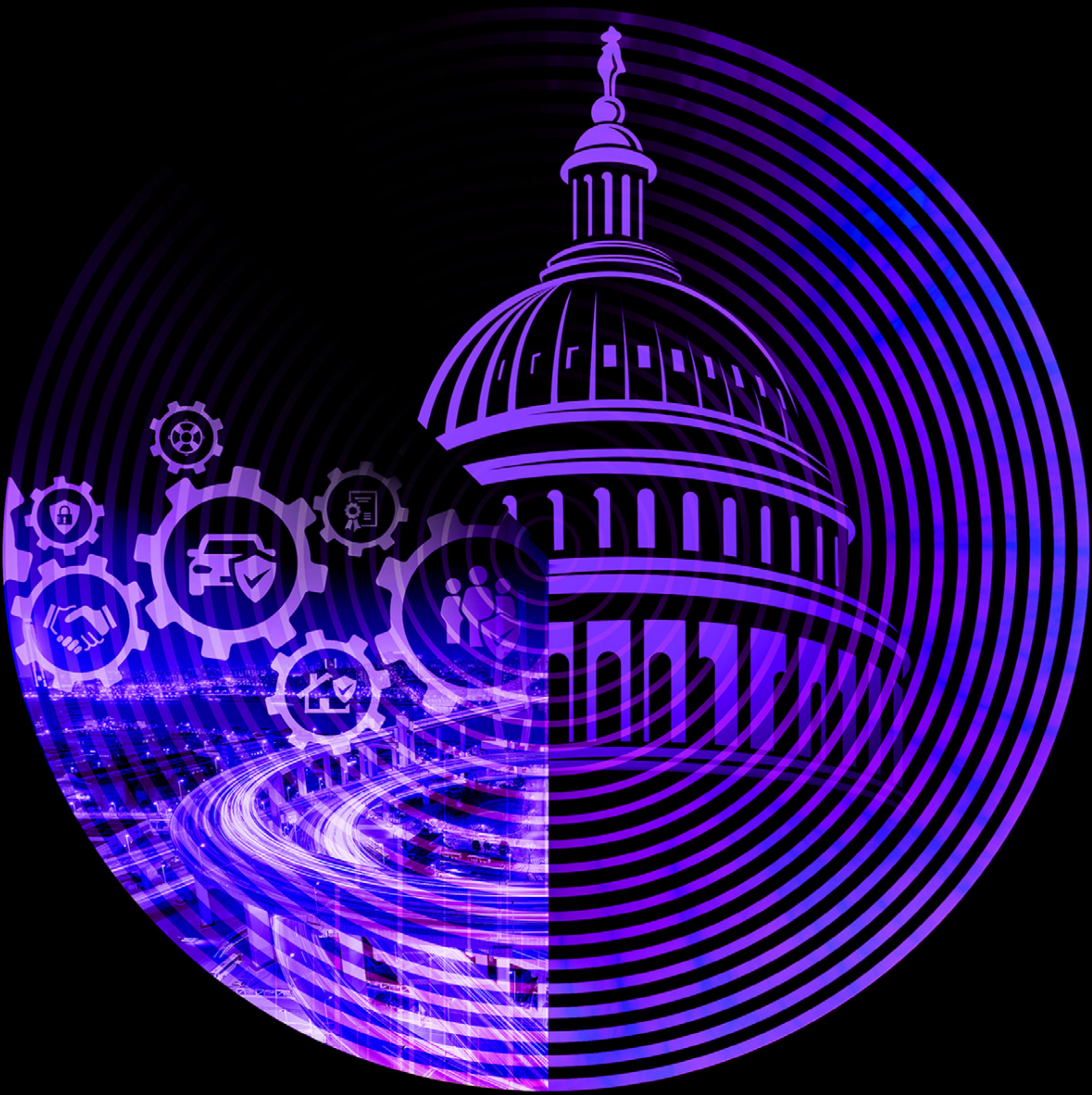

NAIC update: 2023 Fall National Meeting

Center *for* Regulatory Strategy US

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Introduction

An Icelandic company has "captured CO2 into stone underground in less than two years..."

