuation Office

RELEVANT ISSUE PAPERS

- Issue Paper No. 43—Loan-backed and Structured Securities
- Issue Paper No. 140—Loan-backed and Structured Securities, Revised September, 2009

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Draft: 9/16/09

Statutory Accounting Principles (E) Working Group
Conference Call
August 20, 2009

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met via conference call Aug. 20, 2009. The following Working Group members participated: Joseph Fritsch, Chair (NY); Jim Armstrong, Vice Chair (IA); Ann Tang (CA); Linda Sizemore (DE); Tom Ratsch (IL); Stewart Guerin (LA); Judith A. Weaver (MI); Thomas Burke (NH); Matti Peltonen (NY); Dale Bruggeman and Barry Ankrom (OH); Steve Johnson (PA); Jaime Walker (TX); Doug Stolte and David Smith (VA); and Peter Medley (WI). Also participating were: Kirk Regner (AZ); and Kathy Belfi (CT).

1. Presentation of Deferred Tax Asset Proposals

The Working Group held a conference call to receive a presentation from the American Council of Life Insurers (ACLI) on an alternative approach for admitting deferred tax assets (DTAs) within *SSAP No. 10—Income Taxes* (SSAP No. 10).

a. ACLI Presentation

Frank Svoboda (Torchmark Corporation) presented the ACLI proposal for admitting DTAs within the statutory financial statements (Attachment Six-A). The ACLI proposes to modify SSAP No. 10, paragraph 10, to 1) allow the admittance of DTAs that are expected to be reversed within three years of the balance sheet date; 2) continue to admit eligible DTAs to the extent of taxes previously paid and recoverable; and 3) for the remaining eligible DTAs, increase the current surplus limitation of 10% to 15% of adjusted capital and surplus.

Mr. Svoboda advised that the proposed revisions would be applicable to both life and property/casualty companies. Mr. Bruggeman inquired how companies would apply the proposal to capital gains and losses and operating income. Mr. Svoboda advised that SSAP No. 10 requires the character of income to be considered. Thus, the company would have to differentiate and identify capital gains to offset capital losses, and would not be able to match up capital losses with operating results. Mr. Svoboda discussed the tax-strategy planning provisions currently allowed within SSAP No. 10, which requires entities to illustrate that the strategy is prudent and feasible, but that the entity is not required to implement the tax-planning strategy. Mr. Svoboda noted that the guidance does not allow projection of future capital gains. In response to a question from Mr. Regner regarding how the RBC "haircut" would apply for entities that do not utilize RBC; e.g., mortgage guaranty insurers. Mr. Svoboda advised that he would research this issue. Mr. Fritsch noted that entities that fall below RBC would experience an increasing detrimental effect because, under this proposal, they would no longer be able to admit the DTA. Mr. Svoboda agreed that this would occur. Mr. Svoboda advised that property/casualty companies have a two-year carry-back limitation under tax law. Therefore, as these entities are limited by the tax law, they would not be allowed to admit anything that was not recoverable within two years, even if the statutory guidance permitted up to three years.

Mr. Fritsch noted that the current guidance within SSAP No. 10, paragraph 10a, was not originally established with a surplus cap because the items would be realizable within one year, and it was determined that it would be relatively easy to verify whether the DTA was recoverable. He advised that such verification would be difficult if the provision was extended to a three-year period. Mr. Svoboda advised that, because this paragraph addresses loss carrybacks, there is certainty that the amounts would be recovered. He explained that in 2010, if a life company had a reversing taxable difference and there was no taxable income, then the entity would be able to receive an additional tax refund. If there was taxable income, then the carryback would reduce the taxes payable. In either scenario, the entity receives a benefit from the carryback. Mr. Bruggeman clarified that, under the application of paragraph 10a, the entity does not have to project taxable income. Regardless of the income, the reversal would occur to the extent there were taxes paid in the carryback period. If there was no taxable income in the prior period, no admittance would occur under paragraph 10a; therefore, income would need to be projected in order to admit DTAs under paragraph 10b. Mr. Fritsch stated that, in order for the DTA to be captured within 10a, it would have to be based on taxes paid. Mr. Svoboda agreed and noted that in order to move to paragraph 10b, the entity would have to illustrate anticipated future taxable income. If an entity has not paid taxes in recent years, it would be difficult for an entity to illustrate that they anticipate future taxable income. For an entity that has continuously had taxable income, it would be reasonable to expect future taxable income.

Birny Birnbaum (Center for Economic Justice—CEJ) presented their view and the view of and the Consumer Federation of America (CFA). Mr. Birnbaum stated that the CEJ and CFA strongly oppose the ACLI proposed changes to the accounting treatment for DTAs. He advised that statutory accounting is different, and more conservative, from tax accounting to ensure that insurers have sufficient liquid assets and resources to weather unexpected economic conditions and events in order to protect policyholders. Contrary to ACLI's comments, statutory accounting is not designed to reflect the economic condition of the insurer to investors.

Mr. Birnbaum advised that the effect of the ACLI proposal is to include a greater amount of non-liquid assets in surplus and to create risky and unreliable projections about DTAs. Contrary to the ACLI claims, the proposed change harms consumers by reducing the amount of true liquid resources available to the insurer — because, by counting more DTAs in surplus, less cash is needed to meet regulatory capital standards. The ACLI argues that DTAs are due to timing differences between statutory and tax accounting for certain expenses and that the differences reverse over time. Mr. Birnbaum advised that both of these statements are true, but — what ACLI fails to point out — is that, over time, aggregate DTAs maintain or grow because the insurer is continually adding new DTAs while retiring old DTAs. While the creation of DTAs is due to accounting timing differences, the fact remains that DTAs continue and are not available as cash for the insurer. The proposal to increase DTA from 10% to 15% of surplus means that cash-type assets will become a smaller portion of surplus.

Mr. Birnbaum stated that the proposal to extend the projection period to three years is particularly ill-advised. While an insurer could reasonably estimate DTAs a year ahead in a stable environment and market — no great changes in expenses or net income — a reasonable projection cannot be made during an unusual economic period and clearly cannot be made reasonably three years into the future. He stated that it is specifically the purpose of surplus to provide the insurer with a cushion during unexpected times. As an example, an insurer makes a large profit in year one, in part, because of significant increases in sales. Substantial DTAs are generated because the insurer has more income on a tax basis than on a statutory basis. But in year two, there is a financial crisis resulting in lower sales and net losses and, as such, the DTAs disappear. The DTAs were "good" assets as they offset the negative DTAs of year two, but the DTAs were never available to the insurer to protect policyholders.

Mr. Birnbaum advised that CEJ and CFA are particularly concerned that the ACLI proposal reflects an effort to carry the massive 2008 losses forward via DTAs for two years more than currently allowed. He noted that there is no basis for ACLI claims that the proposed change will more accurately reflect the true financial condition of the company. Rather, this would certainly reflect a less accurate condition of the meaningful surplus available to the company.

Mr. Birnbaum stated that there is no evidence that the current treatment of DTAs reflect "over-conservatism," as claimed by ACLI and there is no basis for the claim that the current rule harms consumers. If the current rule was overly conservative, Mr. Birnbaum questioned why a number of insurers experienced financial stress in the past year, including some seeking federal assistance and many seeking capital and surplus relief. Mr. Birnbaum recommended that the regulators not rely on the unsubstantiated assertions by ACLI.

Mr. Birnbaum advised that the ACLI proposal, if enacted, would increase the speed of decline for financially stressed insurers. As an insurer moves into financial distress, the insurer would lose the DTAs with a resulting reduction in surplus, thereby speeding the insurer's decline in financial condition. He also advised that the proposed limitation on DTAs for distressed insurers is based on the fact that the DTAs are not useful assets — that is, not useful for protecting consumers and, therefore, not counted. Mr. Birnbaum then inquired why DTAs should be counted if a company is not in financial peril, and if the accounting for an asset should change based on the financial condition of the company.

Mr. Birnbaum stated that the proposed ACLI change is anti-consumer and should be rejected. He stated that the CEJ and CFA are "stunned" that the NAIC continues to spend time considering these "give-aways" to insurers, while not addressing the problems faced by consumers in the aftermath of the financial market crisis and recession from insurers' use of consumer credit information.

Mr. Svoboda responded to Mr. Birnbaum's comments by noting that not all other assets admitted within financial statements are currently liquid and readily convertible to cash. The requirement under *SSAP No. 4—Assets and Nonadmitted Assets* (SSAP No. 4) requires the assets to be convertible to pay claims as they are anticipated to come due and payable. With the proposed guidance for DTAs scheduled to reverse within three-years, such DTAs will create real cash-flow to assist with policyholder obligations, in the reduction of tax obligation, as these items relate to an event that has already occurred within the financial statements. Mr. Birnbaum responded by providing a situation where a company was profitable in one year and received a large DTA. If the company then lost money, and had tax losses, the "funds" that were going to be available to pay claims do not materialize. He advised that such a situation is troublesome if predicting income or losses over three years, particularly as the current market has illustrated how the solvency of life insurers could quickly change in the course of one year. Such predictions could occur in periods of stable markets, but the premise of surplus is to protect policyholders during unstable times.

Mr. Stolte stated concerns with the three-year recoverable period, as the projections are based on unaudited forecasts and budgeted numbers — and, if such numbers are not available, would be based on industry trends. Mr. Stolte stated that Mr. Birnbaum provided some strong points regarding the volatility of surplus. Mr. Stolte noted that the statutory accounting concepts of conservatism, consistency and recognition need to be considered. Mr. Svoboda noted that auditors would need to be "comfortable" with company projections if the DTA was based on the company's forecasts and projections. It was noted, however, that such forecast or budget numbers would otherwise not be audited as a matter of course.

Keith Bell (Travelers) noted that the ACLI proposal also brings RBC into the equation for DTAs. He inquired whether auditors would also be required to audit the RBC calculation in order to admit the DTA. Mr. Svoboda noted that this issue has not yet been discussed, and would need further research, but suggested that the auditors would not need to audit the calculations per se, but just review how the RBC factor was being applied in the DTA calculation. Mr. Bell inquired how often the RBC calculation would be required, and if the prior-year calculation would be applied for the subsequent year's quarters. Mr. Fritsch stated that this would need to be clarified, but that he assumes that the year-end RBC calculation would be utilized for the subsequent quarters, with no update needed for the quarters. Mr. Bell noted that recalculating the RBC quarterly would be problematic for property/casualty companies. Mr. Svoboda noted that it is intended for the RBC calculation to be based on the prior year-end.

Mr. Ratsch inquired whether the DTA would be "buried" if it was included as a write-in amount, and the rationale about splitting the DTA from a write-in and a regular item when it is also disclosed in the notes. Mr. Svoboda noted that the idea of having the item as a write-in would result with a greater amount of transparency and would, therefore, be easier to separately identify as needed to figure out restrictions, such as for dividend calculations. John Tittle (NAIC) noted that in the PDF file submission of the financial statements, the individual write-ins can be separately identified. The main line item is aggregated, but the items are separately noted within the PDF file.

Mr. Fritsch noted concerns with incorporating guidance within the statutory accounting rules regarding dividend restrictions, as these sorts of restrictions are governed by state statutes or law. Mr. Tittle noted that NAIC staff would look into this question. Mr. Bell inquired whether any surveys were completed to identify the magnitude of the proposed ACLI changes. Mr. Svoboda advised that he is unaware of any surveys or analyses completed to quantify the impact, but that he would follow up with the representatives of the ACLI. Mr. Bell noted that entities would have to complete this calculation, as additional detail is necessary from what is provided in the data within the filed financial statements. Robin Marcotte (NAIC) noted that the proposed ACLI change does not simply increase the admitted DTA from 10% to 15% to surplus, as the proposed change would effectively move more items from paragraph 10b into paragraph 10a, and paragraph 10a does not have a surplus limit. Mr. Smith stated that when the ACLI performs an analysis of the impact, he would like to request identification of the amounts that are classified within paragraph 10a and paragraph 10b under the proposed guidance, and comparison of those amounts to what is reported under the current statutory guidance.

Jeff Alton (CNA) advised that CNA has a proposal for DTAs that differs from the ACLI proposal and requested time at the 2009 Fall National Meeting to present their proposal. Mr. Bell stated support for the CNA proposal, as it is not as complex as the ACLI approach. Joseph Sieverling (Reinsurance Association of America—RAA) also stated support for hearing the CNA proposal. Mr. Fritsch advised that Working Group would hear the CNA proposal during the Fall National Meeting.

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

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Deferred Tax Assets

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Executive Summary

- Statutory DTAs are a form of tax recoverable from the US government which provide a source of cash flows that will be available to satisfy policyholder obligations .
- Current limitations of one year/10% of surplus do not accurately reflect the true financial condition and liquidity of insurers.
- The proposed three years/15% of surplus limitation , with appropriate controls and disclosures, more accurately reflects the value of DTAs and the financial condition of a company without jeopardizing insurers' solvency and policyholders' safety .
- Proposed disclosures provide consumers, regulators and other interested parties with transparency and protections.
- Proposal is equally appropriate for all lines of insurance carriers.

What are DTAs? How do they arise?

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Statutory and tax accounting methods establish different rules for the timing of income and expense recognition.

- Statutory rules generally are more conservative, recognizing expenses sooner and income later than the tax rules.
  - This results in taxes being paid sooner than if taxable income was the same as statutory income.
- These temporary differences between income and expense recognition produce deferred tax assets (DTAs) and liabilities (DTLs).
- Over time, these differences will reverse. The time period depends on the nature of the temporary difference.

What are DTAs? How do they arise?

(continued)

DTAs generally relate to tax deductible amounts that will be realized for tax purposes in years after they are reported for statutory accounting purposes.

- For the life insurance industry, examples of significant and common DTAs are (i) the excess of statutory over tax reserves, (ii) tax deferred acquisition costs, (iii) employee benefits, (iv) investment differences, and (v) policyholder dividends.
- Example: Statutory reserves generally exceed tax reserves for life and P&C companies. Over time, the differences reverse and ultimately, upon payment of policy benefits, each reserve becomes zero.
  - This timing difference creates a DTA equal to the enacted tax rate (currently 35%) times the deferred deduction.

A DTA is a tax recoverable from the U.S. government that will be realized either through a recovery of income taxes previously paid or a reduction of future cash tax payments.

DTAs are "Good" Assets

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"Assets" are <u>probable</u> future economic benefits obtained or controlled by a particular entity as a result of past transactions or events. (SSAP 4)

- "Probable" for this purpose means that which can reasonably be expected or believed on the basis of available evidence or logic, but is neither certain or proved. (Paragraph 2, SSAP 4)

Issue Paper 83, Paragraph 28 accepts DTAs as assets within the SSAP 4 definition stating:

- " a DTA 'embodies <u>a probable future benefit</u> that involves a capacity, singly or in combination with other assets, to contribute directly or indirectly to <u>future net cash</u> inflows' inasmuch as deductible temporary differences reduce taxable income and taxes payable in future years…", (emphasis added)
- The "reporting entity has exclusive rights to the future benefit associated with its DTA",
- The DTA is attributable to an event that has already been reported in the financial statements and therefore the "event giving rise to the entity's right to or control of the benefit has already occurred."

DTA Admissibility – Summary of Current Statutory Rules

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- SSAP 10 requires an insurer to schedule out the reversal of each DTA and make a determination that the reversal will result in a future economic benefit.
  - The future economic benefit can take the form of recovery of taxes previously paid or a reduction in taxes paid on future profits.
- Except to offset existing DTLs, only DTAs that are scheduled to reverse and result in an economic benefit within one year of the balance sheet date are eligible to be admitted.
  - The one year limitation may not recognize all the prior year taxes that could be recovered through loss carry backs as a result of future losses from DTA reversals.
  - Current law permits life insurance ordinary losses to be carried back three years and other insurance company ordinary losses to be carried back two years.
- The admissibility of DTAs that can not be recovered through loss carry back is limited by the 10% of statutory capital and surplus cap.

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DTA Admissibility – Summary of Proposed Statutory Rules

For entities meeting certain financial strength measures and with detailed disclosures and transparency for purposes of paragraphs 10a and 10b of SSAP 10:

- Allow for DTAs that are scheduled to reverse within three years of the balance sheet date to be eligible for admissibility.
- Continue to admit eligible DTAs to the extent up to taxes previously paid and recoverable (paragraph 10a).
- For any remaining eligible DTAs, increase the "cap" on admissibility of the DTA to **15%** of adjusted capital and surplus (paragraph 10b).

- Note: The SAPWG proposal would only apply the 3 year period to determining eligible DTAs under paragraph 10b

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SSAP 10 – Paragraph 10 Proposed Statutory Rules

- In March 2009, SAPWG exposed proposed language for revision of SSAP 10
  - **Revisions would permit use of higher admission thresholds for DTAs if risk based capital level meets certain criteria (new paragraph 10d)**
    - 3-year reversal/15% of capital and surplus standard proposed for new paragraph 10e(ii) – higher admission standard than existing paragraph 10b
    - 1-year reversal allowed for new paragraph 10e(i) – same as existing paragraph 10a
    - Limitations on incremental DTA and separate reporting requirement in new paragraph 10f
  - **Conforming changes in paragraph 11 and additional disclosures in paragraph 18e**
- **ACLI agrees with proposed revisions <u>except</u> requests <u>3-year</u> reversal apply for new paragraph 10e(i) as well as 10e(ii)**

Current Rules Should be Reformed

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- **More accurately reflect the true financial condition of the company.**
  - More accurate financial statements benefit policyholders, prospective clients, investors, lenders, rating agencies, analysts, and regulators.
  - Over-conservatism in recognition of DTA impairs the short and long term interest of insurers and policyholders.
- **More appropriately balances liquidity, short and long-term capital adequacy, and regulatory oversight.**
- **Most insurers will still not admit the full economic value of their existing DTAs.**
  - The proposal still generally will require some “good” assets to be non-admitted.
  - SSAP 10 will still contain inherent conservatism (e.g. single entity computations).

Current Rules Should be Reformed

(continued)

- **Projecting taxable income is an inherent part of the DTA measurement process. Similar to other areas of financial accounting, professional judgment is an important and necessary element of preparing financial statements**
  - Asset adequacy testing projects cash flow over a much longer period of time.
  - Other examples in financial reporting where professional judgment is applied include investment cash flow forecasting, X factors in setting certain reserves, and pension accounting.
  - Protections exist since financial statements are subject to independent auditor review.
- **Appropriate limits on admissibility along with enhanced transparency and disclosures will ensure that the state's ability to monitor and regulate is enhanced.**

DTA Admissibility Restrictions

- **No "incremental DTAs" will be admitted unless RBC under current statutory guidelines is above the following thresholds:**
  - The RBC trend test without the use of the "incremental DTA", for those companies that are subject to an RBC trend test.
  - For those companies not subject to an RBC trend test, the maximum risk based capital level where an action level could occur as a result of a trend test, without the use of the "incremental DTA" as follows:
    - Life 250%
    - P&C 300%
    - Health 300%
  - The "incremental DTA" is the difference between the DTA calculated per current guidance and proposed guidance.
  - The "incremental DTA" is excluded from the calculation of permissible dividends and investment limitations.

DTA Transparency

- **Enhanced transparency:**
  - The "incremental DTA" will be shown on Write-in lines on the Statutory Summary of Operations and Statutory Balance Sheet.
  - Note 9, Income Taxes, in the Statutory Financial Statements will be expanded to include the "Incremental DTA" amount.

Insolvency Protection

- **DTAs are self-adjusting as a company trends toward insolvency:**
  - The admitted DTA relating to the recovery of taxes previously paid is reduced as a company incurs tax losses and recovers the taxes paid.
  - The DTA admissibility limit expressed as a percentage of surplus represents a self-governing mechanism that reduces admitted DTAs relating to future tax savings as a company grows weaker and surplus decreases..
  - The RBC floors will prevent struggling companies from using the three year/15% criteria to admit incremental DTAs.
  - Weaker companies that are incurring losses likely will not be able to support a tax benefit from reversing temporary differences, thus eligible DTAs should be zero.
  - The three year forecast process will give regulators a longer term view of company expectations on statutory and taxable income.
- **DTAs have value in insolvency & M&A:**
  - In the event of an insolvency, a company is permitted to carry losses back and recover federal income taxes paid within the time frame allowed under the Tax Code.
  - An acquirer will likely assign value to DTAs that result in improved after tax cash flow in an M&A valuation.

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Questions ?

Draft: 9/16/09

Statutory Accounting Principles (E) Working Group
Conference Call
August 5, 2009

The Statutory Accounting Principles (E) Working Group of the Accounting Practices and Procedures (E) Task Force met via conference call Aug. 5, 2009. The following Working Group members participated: Joseph Fritsch, Chair (NY); Jim Armstrong, Vice Chair (IA); Kim Hudson (CA); Alfred Franz (DE); Jim Hanson (IL); Stewart Guerin (LA); Judith A. Weaver (MI); Thomas Burke (NH); Matti Peltonen (NY); Dale Bruggeman (OH); Dave DelBiondo (PA); Jaime Walker (TX); Doug Stolte and David Smith (VA); and Peter Medley (WI).

1. Public Hearing

The Working Group held a public hearing to review comments (Attachment Seven-A) on the exposed *SSAP No. 43—Loan-backed and Structured Securities - Revised* (SSAP No. 43R).

a. Agenda Item 2004-11 (Exposed SSAP No. 43R)

Mr. Fritsch identified that comments had been received from the industry regarding the exposure of SSAP No. 43R. He noted that the industry seems supportive of the proposed changes, including the movement toward only recognizing the credit portion of impaired items in allowable situations. Mr. Fritsch noted that some technical comments were received, and NAIC staff has categorized these comments by topic. Mr. Fritsch noted that comments were received on the "intent and ability to hold" assertion required under SSAP No. 43R. John Tittle (NAIC) noted that the comment letters evidenced that there is inconsistent application of existing guidance within *INT 06-07, Definition of Phrase 'Other-Than-Temporary'* (INT 06-07). Mr. Tittle identified that paragraph 4 of INT 06-07 discusses "non-interest related" impairments and paragraph 5 of INT 06-07 discusses "interest-related impairments." As provided within INT 06-07, there is not a requirement to impair securities for only interest-related impairments, as long as there is the intent and ability to hold the security until recovery of value. Pursuant to comments received, some respondents noted difficulty in making the assertion on the "intent and ability to hold" under the language proposed in SSAP No. 43R, as the language requires a positive assertion that an entity has the intent and ability to hold the security for recovery of the cost basis. Mr. Tittle noted that the guidance proposed within SSAP No. 43R mirrors the guidance within INT 06-07 and reflects the original intent of the Emerging Accounting Issues Working Group. He added that, pursuant to INT 06-07, the requirements for assessing other-than-temporary impairments have always required entities to prove: 1) there are no financial condition concerns (credit issues) with the issuer of the security; 2) the reporting entity does not intend to sell the security; and 3) the entity's short-term prospects would allow the entity to have the intent and ability to retain the investment in order to allow for recovery in value. Mr. Tittle stated that the guidance proposed within SSAP No. 43R was drafted to mirror the previous requirements of INT 06-07. Mr. Tittle summarized the comments received on this issue, noting that one respondent requested that the intent and ability assertion be deleted from SSAP No. 43R, and another respondent requested inclusion of guidance similar to *FSP FAS 115-2 and 124-2, Recognition and Presentation of Other-Than-Temporary Impairments* (FSP FAS 115-2), to impose a "more likely than not" threshold on whether the entity would be required to sell the security. As the assertion of intent and ability has always been a component of assessing other-than-temporary impairments within INT 06-07, it is not recommended that revisions be incorporated to eliminate the assertion of intent and ability to hold from SSAP No. 43R. If desired by the Working Group, modifications could be incorporated within SSAP No. 43R to add additional guidance from INT 06-07 to clarify the requirement. Mr. Tittle provided the Working Group with suggested additional wording to SSAP No. 43R.

Mr. Smith stated that the language included within paragraph 19 of the exposed SSAP No. 43R is clear and is preferred over what is included within INT 06-07 and, as such, revisions to the proposed SSAP No. 43R guidance are not necessary. In addition, Mr. Smith noted that, under the statutory accounting hierarchy, SSAP No. 43R would be considered a higher authority than INT 06-07. Mr. Tittle confirmed that the SSAPs are a greater authority, but a referral could be made to the Emerging Accounting Issues Working Group if this Working Group believes modifications are necessary to INT 06-07 in order to clarify the guidance and to eliminate any interpretation inconsistencies between SSAP No. 43R and INT 06-07.

Mr. Tittle reviewed the paragraph, noting that if an entity does not have the intent to sell, the entity must make an assertion that it has the intent and ability to hold the security until recovery of the cost basis. If the entity cannot make this assertion, the entity must recognize an other-than-temporary impairment, with a realized loss recognized in earnings that equals the difference between the amortized cost basis and the fair value at the balance sheet date. Mr. Fritsch noted that he believes this guidance is clear and not in conflict with INT 06-07. Mr. Hudson advised that he supports retaining this language in SSAP No. 43R.

Rob Axle (Prudential, representing the American Council of Life Insurers—ACLI) stated that the ACLI does not believe the retention of paragraph 19 would be the best approach. He stated that the proposed guidance in SSAP No. 43R creates a new paradigm from what exists in INT 06-07 and would conflict with that guidance. Mr. Axle proposed removing paragraph 19, regarding the assertion for an intent and ability to hold, and only retain the guidance for situations in which an entity intends to sell (paragraph 18), and for when a credit-related impairment exists (paragraph 20). In responding to comments from Mr. Fritsch regarding whether an assertion should be made on the intent and ability to hold a security, Mr. Axle stated that paragraph 5 of INT 06-07 already addresses this issue, and believes reference to INT 06-07, or the incorporation of identical language from INT 06-07 could be included within SSAP No. 43R.

In responding to an inquiry from Mr. Armstrong on what burden would be created by retaining paragraph 19, Mr. Axle stated that the guidance would create a higher burden on insurers and create inconsistencies with GAAP. Craig Rippens (Allianz of America, Inc.) stated that he agrees that the retention of paragraph 19 would place a burden on insurers who use third-party investment managers. He noted that the GAAP language requires an assertion on a “more likely than not” basis, and if similar guidance was adopted for statutory, it would be acceptable to interested parties. If similar guidance is not adopted, then there would be a mismatch between GAAP and SAP. Mr. Fritsch stated that there is already a mismatch between GAAP and SAP. Under GAAP, such securities would be required to be written down to fair value, as a realized loss, with fair value representing the new amortized cost basis. For statutory accounting, SSAP No. 43R proposes that only the credit-related piece be recognized as a realized loss. Mr. Fritsch noted that INT 06-07 already includes guidance on the intent and ability to hold; therefore, he does not believe there is a conflict between the statutory guidance. If there is a conflict, then under the statutory hierarchy, he said the guidance in SSAP No. 43R would prevail.

Mr. Rippens advised that there is an analysis of cash flows currently completed to comply with the guidance under INT 06-07. However, the guidance under SSAP No. 43R would have a different meaning for those that utilize third-party investment managers. In accordance with recent guidance issued by the SEC, and application by auditors of this guidance, he said an entity cannot indicate an intent and ability to hold if third-party investment managers have discretion in transactions — and that this is true even if the investment managers are operating within established parameters. Mr. Peltonen noted that insurers should have the ability to direct investment managers on how to act. Mr. Rippens noted that, unless every decision is managed by the insurers, the insurers cannot assert the intent and ability to hold. Mr. Hanson noted that it seems that these concerns address control issues that should be in place between the insurer and the third-party investment manager.

David Chellgren (Conning Asset Management) stated that the current language proposed in SSAP No. 43R, as it mirrors prior GAAP language, would result with asset managers having to contact the insurers every time the asset manager was looking to sell a security at a loss. Thus, although guidelines have been provided to the asset managers by the insurers, the asset manager would still be required to contact the client for permission to conduct the transaction. If such contact does not occur, then the client could not assert that they have the ability to hold the security. Mr. Fritsch reminded that the statutory guidance does not have “tainting” rules that are included within GAAP. Under GAAP, with “available-for-sale” securities, if an entity was to sell one security within the portfolio, the entity would be required to adjust all of the securities within the portfolio to a “trading” classification. These classifications, and such treatment from the sale of securities, does not exist for statutory accounting.

Stephanie Phelps (Aegon) advised that the problem exists for securities that have unrealized losses for interest-rate changes, as entities often have a policy to turn over a certain percentage of their portfolio each year in order to address market changes and manage the portfolio. At the start of the year, an entity might not be able to predict the future sales of specific securities that are going to occur in accordance with the entity’s investment policy. Thus, she said, auditing issues could arise regarding the entity’s assertions if the securities sold are different from those actually predicted, even if the trades were in line with the overall management of the investment portfolio. Ms. Phelps noted that there is not a concern with making the assertion on the entity’s “ability” to hold the security, but it is with the assertion required for the “intent” to hold specific securities. If subsequent sales occur that are not in line with current predictions, then the original assertions would be challenged by auditors.

Mr. Fritsch noted that the issues of “intent” and “ability” go together. If cash flows indicate that the entity does not have the ability to hold, then it is presumed that the entity must have the intent to sell. An interested party noted that an entity might have the intent and ability to hold at the balance sheet date, but if the investment manager elected to sell a security, then the auditors would question all assertions made about the intent and ability to hold. Mr. Peltonen stated that it seems that interested parties are providing a harsher read of this requirement then intended, as this information would be presented as a “snapshot” of information at a specific point in time. Mike Hakimian (Nationwide Insurance) noted that it is expected that auditors would view this guidance in a manner similar to the interested parties, as this language has previously been used by GAAP. As prior thresholds and interpretations have been established to apply this guidance under GAAP, there is concern that the adoption of this guidance might result with the establishment of bright-line rules. Mr. Rippens supported this view, noting that the Working Group's view of this language appears "softer" then what the intent of this language was under GAAP. However, as the language is the same, auditors would use the same thresholds and interpretations utilized under GAAP in assessing this language.

Jeff Alton (CNA) noted that a potential work-around would be to revise paragraph 19 to remove the term "intent" or to incorporate a point of time (i.e., the balance sheet date) within this paragraph. Mr. Alton noted that paragraph 18, pertaining to the intent to sell, incorporates a balance-sheet date timeframe. Mr. Alton noted the concern that impaired securities would be valued differently under GAAP and SAP. He noted that it is concerning that a security could be identified as "impaired" for SAP but not for GAAP, or vice versa. By confirming that this "intent" assertion is strictly at the balance sheet date would alleviate some of potential differences in impairment assessments between GAAP and SAP. In response to this request, Mr. Fritsch noted that he is not in favor of removing the "intent" or "ability" assertions from paragraph 19, but that he would be willing to listen to proposed revisions to the wording within paragraph 19.

Mr. Fritsch noted that the basic premise of allowing loan-backed and structured securities to be held at amortized cost is that entities have the intent and ability to hold these securities to maturity, as these are long-term investments. If realistically, the company intends to sell the security in the short-term, but perhaps does not have a distinct intent to sell at the balance sheet date, then use of amortized cost might need to be reconsidered, as it is not the best measure for short-term securities. Mr. Fritsch noted that no securities would be captured by the guidance if there was a "balance-sheet date" threshold, as the entity could change the intent the day after the balance-sheet date and sell the security with no repercussions. Mr. Fritsch noted that this sort of timeframe would be too lenient of a threshold. Mr. Alton noted that there is a different threshold from holding a security until recovery, and having an intent to hold at the balance-sheet date. Mr. Chellgren reiterated the suggestion of adding a threshold of "more likely than not" within paragraph 19.

Mr. Stephenson (Group of North American Insurance Enterprises—GNAIE) noted that previous comments suggested that the guidance in paragraph 19 of the proposed SSAP No. 43R and guidance in INT 06-07 are intended to be consistent. However, if the language is intended to be consistent, it is unclear why the wording is different between the SSAP and the interpretation or why the new guidance is necessary. Mr. Stephenson noted that utilization of different words would result with different interpretations. He noted that the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) are currently discussing potential changes to their guidance and suggested consideration of those changes, as well as a consideration of whether to converge with GAAP going forward. Mr. Fritsch noted that there is a proposal to converge with GAAP on this issue, but that the industry was not supportive of the proposal, as it would have required impairments to be written down to fair value. Mr. Fritsch noted that the proposed SSAP No. 43R is a compromise by the regulators that is satisfactory to the regulators, as entities must assert that they have the intent and ability to hold impaired securities. Mr. Fritsch noted that if there is a desire to converge with GAAP, then the Working Group is willing to immediately go forward, and proceed with mark-to-market valuation of these securities. However, it is believed that the industry has issues with this proposal. Mr. Fritsch noted that the entire SSAP No. 43R proposal is inconsistent with GAAP; therefore, he is not concerned with specific elements within the guidance that are also inconsistent with GAAP.

Mr. Stephenson suggested that if the intent is to be consistent with INT 06-07, then the same words should be used, or the guidance should simply reference INT 06-07. Mr. Fritsch noted that, as the SSAP is greater in the hierarchy, this language should be retained in SSAP No. 43R and should include the best language that reflects the intent. If needed, the Emerging Accounting Issues Working Group could modify INT 06-07 to mirror the SSAP language.

Mr. Smith agreed that paragraph 19 is not intended to converge with GAAP, but is intended to be a higher standard, based on the allowances provided for recognition of impairment within SSAP No. 43R, as only the credit-component of impairment is recognized unless there is an intent to sell or the lack of the intent and ability to hold. Mr. Medley inquired why insurers do not provide instruction to their investment managers to not sell securities in a certain class or category if this would result with tainting violations under GAAP. Mr. Chellgren noted that this sort of instruction is given by some insurance companies; however, most of the guidance is based on an allowance for potential losses with the third-party manager having the ability to manage the investments. Mr. Medley noted that, with explicit instruction and proper governance of third-party managers, these sorts of concerns would not exist. Mr. Fritsch reiterated that paragraph 18 addresses the intent to sell the security, and paragraph 19 does not introduce a higher-level threshold not already created by paragraph 18. Mr. Smith noted that an argument could be made that all securities held by a third-party manager should be classified as a security the entity intends to sell. Mr. Hanson reiterated that the issue with third-party managers is a control issue.

Mr. Fritsch requested that a member of the American Institute of Certified Public Accountants (AICPA) advise how they would interpret the "intent and ability" threshold within paragraph 19. Mr. Fritsch stated that he does not want to remove paragraph 19 from the proposed SSAP No. 43R. He noted that, with the compromise of only recognizing the credit portion of impaired securities, he is unwilling to further compromise on the assertion required on the "intent and ability" to hold such securities.

In response to the request regarding how paragraph 19 would be interpreted by the AICPA, Deborah Whitmore (Ernst & Young) stated that the wording implies that the company must assert that they have the ability to retain securities, as well as the intent to retain securities until they have recovered in value. Ms. Whitmore noted that the auditors would question situations in which an entity sold a security, without explanation or a change in circumstances, after making a representation that the entity had the intent and ability to hold. If an entity sold securities at significant losses, for which they had indicated an intent and ability to hold, an entity would need to consider such situations in determining whether they could make new representations on their intent and ability to hold their remaining securities. Ms. Whitmore stated that it is clearly not a situation where, after selling one security, the entity would be prohibited from making future representations regarding the intent and ability to hold. Leigh Wilson (KPMG) noted that the U.S. Securities and Exchange Commission (SEC) has raised questions on whether an entity can assert the intent to hold securities if the management of the investment portfolio has been outsourced in situations where the investment management has full discretion, within certain parameters, for investment decisions. These situations would need to be reviewed pursuant to the facts and circumstances surrounding the agreement between an entity and its investment manager. There might be situations, due to the level of outsourcing that has occurred, where an entity cannot assert that they have the intent to hold securities, regardless if securities are sold, as the entity is not in control of the process. Ms. Whitmore noted that this is linked to the "ability" assertion that is required under paragraph 19. Ms. Whitmore noted that, historically, entities have had restraints in place with their investment managers that would allow the entity to comply with the intent and ability assertions required under paragraph 19.

Ed Wilkins (Deloitte) clarified that it is his opinion that the "intent to sell" threshold looks into the future, and is not reflective of the intent that exists specifically at Dec. 31. Ms. Whitmore noted that if an entity has the intent to sell a security six months after the balance-sheet date, then this security would need to be classified in the year-end financial statements as one that the entity intends to sell. Mr. Wilkins also suggested that the Working Group might want to consider how long a security would need to be held, after making an assertion that the entity had the intent and ability to hold, before it caused scrutiny. Mr. Fritsch noted that he did not think a bright-line test on how far out an entity should project whether a security would be sold, or for how long an entity would need to hold a security, should be incorporated within the standard. Regardless, he advised that he would be open to consider submissions of proposed language on how securities should be reviewed as of the balance-sheet date. Mr. Fritsch stated that he would prefer to retain the current language in paragraph 19, and language proposals should only be to clarify the guidance. Mr. Tittle confirmed that the guidance in paragraph 19 was to hold the security until the recovery of the cost basis. For situations in which the security was going to be sold in a subsequent period, the cash-flow considerations of selling the security in the future would also need to be considered. Ms. Whitmore noted that it was her interpretation that if an entity was going to sell the security in the foreseeable period, it is assumed that a recovery of the cost basis is not expected, and, therefore, the security would be reported under paragraph 18. Under this "intent to sell" guidance, a write-down would be required to fair value, as a realized loss, with the fair value being the new amortized cost basis. Mr. Wilkins agreed with Ms. Whitmore's interpretation.

Brad Anderson (Genworth Financial) noted that he is concerned with sales subsequent to the balance-sheet date. With subsequent events, any activity — up to the date the financial statements are provided — must be considered. However, if something has occurred after the balance-sheet date that might differ from the year-end assertion due to changes in the market, an assessment would need to be made as to whether these subsequent items should be reported in the prior financial statements. Mr. Fritsch reiterated that he would not support deleting paragraph 19, as an assertion on the intent and ability to hold a security is necessary, but he would be willing to consider proposed language to clarify the guidance. Mr. Axle stated that the ACLI would provide a submission for clarifying the guidance.

Mr. Stephenson inquired whether the Working Group would entertain language that proposed an assertion for an "intent not to sell" rather than an assertion on an "intent to hold." Mr. Fritsch inquired whether there was a difference between the two assertions. Mr. Stephenson noted that these phrases have been interpreted differently. Mr. Fritsch stated that he would interpret these phrases in the same way. Mr. Fritsch stated that the guidance requires an entity to indicate whether they have an intent to sell, and whether they have the intent and ability to hold securities to recovery. He reiterated that he would consider proposed clarifying revisions regarding how to treat subsequent events, but would not consider changes to the general provisions of these assertions. Mr. Tittle stated that *SSAP No. 9—Subsequent Events* (SSAP No. 9) already provides guidance for assessing events that occur after the balance-sheet date.

Mr. Tittle presented the next topic regarding changes to valuation within SSAP No. 43R pertaining to retrospective and prospective valuation changes. He advised that, in the exposure draft, the guidance proposed requiring use of the prospective method for valuation changes. He advised that NAIC staff has become aware that retrospective changes are allowed under GAAP for specific situations. He advised that staff is recommending that the guidance be updated to mirror the GAAP guidance on when retrospective and prospective methods are utilized. Mr. Fritsch requested assistance from the AICPA representatives in understanding the situations in which GAAP allows retrospective valuation changes.

Mr. Tittle presented the next topic regarding beneficial interests, advising that guidance from AICPA *Statement of Position 03-03, Accounting for Certain Loans or Debt Securities Acquired in a Transfer* (SOP 03-03), GAAP *EITF 99-20, Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets* (EITF 99-20) and *FSP EITF 99-20-1, Amendments to the Impairment Guidance of EITF Issue No. 99-20* (FSP EITF 99-20-1) were incorporated into the SSAP No. 43R exposure draft. Mr. Tittle advised that the goal of adding this language was to be consistent with GAAP on the topic of beneficial interests. Mr. Tittle noted that comment letters have been received on the inclusion of this guidance, which have clarified to staff that there are three types of securities accounted for under SSAP No. 43R: 1) those acquired at origination and those acquired subsequent to origination for which receipt of all cash flows is expected; 2) those acquired in a transfer in which the reporting entity would be unable to collect all expected cash flows; and 3) beneficial interests retained from a transfer in which the entity was the original transferor. The third category includes items that are not of high-credit quality or could be prepaid, thus resulting with the entity not anticipating receipt of all of the expected cash flows. Mr. Tittle advised that the guidance added within SSAP No. 43R for beneficial interests is not intended to address Re-REMIC situations. Mr. Tittle advised that staff is looking for direction from the Working Group on whether all beneficial interests should be captured within the third category for statutory accounting, whether beneficial interests should be classified at the terms at initial acquisition, or if beneficial interests should continue to be monitored for reclassification if the credit-quality or terms were to change. Mr. Tittle noted that reclassifying beneficial interests into the third category, due to changes in credit quality, might generate accounting for the beneficial interest that might be considered more onerous. Mr. Tittle clarified that GAAP requires the onerous accounting requirement for those that are not of high-credit quality and/or could be repaid. He advised that GAAP allows entities to use their established accounting policy on whether beneficial interests should be based on the terms at acquisition or if they should be continuously monitored. Thus, in practice, GAAP entities might be different on the method they utilize.

Mr. Axle stated that the ACLI is supportive of SSAP No. 43R being closely linked to GAAP on the topic of beneficial interests. Mr. Fritsch inquired whether, for the retrospective application, a highly rated security should move into the more onerous accounting in response to a credit downgrade. This “onerous” accounting is referring to the guidance added from EITF 99-20, which indicates that if there is a change in the cash flows, there is an immediate impact to earnings. Mr. Axle stated that he did not characterize this guidance as onerous. Mr. Tittle advised of the existing guidance in SSAP No. 43, noting that there is no guidance specific to beneficial interests that differs from the guidance for other securities within SSAP No. 43. Keith Bell (Travelers) requested that GAAP and SAP guidance be kept as close as possible, but noted concerns for mutual companies that might not be following GAAP, and would not have systems in place to apply guidance similar to EITF 99-20. He suggested moving toward the GAAP process, but provide sufficient time for companies to apply the new guidance. Mr. Fritsch noted that most companies would like this guidance effective Sept. 30, 2009, and he is uncertain how this request for additional time could be reflected within the effective date. Jim Olsen (Property Casualty Insurers Association of America—PCI) stated that PCI also has concerns with the proposed Sept. 30, 2009, effective date of the guidance. He noted that a number of the PCI members do not file GAAP statements; therefore, complying with new GAAP-like guidance would be problematic in a short period of time. Mr. Stephenson suggested incorporating a Sept. 30, 2009, early-adoption option, with required application by year-end 2009. He stated that the companies he has spoken with have noted that a year-end application is a feasible option. Mr. Fritsch reminded the Working Group that SSAP No. 98 becomes effective Sept. 30, 2009. Mr. Stephenson noted that he thought a withdrawal of SSAP No. 98, before its effective date, would still occur. Mr. Fritsch stated that a withdrawal of SSAP No. 98, without the simultaneous application of SSAP No. 43R, would allow companies to continue applying SSAP No. 43. Under the guidance within SSAP No. 43, it is the Working Group’s assessment that the impairment threshold does not adequately require impairment recognition; therefore, this is an unacceptable alternative to the Working Group.

Based on the discussion, Mr. Tittle stated that it appears most desirable to have the guidance as close to GAAP as possible, but staff would still need regulator direction on whether securities should be classified per the security’s standing at acquisition or in accordance with continuous monitoring. Mr. Fritsch suggested that these classifications occur at acquisition, as cash-flow testing would still be required; therefore, subsequent impairment recognition would continue to occur. Mr. Tittle summarized that under an “at acquisition” approach, high-credit quality beneficial interests that have a credit-downgrade would not be accounted for under the “beneficial interest” guidance within the exposed SSAP No. 43R, but would be subject to guidance for other securities held within SSAP No. 43R. Mr. Tittle advised that GAAP allows individual company accounting policy to drive this decision, so this application would be consistent for GAAP companies that had adopted a similar approach, but would differ from GAAP companies that had previously adopted a policy to continuously monitor and reclassify beneficial interests based on changes in credit quality. Ms. Whitmore advised that companies are permitted to determine at initial acquisition whether the security would be within the confines of EITF 99-20. If the company had adopted an approach to base this classification at initial recognition, the company would not be required to reassess the security to determine whether it should subsequently follow the guidance within EITF 99-20, even if the security had a credit downgrade. Other companies follow a policy of continuous monitoring, so that each reporting period they assess whether the security is within the scope of EITF 99-20. Ms. Whitmore advised that the guidance within EITF 99-20, prior to FSP FAS 115-2, would have resulted in impairment write-downs that were recognized more quickly, and the write-down was always taken to fair value. Within the prior model of EITF 99-20, impairment recognition was required anytime there was a negative change to the present value of cash flows. With the most recent changes to GAAP, the EITF 99-20 model is closer to the impairment recognition for FAS 115 securities, where it is only a credit-impairment when there is a negative change to the present value of cash flows. Mr. Chellgren advised that impairments under the revised EITF 99-20 (revised by FSP FAS 115-2) are no longer required to be written down to fair value, but to the discounted cash flows using the updated yield prior to the impairment. Thus, impairment measurement under EITF 99-20 may no longer be considered more “onerous,” as it is comparable to the approach for FAS 115 securities. It was noted that an impairment under EITF 99-20 is still triggered whenever there is any amount of credit loss, so there has been no change to the previous “onerous” EITF 99-20 impairment trigger, even if the impairment measurement has been revised. Mr. Tittle confirmed that there is no difference in the impairment trigger for a beneficial interest and any other FAS 115 security, but they have different measurements.

In highlighting changes to measurements for beneficial interests, Mr. Tittle advised that for beneficial interests acquired under paragraph 6 of SSAP No. 43 and SSAP No. 43R, the measurement is the discounted cash flows using an effective rate implicit at the date of acquisition. He noted that this is different from beneficial interests acquired under the new guidance that utilizes the current yield discount rate, which is the rate utilized at the date immediately prior to recognition of an other-than-temporary impairment. Therefore, there is a different measurement approach for different types of securities; however, these different measurement approaches are consistent with GAAP. Mr. Bell confirmed that there is a desire to be consistent with GAAP. Mr. Tittle advised that he would add a paragraph within the proposed SSAP No. 43R to describe the different types of securities, so that it is clear within the statutory guidance.

Mr. Tittle presented the next topic regarding impairments. Mr. Tittle noted that most of the comment letters focused on the location of the impairment guidance within the exposed SSAP No. 43R. With the revisions already anticipated from the prior discussion, Mr. Tittle believes these comments will be addressed.

Julie Gann (NAIC) presented the next topic regarding the asset valuation reserve (AVR) and the interest maintenance reserve (IMR). Ms. Gann advised that the exposed SSAP No. 43R proposed that all impairment write-downs to be taken through the AVR. She advised that this treatment included those situations for which an item would be recognized as other-than-temporarily impaired due to an interest-related decline, but for which the company had an intent to sell. She noted that situations could occur in which an entity recognized an interest-related impairment, as they had an intent to sell, take the loss through the AVR, and then sell the security. If there was no further change in the value when the security was sold, from when the impairment was recognized, then nothing would be recognized through IMR at the time of the sale. As there are no provisions to allow transfers between AVR and IMR, the interest-related impairment would remain within the AVR. The comments requested bifurcation of recognized impairments through AVR and IMR, in accordance with whether it was an interest-related or non-interest related impairment. Ms. Gann noted that staff believes this to be a feasible option; however, the annual statement instructions do not allow this bifurcation approach. Therefore, if the Working Group pursues this option, staff recommends incorporating the language proposed by the ACLI to allow bifurcation of impairment through IMR and AVR, and submitting a request to the Blanks Working Group to modify the annual statement instructions. Mr. Fritsch stated that incorporating this approach would seem to be consistent with the actual elements of the impairment transactions and that he is supportive of this revision to SSAP No. 43R and the corresponding request for changes to the annual statement instructions. Robin Marcotte (NAIC) advised that a blanks proposal was adopted in June 2009 that partly addressed allowing bifurcation of the IMR and AVR, but additional changes would be necessary. Dennis Lebar (Sungard Financial) inquired when these annual statement changes would be effective. Ms. Marcotte advised that, as the changes would be to the annual statement instructions, the changes could be effective by year-end 2009. Mr. Tittle also advised that the statutory guidance is greater in the hierarchy than the annual statement instructions; therefore, if the guidance is adopted within the SSAP, it would be effective in accordance with the effective date of the SSAP — but that an additional process to change the annual statement instructions would be necessary to prevent confusion. Mr. Peltonen noted that changes in designation would also need to be considered in the IMR and AVR bifurcation change. He advised that a “one level” NAIC designation change is currently permitted to be included within the IMR, but if it is greater than a one level change, the items are included within the AVR. He noted that a bifurcation approach to IMR and AVR would likely result with a need to revise how designation changes are allocated. Mr. Tittle noted that this information would be considered in making the changes to the annual statement instructions. In response for clarification on this issue, Mr. Tittle noted that this is only addressing impairment write-downs for securities within SSAP No. 43R and is not addressing the classification of IMR and AVR at the time of the sale. Mr. Tittle confirmed that only credit-related impairments would be taken completely through AVR.

Mr. Tittle presented the next topic regarding NAIC category "6" securities. Mr. Tittle advised that the inclusion of guidance within the exposed SSAP No. 43R was intended to clarify that reporting securities at the "lower-of-cost or market" was not a substitute for impairment recognition. Mr. Fritsch agreed with the intent of this existing guidance, but requested that the language be clarified.

The next topic from the comment letters addressed the disclosure requirements. Ms. Gann advised that comments were received requesting aggregate disclosure presentation. Mr. Alton stated that it is the ACLI's interpretation that the exposed disclosure requirements would require all impaired securities to be reported on an individual basis. Mr. Fritsch noted that this was the original intent, but he is willing to consider aggregate reporting based on asset class. Mr. Smith disagreed with this modification. He noted that they would like to compare securities, on a CUSIP-by-CUSIP basis, for cash-flow analysis. He advised that the securities impaired through an intent to sell, or through the lack of ability or intent to hold, could be reported on an aggregate basis, but that securities with a credit impairment would need to be individually identified. Mr. Smith also requested that this information be data-captured by the NAIC to assist regulators in making comparisons among different entities. Mr. Chellgren advised that this information is already included within Schedule D1. Mr. Smith noted that, if it is included within Schedule D, it should be feasible for reporting entities to also include this information within a separate note disclosure. Mr. Smith also noted that the impaired securities are not highlighted on Schedule D; therefore, regulators would have to compare fair value to amortized cost basis on a line-by-line basis to identify impaired securities. Mr. Smith noted that, with the bifurcation allowance for credit impairments, then the additional disclosures are necessary. Mr. Hakimian noted that Nationwide supports full disclosure and transparency, but believes the disclosures requested are already met by the schedules included within the annual statement. Mr. Tittle advised that there are elements of the cash-flow assessments for credit-related impairments that are not included within the annual statement schedules. Mr. Stolte noted that SSAP No. 43R is departing from the statutory accounting statement of concepts pertaining to consistency, conservatism and recognition; therefore, retaining disclosures to aid in transparency must be included within the adopted SSAP No. 43R. Mr. Fritsch noted that allowing aggregate disclosures would permit the regulator to make an assessment of whether additional detail is needed, but might limit the extent of disclosures needed by smaller companies. Mr. Stolte stated that he only looking for detail on the credit-related impairments. Mr. Tittle noted that an electronic-only column could be added to Schedule D to capture this information; however, this would not likely be in place by Sept. 30, 2009. Mr. Smith noted that he would like to have this information in one disclosure, and does not want to have to search Schedule D for this information. Mr. Hakimian provided examples to illustrate that this information is already included within Schedule D. Mr. Smith reiterated that he is looking for this information in a separate note. Mr. Fritsch noted that the wording would be revised for subsequent exposure to allow aggregation for those items recognized as impaired due to an intent to sell, or the lack of the intent and ability to hold, and to require disclosures on an individual CUSIP basis for securities impaired due to a non-interest related impairment. Ms. Gann identified other comments received on disclosures, noting that staff is proposing clarification on disclosures for impaired securities that are not recognized as other-than-temporarily impaired, as well as non-interest impaired securities when an interest-related impairment remains. Ms. Gann also noted that comments were received requesting disclosures only on an annual, and not a quarterly, basis. Mr. Fritsch noted that disclosures are necessary quarterly to provide timely information to the regulators.

The next topic from the comment letters addressed the transition and cumulative effect proposal. Mr. Tittle noted that the exposed guidance would allow a cumulative effect adjustment for entities that had early-adopted SSAP No. 98. This cumulative effect adjustment would allow entities to "un-adopt" the effect of SSAP No. 98. It has been identified that SSAP No. 98 did not include a cumulative effect to allow for easier application, as the application would mirror a change in accounting principle. It is now being considered to not allow for cumulative effect within SSAP No. 43R in order for the effects of applying this standard to be more clear within the financial statements. Mr. Axle advised that moving away from cumulative effect would be opposite from ACLI's desired application. Mr. Tittle noted that a cumulative effect from early-adoption of SSAP No. 98 or paragraph 13 of SSAP No. 99, to un-adopt these standards, would still occur, but that the impairment recognition guidance under SSAP No. 43R, allowing only impairments to the credit-related element of the impairment, would not have a cumulative effect on previously impaired securities. Mr. Axle noted that this would be a suitable approach. Ms. Whitmore inquired about companies that had previously impaired to fair value and inquired whether the intent was to get all the companies on the same level at the time of the effective date. Mr. Tittle noted that additional discussion would be needed on this approach, as this would encompass companies that had a policy to write-down to fair value, even though that was not required under SSAP No. 43. Mr. Fritsch requested that Working Group members provide comments on this issue to Mr. Tittle as he works on updating the draft for re-exposure.

Ms. Gann presented the last topic regarding the effective date. She noted that various comments were received, some supporting the Sept. 30 proposal, with comments that this date would be operational, while other comments suggested a Dec. 31 or Jan. 1, 2010, effective date to allow for application and system changes. Mr. Fritsch noted concerns with any effective date other than Sept. 30, as either SSAP No. 98 would become effective or companies would revert back to SSAP No. 43. However, under the SSAP No. 43 impairment guidance, impairments would likely not be recognized for the 2009 reporting period. Mr. Fritsch noted that this is not an acceptable solution — and that any extension of the transition date would need to be limited to non-GAAP filers, and would still need to be effective for year-end 2009. Mr. Fritsch requested an effective date of Sept. 30 with allowance to Dec. 31 for non-GAAP filers, with domiciliary commissioner approval. Mr. Lebar stated continued concern, even with GAAP filers, as there would still be system changes that would need to be made. Bill Sergeant (State Farm) stated that his organization would be more comfortable with a Dec. 31 effective date, and inquired whether the current proposal would require entities to request permission from the state to utilize this later effective date. Mr. Fritsch stated that it his proposal to require domiciliary state approval, as it is preferred that all companies would follow SSAP No. 43R as of Sept. 30. In order to quality for the later effective date, a company would be required to illustrate why the company cannot comply with the guidance as of Sept. 30. Mr. Sergeant noted that the guidance is not yet finalized; therefore, application by Sept. 30 might be unrealistic. Mr. Fritsch advised that the requirement for commissioner approval would not consider this allowance to be a permitted practice. Mr. Fritsch advised that a Sept. 30 effective date would require third-quarter reporting.

Mr. Tittle advised that a redraft of SSAP No. 43R would be distributed to the regulators, with an e-mail vote for exposure. Mr. Tittle suggested a three-week exposure period. He advised that the Working Group is working on a tight timeline, as after adoption by this Working Group, SSAP No. 43R would still need to be adopted by the Accounting Practices and Procedures Task Force and the Financial Condition (E) Committee before the Fall National Meeting.

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

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July 31, 2009

Mr. Joe Fritsch, Chair
Statutory Accounting Principles Working Group
National Association of Insurance
Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Re: Proposed Statement of Statutory Accounting Principles No. 43 – Revised, "Loan-backed and Structured Securities"

Dear Mr. Fritsch,

We appreciate the opportunity to comment on the Statutory Accounting Principles Working Group's ("SAPWG") Proposed Statement of Statutory Accounting Principles No. 43 – Revised: "Loan-backed and Structured Securities" ("Proposed SSAP No. 43-R").

In summary, the ACLI[1] fully supports Proposed SSAP No. 43-R including its revisions to the accounting guidance for other-than-temporary impairments ("impairments"), securities acquired in a transfer, beneficial interests and the related disclosure guidance.

With respect to the updated guidance for impairments, we believe that Proposed SSAP No. 43-R appropriately gives specific recognition to the unique nature of loan-backed and structured securities and the long-term nature of life insurance liabilities while giving broader recognition to the desire to ensure appropriate matching between the accounting for assets and the accounting for liabilities. In so doing, we agree that an insurer's surplus should be impacted by true credit losses but that surplus should not be impacted by market value changes arising from non-credit related factors, such as illiquidity or changes in risk free interest rates. We also believe Proposed SSAP No. 43-R is generally operational as drafted and since companies that report under U.S. GAAP already would be "well-practiced" in bifurcating impairments and quantifying the credit loss, this standard can be implemented effective September 30, 2009.

In our review of Proposed SSAP No. 43-R, we did identify a few areas where we offer our comments, and have included them within Attachment A.

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[1] The American Council of Life Insurers represents 340 member companies operating in the United States, of which 332 are legal reserve life insurance companies, and 8 are fraternal benefit societies. These 340 member companies account for 93% of total life insurance company assets, 94% of the life insurance premiums, and 94% of annuity considerations in the United States.

American Council of Life Insurers
101 Constitution Avenue, NW, Washington, DC 20001-2133
www.acli.com

Additionally, we are enclosing the results of a survey of our membership on the impact of SSAP 98. The survey coverage for all reporting groups is 48 percent of 2008 industry general account assets. Even at this reporting rate, the numbers are a cause for concern.

Thank you for considering our comments. We welcome the opportunity to discuss any of these comments further with you at your earliest convenience.

Sincerely,

cc: Honorable Al Gross
Mr. Jim Armstrong
Mr. Ramon Calderon
Mr. John Tittle, NAIC
Ms. Robin Marcotte, NAIC

<u>Attachments:</u>
A – Technical Comments on SSAP No. 43 - Revised

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ATTACHMENT A - Technical Comments on SSAP No. 43 – Revised

Comments Related to Impairment Guidance

1. Paragraph 19 – Intent and Ability to Retain Investment to Recovery

We note that paragraph 19 would require an entity to assess whether it has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis and, if it doesn't, an other than temporary impairment shall be considered to have occurred.

We believe that this language is inconsistent with Interpretation 06-07, "Definition of Phrase "Other Than Temporary" ("INT 06-07"). Specifically, we believe that paragraph 4 of INT 06-07indicates that "the intent and ability of the holder to retain its investment in the issuer for a period of time sufficient to allow for any anticipated recovery value" is a factor to consider in determining if there are fundamental credit difficulties, or that a non-interest related decline is other than temporary.

Conversely, paragraph 5 of INT 06-07 indicates that an interest-related impairment (including declines in value due to both increases in the risk free interest rate and general credit spread widening) should be deemed other than temporary when an investor has the intent to sell an investment, at the reporting date, before recovery of the cost of the investment. This would include the investor's consideration of whether its cash or working capital requirements and contractual or regulatory obligations indicate that the investment may need to be sold before the forecasted recovery occurs.

Therefore, we believe paragraph 19, as drafted, may require an entity to recognize an interest-related impairment if it cannot assert its ability and intent to hold the security for a period of time sufficient to recover the amortized cost basis, which would be inconsistent with INT 06-07. This language will also limit an insurer's flexibility with respect to managing its investment portfolio (and more broadly, managing its statutory capital). For example, it may introduce complexity for insurers who utilize third parties in the management of their investments with respect to the insurer's ability to make assertions regarding the investment manager's intent and/or ability to hold specific securities.

We believe that paragraph 18 sufficiently addresses the recognition of an other than temporary impairment for securities that an entity intends to sell, consistent with the guidance in INT 06-07, and that paragraph 20 sufficiently addresses the recognition of an other than temporary impairment for securities that the entity continues to hold where the entity does not expect to recover the entire amortized cost basis of the security. Accordingly, we recommend that paragraph 19 be removed from Proposed SSAP No. 43-Revised, along with the "intent and ability to hold" language within paragraphs 20, 23, 24, 49i and 57.

2. Paragraph 25 – Asset Valuation Reserve

We note that paragraph 25 indicates that other than temporary impairment losses shall be recorded through the Asset Valuation Reserve (AVR). We believe there may be situations that may warrant impairment losses being recorded through the Interest Maintenance Reserve (IMR). For example, if at the end of a reporting period, an insurer intends to sell a security in an unrealized loss position for which it has determined that there is no credit-related impairment, it may be appropriate to record such an impairment loss to the IMR rather than the AVR. Accordingly, we suggest the following change to paragraph 25:

For reporting entities required to maintain an AVR or IMR, the accounting for the other-than-temporary impairment shall be in accordance with SSAP No. 7 – Asset Valuation Reserve and Interest Maintenance Reserve. ~~The~~ Credit related other-than-temporary impairment losses shall be recorded through the AVR; interest related other than temporary impairment losses shall be recorded through the IMR.

3. Paragraph 27 – Applicability of Impairment Guidelines to LOCOM Investments

We believe paragraph 27 may be confusing as currently drafted and should be clarified and re-exposed for comment.

4. Paragraphs 34, 36 and 37 – Impairments of Beneficial Interests

We note that paragraphs 34, 36 and 37 include guidance related to the impairment of beneficial interests. We believe these paragraphs should be included in the "Impairment" section of Proposed SSAP No. 43 – Revised so that the guidance surrounding other than temporary impairments may be found in one section of the standard. In addition, within paragraph 34(a) there is a reference made to paragraph 33(b). We believe that this is intended to reference paragraph 34(b). Lastly, within paragraphs 34(a) and 34(b), if the language herein was intended to be largely consistent with EITF 99-20, as amended, then certain wording changes should be made to bring the language into conformity (e.g. "estimated cash flows" becomes "cash flows expected to be collected", removal of "it is probable that" from 34(b), etc.).

5. Paragraph 39 – Intent to Sell a Beneficial Interest

We note that paragraph 39 indicates that if an entity intends to sell a beneficial interest reported at the lower of cost or market, a writedown for other than temporary impairment should be recognized as a realized loss; however, this paragraph does not provide guidance on the measurement of the realized loss. We suggest incorporating or referencing the measurement guidance from paragraph 23 (i.e., recognize a realized loss equal to the entire difference between the investment's amortized cost basis and its fair value at the balance sheet date).

6. Paragraphs 56 and 57 – Transition / Cumulative Effect Adjustment

We note that paragraph 57 includes transition guidance for Proposed SSAP No.43-Revised. We believe this guidance may need additional clarification as to the types of securities that it apples to. Accordingly, we recommend that paragraph 57 be clarified to specifically reference "investments covered by this statement" (rather than "loan-backed and structured securities") and that the reference to securities "for which an other than temporary impairment was previously recognized under SSAP No. 43" be removed. As a result, we believe it will clarify that the transition guidance is to be applied to all applicable securities covered by the statement regardless of whether they have previously been other than temporarily impaired under SSAP No. 43 or SSAP No. 98.

We also note that paragraphs 56 and 57 make reference to the cumulative effect being recognized as an adjustment to the opening balance of unassigned funds (surplus). We believe the date for which the "opening balance" relates to should be specified.

Comments Related to Other Guidance

7. Paragraphs 32-40 – Beneficial Interests

We note in paragraphs 32-40 the inclusion of guidance related to beneficial interests. We believe these interests fall within the scope of "loan-backed and structured securities" rather than being distinguished from them. We recommend that any distinction between beneficial interests and other security types covered by this standard be clarified.

8. Paragraph 13 – Valuation and Income Recognition Methods

We note that paragraph 13 removes the language that provides for the usage of either the prospective or retrospective adjustment methodologies for purposes of revaluing and accounting for loan-backed and structured securities. Based on guidance provided elsewhere, it would appear that Proposed SSAP No. 43-Revised would require the use of only the prospective method for securities covered by this standard. We note that this would present a significant difference from U.S. GAAP in that structured securities that are considered to be of "high credit quality" that are not within the scope of EITF 99-20 generally follow the retrospective method of accounting. This difference may cause significant operational difficulties for companies to systematically account for such securities under the retrospective method for U.S. GAAP purposes while using the prospective method for Statutory accounting purposes.

We also note that paragraphs 14-16 provide guidance for accounting for securities acquired in a transfer with evidence of deterioration in credit quality since origination, and that paragraphs 32-40 provide guidance on accounting for beneficial interests. With the modification to paragraph 13 noted above, and the removal of the prior versions of paragraphs 14 and 15 related to the prospective and retrospective methods, we are concerned that Proposed SSAP No. 43 – Revised may not provide sufficient guidance on accounting for other loan-backed and structured securities, including those acquired where there is not evidence of deterioration in credit quality since origination.

9. Paragraph 34 – Income Recognition

We note that paragraph 34 includes guidance surrounding the income recognition for beneficial interests. We believe this paragraph should be included in the "Income" section of Proposed SSAP No. 43 – Revised so that the guidance surrounding income recognition may be found in one section of the standard.

ACLI SSAP98 Impact Survey Results **(as of July 31,2009)**

NOTE: Total survey coverage for all reporting groups is 48% based on year-end 2008 general account assets. Reporting groups that adopted early account for 20% of industry year-end 2008 general account assets.

	Quarter Ending June 30, 2009 -- Data for All Reporting Companies (millions)		**Quarter Ending March 31, 2009 -- Data for Early Adopters Only (millions)**	
Total General Account Admitted Assets	$1,521,686		$666,758	
A.) Total Loan-Backed and Structured Securities	350,346		160,680	
B.) Total Other Than Temporary Impairments at Reporting Date Above if SSAP 98 Was Adopted Under Current Rules	7,228	2.1% of amount in A	2,878	1.8% of amount in A
Composition of Amount in B Above:				
1.) Credit Related Other Than Temporary Impairments on loan-backed and structured securities	2,274	31.5% of amount in B	798	27.7% of amount in B
2.) Non-credit related declines in value on loan-backed and structured securities	4,954	68.5% of amount in B	2,080	72.3% of amount in B

CNA

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Jeffery C. Alton
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July 31, 2009

Mr. Joseph Fritsch, Chair
Statutory Accounting Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, Mo 64108-2662

Re: Proposed statement of statutory Accounting Principle No. 43 - Revised: Loaned-backed and Structured Securities

Dear Mr. Fritsch:

I appreciate the opportunity to respond to the revised Statement of Statutory Accounting Principle No. 43: *Loaned-backed and Structured Securities*. In general, CNA agrees with the direction the Working Group is taking with the proposed revisions to this SSAP. Regarding the evaluation of whether an Other-Than-Temporary Impairment ("OTTI") has occurred, it is our strong belief that the U.S. statutory accounting principle ("SAP") OTTI model should be as consistent with U.S. generally accepted accounting standards ("GAAP") as theoretically appropriate. Any differences between SAP and GAAP in this area should be limited to measurement and presentation of the impairment. This symmetrical approach is essential as it is theoretically correct and allows an insurer to significantly streamline its impairment evaluation process making the financial statement preparation process far more controlled and efficient.

In line with that perspective, CNA's first comment regarding this exposed SSAP is that we believe the Working Group should make the SAP and GAAP OTTI evaluation process consistent by adopting the exact same words stated in FSP 115-2 and FAS 124-2, "*Recognition and presentation of Other-Than-Temporary Impairments,*" to describe if a triggering event has occurred. The reason for adopting the exact same words is that by paraphrasing or modifying the wording even slightly one could interpret variations in the guidance leading to the unintended consequence of an entity realizing an impairment under one accounting regime and not the other. To illustrate the slight variations in wording I have included the exact wording used in FSP 115-2, SSAP 43R and INT 06-07 to describe when an OTTI has occurred:

<u>FSP 115-2 and FAS 124-2</u>

Par 20 *If an entity intends to sell the debt security (that is, it has decided to sell the security), an other-than-temporary impairment shall be considered to have occurred.*

Par 21 *If an entity does not intend to sell the debt security, the entity shall consider available evidence to assess whether it more likely than not will be required to sell the security before the recovery of its amortized cost basis (for example, whether its cash or working capital requirements or contractual or regulatory obligations indicate that the security will be required to be sold before a forecasted recovery occurs). If the entity more likely than not will be required to sell the security before recovery of its amortized cost basis, an other-than-temporary impairment shall be considered to have occurred.*

SSAP 43R

Par 18 *If an entity intends to sell the loan-backed or structured security (that is, it has decided to sell the security), an other-than-temporary impairment shall be considered to have occurred.*

Par 19 *If an entity does not intend to sell the loan-backed or structured security, the entity shall assess whether it has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis. If the entity does not have the intent and ability to retain the investment for the time sufficient to recover the amortized cost basis, an other-than-temporary impairment shall be considered to have occurred.*

INT 06-07

Par 5 *An interest related impairment should be deemed other-than-temporary when an investor has the intent to sell an investment, at the reporting date, before recovery of the cost of the investment. The investor should consider whether its cash or working capital requirements and contractual or regulatory obligations indicate that the investment may need to be sold before the forecasted recovery occurs. The term interest related …*

To avoid inconsistent application of when a loaned-backed or structured security should be deemed to be other-than-temporarily impaired we recommend that the Working Group incorporate the wording in SSAP 43R exactly as it is found in FSP 115-2 paragraph 21 and also modify INT 06-07 accordingly. If the Working Group is uncomfortable with this approach we than request that the Working Group make the wording found in SSAP 43R exactly the same with the wording found in INT 06-07 paragraph 5. Either of these recommended changes would alleviate any potential confusion and discrepancies as to how this guidance is to be implemented.

Our second comment relates to the new disclosure requirements proposed in paragraph 49(e)(i) of the exposure draft. This disclosure would require an insurer to document the basis for an other-than-temporary impairment differentiating between credit and intent to sell at a CUSIP level. It is our belief that disclosing the intention to sell or one's credit views of an entity at the CUSIP level may provide potential counterparties information not otherwise available in the public domain, potentially resulting in adverse trade execution. In addition, maintaining and publishing this information at a CUSIP level would be a significant effort which could prove to be costly for very little apparent benefit to the regulatory community. Based on these facts, CNA would recommend removing this requirement from the proposed SSAP or allowing the disclosure to be on an aggregate basis by asset class to avoid disclosing sensitive information and keeping the size of the disclosure to a manageable level.

As always I appreciate the opportunity to respond to this draft SSAP and will be available for comment or to respond to questions at the Working Group's August 5th conference call.

Respectfully,

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Nationwide
On Your Side®

July 31, 2009

Mr. Joseph Fritsch, Chairman
Statutory Accounting Principles Working Group
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Re: Proposed Statement of Statutory Accounting Principles No. 43 – Revised, *Loan-backed and Structured Securities*

Dear Chairman:

Nationwide Insurance Group appreciates the opportunity to comment on the exposure draft of the proposed Statement of Statutory Accounting Principles (SSAP) No. 43 – Revised, *Loan-backed and Structured Securities* (Proposed SSAP), of the Statutory Accounting Principles Working Group (SAPWG). Nationwide Insurance Group (Nationwide) is comprised of three affiliated mutual insurance companies and their subsidiaries under common management which include property and casualty and life insurance companies. Nationwide is one of the largest diversified insurance and financial services organizations in the world, with combined surplus of more than $13 billion.

Overall, we applaud the direction of the SAPWG regarding the Proposed SSAP. The Proposed SSAP will help reflect the economic reality of loan-backed and structured security losses whereby only true credit losses are recognized in operations and capital. Further, it will help promote consistency among U.S. generally accepted accounting principles (GAAP) and statutory accounting principles (STAT) with respect to the inclusion of only credit losses within operating results. We believe the recommendations discussed below will provide clarity and promote consistent application of the accounting and disclosure considerations contained within the Proposed SSAP. Our recommendations are summarized as follows:

- The Proposed SSAP uses the "intent to sell a security" criterion, which is consistent with GAAP. However, the second criterion used in the Proposed SSAP ("intent and ability to hold a security until recovery") does not align with GAAP. The use of the "more likely than not that an entity will be required to sell a security" criterion that is currently used in GAAP will help ensure consistent application between GAAP and STAT.

- The Proposed SSAP incorporates the overall concept of EITF No. 99-20, *Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interest That Continue to Be Held by a Transferor in Securitized Financial Assets* (EITF 99-20); however, we do not think this is necessary. GAAP has the EITF 99-20 guidance, so that beneficial interests with deteriorating credit quality are subjected to additional impairment testing. STAT meets this same objective by requiring certain securities to be accounted for at lower of cost or

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Nationwide Insurance
Nationwide Financial

fair value based on lower NAIC ratings. Additionally, for life insurance companies, the Asset Valuation Reserve is also applied for the remaining population of securities not recorded at lower of cost or market. As such, the EITF 99-20 premise is not applicable for STAT. All loan-backed or structured securities, regardless of if they are considered beneficial interests in a securitized financial asset, should be subjected to consistent impairment procedures. As proposed, beneficial interest would have different decision criterion for the other-than-temporary impairment assessment than other loan backed and structured securities. Specifically, beneficial interests would not have the intent and ability to hold a security until recovery criterion. Therefore, the "beneficial interests" section should be removed or aligned with other guidance.

- We support the concept of full disclosure. However, unlike GAAP, STAT already mandates a CUSIP level disclosure of all securities including their book value and fair value in Schedule D, so full disclosure of interest related losses is already inherent. As proposed, paragraph 49f is unclear in what population of disclosure is required and if it is changing the existing Schedule D requirement. We do not feel a change to the existing Schedule D requirement is necessary.

  To achieve this, while incorporating the new concept of only non-interest related losses being recognized in realized losses, we suggest paragraph 49f read, "For all securities for which cost or amortized cost exceeds fair value, after the recognition of any other-than-temporary impairments, disclose: i. The aggregate amount of unrealized losses (that is, the amount by which cost or amortized cost exceeds fair value) and ii. The aggregate related fair value of securities with unrealized losses." In this suggested wording, key changes include the removal of the word "impaired", as it will cause confusion in practice, and replacing the phrase "cost or amortized cost is less than fair value" with "cost or amortized cost exceeds fair value".

- In addition, we recommend that the disclosures included in paragraph 49e be clarified to include disclosure at an aggregate level, which will help promote transparency. We do not believe a CUSIP level disclosure is necessary given the requirements of 49f.

We hope these comments assist you during your deliberations of the Proposed SSAP. In the event that the SAPWG would like any further clarification of our positions we are happy to explain them in greater detail.

Respectfully,

/s/ Martha L. Frye

Martha L. Frye
Senior Vice President and Chief Accounting Officer
Nationwide Insurance

ISLAND INSURANCE COMPANY, Ltd.

SSAP 43R Comments

Implementing SSAP 43R while continuing the current accounting for fixed income securities presents a very complicated picture for the users of the financial statements. Fixed income securities are currently not valued at mark-to-market unless required by the rating of the individual security, implying a hold-to-maturity intent. SSAP 43R calls into question the ability to hold-to-maturity.

To share the proper information with respect to liquidity and solvency, consideration should be given to converting the income statement to a statement of comprehensive income with all securities at fair market value. At the date of the financials, policyholder protection and liquidity/solvency become more in line with each other if comprehensive income is used. Further, rather than having to determine temporary vs other than temporary, any change in valuation would be reflected in the statement of comprehensive income and the balance sheet. For the policyholder, temporary vs other than temporary is irrelevant as the primary issue is whether or not there are sufficient assets to pay claims. Following a major catastrophe, temporary vs other than temporary becomes moot; cash is king.

Focusing the attention on the policyholder with the goal of liquidity and solvency via mark-to-market and a statement of comprehensive income instead shifts the attention squarely on valuation methodology and eliminates the second step (OTTI). Hence, there is less complication and increased clarity given the reduction in the two-step process (valuation methodology and its assumptions, then temporary vs OTTI).

Nolan Kawano
SVP, CFO & Treasurer
Island Insurance Company, Ltd.
nkawano@islandinsurance.com

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PCI Property Casualty Insurers Association of America
Shaping the Future of American Insurance

James M. Olsen
Sr. Director, Accounting and Investment Policy

July 31, 2009

Mr. Joseph Fritsch, Chair, and Members
NAIC Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 801
Kansas City, Missouri 64108
By E-Mail. Attn: John Tittle

Re: SSAP No. 43R – Loan-backed and Structured Securities (SSAP No. 43R)

Dear Mr. Fritsch:

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on the above referenced SSAP No. 43R. PCI is a full-service property casualty insurance trade association with over 1,000 members writing in excess of $100 billion in direct written premiums, over 35 percent of the U.S. property/casualty insurance market.

<u>Comments:</u>

We would like more clarity as to the need for separate guidance for the treatment of securities acquired in a transfer.

Is fair value in paragraph 17 based on discounted cash flows or market value?

We suggest the "intent and ability to hold" language be replaced with the "more likely than not that it will not sell" GAAP language in paragraphs 19, 20, 23, 24, 49e, and 57

Consider moving paragraph 22 to the Beneficial Interests section.

Should the 2nd sentence of paragraph 28 indicate discounted cash flows? …The difference between the new amortized cost basis and the <u>discounted</u> cash flows expected to be collected shall be accreted as interest income.

Paragraph 49e: Provide clarification that the disclosure should be on an aggregate basis.

Paragraph 49 f: Change wording to: "All impaired securities (fair value is less than cost or amortized cost)

Paragraph 57 needs clarity of the term interim period of adoption. Specifically, if a September 30, 2009 effective date is adopted does the phrase "at the beginning of the interim period of adoption" mean July 1, 2009 or January 1, 2009?

We believe SSAP 43R should be effective January 1, 2010 to provide for a consistent approach for reporting 2009 results rather that reporting a portion of the year under one standard and the rest of the year under a different standard. This would also provide sufficient time for pre-implementation planning activities, including system changes. In addition, a cumulative effect adjustment should be permitted to allow the early adopters of SSAP No. 98 to "undo" the effects of early adoption, since some early adopters did so in 2008 on the basis of

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a required January 1, 2009 effective date. This would ensure consistency with other insurers who did not early adopt and appropriately reflect the accounting proposed under the above recommendation.

If you have any questions please do not hesitate to contact me.

Respectfully,

SunGard iWorks Financials
5619 DTC Parkway, Suite 600
Greenwood Village, CO 80111

July 30, 2009

Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street
Kansas City, MO 64108

SunGard would like to thank you for the opportunity to comment on the exposed discussion draft of SSAP No. 43R – *Loan-backed and Structured Securities*, dated July 15, 2009.

SunGard provides IT solutions for the insurance industry in each of the following major business lines: life/health/annuities/pensions, property and casualty, reinsurance, and asset management. Our software and services support functions from the front-office through the back-office—from customer service and policy administration to actuarial calculations, financial and investment accounting, and reporting. SunGard's insurance solutions help businesses capture growth opportunities, improve regulatory compliance and optimize overall performance.

- More than 2,500 customer sites use SunGard's iWorks solutions
- SunGard's iWorks solutions are used in more than 50 countries
- More than half of the top 50 life insurance companies ranked in the Global Fortune 500 use SunGard's insurance solutions

SSAP 43 Comments:

In general, we support the intent of the revisions to SSAP 43. In the original SSAP 43, the recognition of Other-Than-Temporary Impairment (OTTI) was very limited. Due to the current market environment and in light of recent GAAP pronouncements we concur that changes to statutory recognition of OTTI is warranted. We also concur that while the recently adopted SSAP 98 was a step in the right direction, it did not adequately address the distinction between "interest related" impairments and "non-interest related" declines in fair value.

SSAP 43R provides for major changes not only in regards to Other-Than-Temporary Impairments, but other accounting issues affecting loan-backed and structured securities as well, including guidance for securities acquired in a transfer, beneficial interests, and modifications to disclosure requirements. The major concern we have with the revised SSAP is in regards to the effective date. As currently exposed, the revised SSAP would have an effective date of September 30, 2009. We believe this effective date is unrealistic for the following reasons:

- System considerations: The accounting changes that this SSAP mandates are substantial. This new guidance will require substantial changes in the logic within investment systems for determining Other-Than-Temporary impairments on asset backed securities, for writing down the security, and for the on-going accounting after the write down. Systems will also need to be able to provide the cumulative effect adjustments to surplus that result from applying the new standard to securities previously written down, per paragraph 57. For these reasons, there is a strong likelihood that vendors and internal systems developers may not be able to meet this time frame.

- Education and understanding: Many insurance companies are unaware of the proposed changes, and will have very little time to familiarize themselves with these changes, once the proposed revised SSAP is adopted. Not only will this affect their accounting systems, but will also impact their procedures and criteria for evaluating these securities.
- Different from GAAP: While companies subject to GAAP requirements may have some knowledge about the concepts and the mechanics of how to properly account for these securities and the related impairments, there are significant differences between the proposed SSAP and current GAAP accounting guidance on these issues. Even for these companies there will be a learning curve and implementation issues. That is, they won't be able to simply do what they do for GAAP purposes for their statutory accounting and reporting. Additionally, since many insurance companies do not file GAAP financials, they do not even have this perspective to draw from. For these companies understanding and implementing the new guidance will be even more burdensome.

Because of these concerns, we encourage the Working Group to consider a January 1, 2010 effective date for the revised SSAP. This will provide software developers (whether in-house or vendors) adequate time to implement these new requirements, as well as provide adequate time for insurance accountants to better understand the nature of these changes, and implement procedures to properly evaluate and analyze these securities for Other-Than-Temporary impairments. A January 1, 2010 effective date, would also provide consistency in the way these securities are evaluated and accounted for through the entire year and prevent having different standards and methodologies applicable for different periods within the year.

While our main concern is the proposed effective date, we also had a couple of points for clarification and correction:

- In Paragraphs 56 and 57 regarding the effective date, it is unclear whether this means that the new guidance is to be reflected in the 3rd Quarter 2009 Statements, or whether it is applied to securities held as of the end of the 3rd quarter, but would be reported for the first time in the 2009 Annual Statement. If the Working Group does not see fit to change the effective date as requested, we believe clarification is needed.
- In the Disclosures section, Paragraph 49.f., there appears to be an error in regards to the parenthetical describing "impaired securities". The sentence that begins "All impaired securities (cost or amortized cost is **less** than fair value)" should read "All impaired securities (cost or amortized cost is **greater** than fair value)", or "(fair value is less than cost or amortized cost)".

Once again, we appreciate the opportunity to comment on the proposed revisions to SSAP 43. We hope that the Working Group recognizes that this revised SSAP represents major modifications to the accounting guidance found in the current SSAP 43 and would consider a later implementation date. Without adequate time for vendors and insurance companies to understand and prepare for these changes the likely result is that there will be a great deal of confusion and lack of consistency in the accounting and reporting of these new standards.

Sincerely,

Dennis Lebar, CPA
Senior Regulatory and Accounting Specialist
SunGard iWorks Financials
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JACKSON
NATIONAL LIFE INSURANCE COMPANY

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Andrew B. Hopping
Executive Vice President
Chief Financial Officer

July 29, 2009

Mr. Joe Fritsch, Chairman
Statutory Accounting Principles Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Dear Mr. Fritsch:

Re: Statement of Statutory Accounting Principles No. 43 – Revised: Loan-backed and Structured Securities

Jackson National Life Insurance Company ("Jackson") appreciates the opportunity to comment on the proposed Statement of Statutory Accounting Principles No. 43 – Revised: Loan-backed and Structured Securities ("SSAP 43R").

Jackson has followed with great interest the development of SSAP No. 98, *Treatment of Cash Flows When Quantifying Changes in Valuation and Impairments,* An Amendment of SSAP No. 43, *Loan-backed and Structured Securities ("SSAP 98").* We, along with others in the industry, had previously expressed our concerns with SSAP 98, primarily the requirement to write an other-than-temporarily impaired ("OTTI") loan-backed or structured security down to the current fair value rather than to the economic value based on the present value of estimated future cash flows. Due to the illiquid / irrationally priced market for mortgage-backed and other structured securities, we believed that adoption of SSAP 98 would lead to far greater impairment charges than necessary or intended by the NAIC.

We believe that our concerns over SSAP 98 have been appropriately addressed by the changes proposed in SSAP 43R. We believe that the OTTI guidance presented in SSAP 43R will result in the loan-backed and structured securities being appropriately valued, with only the loss related to the reduced cash flows being reflected as an impairment charge to capital for those companies that have the intent and ability to hold the securities until the adjusted amortized cost is recovered. This approach to reflecting declining cash flows is more appropriate than a mark-to-market treatment for the life insurance industry, which generally invests to match longer-term liabilities.

Mr. Joe Fritsch, Chairman
Page 2
July 29, 2009

Jackson is in support of adopting SSAP 43R to supersede SSAP 98 as currently drafted with an effective date of September 30, 2009. If SSAP 43R is not adopted effective September 30, 2009, then we would strongly encourage the deferral of SSAP 98 from its current effective date of September 30, 2009 until the date at which SSAP 43R is effective.

Thank you for considering our comments.

Sincerely,

Andrew B. Hopping
Executive Vice President & Chief Financial Officer
Jackson National Life Insurance Company

c: NAIC Staff

MassMutual
FINANCIAL GROUP®

July 31, 2009

Mr. Joseph Fritsch, Chair
Statutory Accounting Principles Working Group
NAIC
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Re: Proposed Statement of Statutory Accounting Principles No. 43 – Revised, "Loan-backed and Structured Securities"

Dear Mr. Fritsch,

We appreciate the opportunity to comment on the Proposed Statement of Statutory Accounting Principles No. 43 - Revised: "Loan-backed and Structured Securities" ("SSAP No. 43R") and we are certainly supportive of SSAP No. 43R's proposed impairment guidance.

In our opinion, the proposed impairment model appropriately recognizes that an insurer's surplus should be impacted when a security has experienced a true credit loss and, conversely, clearly establishes that surplus should not be impacted by market value changes arising from non-credit related factors, such as illiquidity or changes in interest rates. That being said, we would request that the committee consider one further change to SSAP No. 43R involving the establishment of an "intent to sell" standard in the evaluation of an other-than-temporary impairment.

The proposed guidance requires that an insurer "assess whether it has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis" when determining if an impairment is other-than-temporary. If the insurer cannot assert that it has this intent and ability, an other-than-temporary impairment is considered to have occurred and the security is required to be written down. We believe that requiring an insurer to assert its intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis limits an insurer's flexibility with respect to managing its investment portfolio. Therefore, we suggest that the ability and intent to hold language be changed to reflect the insurer's probability that it will be required to sell the impaired security. This change will continue to provide an insurer with the ability to reassess its intent to sell (or requirement that it will have to sell) an interest related impaired security at each subsequent reporting period, which is consistent with the guidance in paragraph 5 of INT 06-07, *Definition of Phrase "Other Than Temporary."* To accomplish this, we suggest that the following language changes be made consistently throughout the proposed guidance:

Current language used in SSAP No. 43 Discussion Draft paragraph 23:

> The entity intends to sell the security or has assessed that that they do not have the intent and ability to retain the investments in the security for a period of time sufficient to recover the amortized cost basis

Suggested revision to language:

> The entity intends to sell the security or more likely than not will be required to sell the security before recovery of its amortized cost basis

Current language used in SSAP No. 43 Discussion Draft paragraph 19 (similar language is used in paragraph 57):

> The entity does not intend to sell the loan-backed or structured security, the entity shall assess whether it has the intent and ability to retain the investment in the security for a period of time sufficient to recover the amortized cost basis.

Suggested revision to language:

> The entity does not intend to sell the security and it is not more likely than not that the entity will be required to sell the security before recovery of its amortized cost basis

To be consistent with these suggested changes, we also recommend that the references to "intent and ability to hold" in paragraphs 19, 20, and 24 be removed.

Thank you for considering these comments and for the work of your committee. We would welcome the opportunity to discuss any of these comments further with you at your earliest convenience.

Sincerely,

Norman Smith

Norman Smith
Corporate V.P. and Controller

July 31, 2009

Joseph Fritsch
Chairman
NAIC Statutory Accounting Principles Working Group
25 Beaver Street
New York, New York 10004

Dear Mr. Fritsch:

We are writing to support the adoption of SSAP 43R. We commend the Statutory Accounting Principles Working Group and staff for seeking a rational valuation methodology that is consistent with both regulatory concerns and the way that insurers generate value from this important area of investment.

We have reviewed the ACLI comment letter and agree with the issues raised and their proposed solutions. We would like to emphasize one comment: the standard for impairment in SSAP 43R should be consistent with INT 06-07. This would promote consistency with other financial instruments, and given the probable wholesale replacement of these areas in U.S. and international GAAP, facilitate consideration and possible adoption of new guidance consistent with the soon to be revised standards. We therefore agree with the recommendation to delete paragraph 19 of the proposal.

We also ask the Working Group to consider a revision to its adoption and transition schedule. While we acknowledge the regulatory interest in this critical area, there are insurers with significant holdings that do not issue reports based on U.S. GAAP. The policy and systems adjustments for these companies will be quite difficult for a September 30 implementation date. We ask the Working Group to consider September 30 as a date for optional early adoption, with required adoption at year-end 2009. We also ask that the disclosures be required for the annual statement as opposed to quarterly, consistent with other financial instruments disclosures.

Sincerely,

Kevin Apataro

Kevin A. Spataro
Chairman, GNAIE Accounting Convergence Committee

CC: John Tittle, NAIC

Jerry M. de St. Paer
Executive Chair

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