Artificial intelligence (AI) language learning models (LLMs) "might be used to craft extremely convincing marketing materials or policy documents, which could mislead consumers or skew the market in favor of certain insurers."[1]

"Today we are seeing the consequences from wildfires, floods, and storms, among other perils, that are threatening communities and their economies.... We are at a watershed moment on climate and resiliency."[2]

These quotes from written presentation materials delivered at the National Association of Insurance Commissioners (NAIC) Fall National Meeting held November 29 through December 4 not only encapsulate the rapid advancements in the insurance sector but also underscore the dilemmas and potential opportunities insurance regulators confront as urgent issues sweep the landscape. Insurance regulators at the conference sought to position themselves at the forefront of navigating these dynamic shifts, a balancing act in maintaining consumer access and market solvency.

Thus, as rain clouds gathered and dispersed, then gathered again, darkening the late fall skies over Orlando (site of the meeting as well as a storied and celebrated amusement park), state insurance regulators gathered to collectively grapple with a rapidly changing future that spares no time for inaction. They gathered to explore and support solutions that will hold through the coming years to protect both consumers and the solvency of the insurance marketplace.

The final meeting of 2024 saw the winding down of the presidency of Missouri Insurance Commissioner Chlora Lindley-Myers and her year of "C.A.L.M." and the segue to the focus on NAIC "deliverables" and action during the upcoming presidency of Connecticut Insurance Commissioner Andrew N. Mais, who was elected to lead the NAIC in 2024.

"I started my term as president by calling for a year of C.A.L.M. You've heard me talk about it before, so I won't lay out the acronym again at this point, but it encompasses so much of what I believe state insurance regulators can be and do," the outgoing NAIC president declared at the meeting.[3] C.A.L.M. is a multiple-tiered acronym constructed by Lindley-Myers for her presidency in 2023, spelling out multiple positive collaborative concepts or values tied to each letter.[4]

And in the end, it all comes together when doing our jobs well provides us with some calm even during chaos.

"As I look back at 2023, I see an organization upholding its mission and preparing for the future by staying constantly in motion," Lindley-Myers stated during the NAIC's formal opening session on December 1, which occurred a couple of days after meetings had begun.[5]

NAIC officers for 2024, as elected December 4, include Andrew Mais as president; North Dakota Insurance Commissioner Jon Godfread as president-elect; Virginia Insurance Commissioner Scott A. White as vice president; and Rhode Island Superintendent of Financial Services Beth Kelleher Dwyer as secretary-treasurer.[6]

Dwyer ran on a platform that identified the four most pressing issues she said NAIC members must face together. The first three were availability and affordability of insurance for the consumer; adaptation to change and innovation while protecting consumer interests; and the solvency of insurer, which she termed "our highest responsibility."

"There is no consumer protection if the insurer is not there to pay the bill," said Dwyer, during the Plenary session, shortly before she was elected to an NAIC officer position.

The fourth key issue for Dwyer is that the US system of insurance regulation prevails in its dealings with regulators from other parts of the world "who have different approaches that would adversely affect our markets," she said. "Under our current leadership, we're finally winning this fight," noted Dwyer, who also serves as the nonvoting NAIC representative on the US Treasury-chaired Financial Stability Oversight Council (FSOC).

The experience of the consumer stayed in the spotlight at this NAIC meeting, even as the major work on a new consumer privacy model was paused until later in 2024. The spirited discussions of the meeting with respect to consumers focused on the effect of climate change on consumers' premiums and access to coverage.

While 2023 saw the relatively swift and smooth adoption of a first-ever model bulletin on AI and the introduction of some holistic approaches to a slew of discrete regulatory concerns, the discussions forecast in Orlando could cause more turmoil in the insurance regulatory ecosystem. These challenges, discussed throughout the meeting, include a fast-evolving technology development and implementation; structural change in life insurance with its concomitant solvency concerns; the intersection of climate events and access to insurance protection products; and tensions among the primacy of the state-based system as federal and international proposals gain traction.

Technology and data application advances—and pauses

AI model bulletin adopted—although some reservations continue

The NAIC adopted its AI Model Bulletin at the final session of the meeting, December 4, less than six months after an initial draft was presented at the end of June.[7] Review of drafts over the summer and fall resulted in an outcomes-based guidance that states can use to oversee AI technology by their licensees—and also delve into their use of third-party data while leaving the responsibility with the insurance company.[8] States can also adopt and incorporate the framework or standards developed by an official third-party standard, according to the bulletin. It specifically identifies the National Institute of Standards and Technology (NIST) Artificial Intelligence Risk Management Framework. The principles-based framework, when adopted by states, should address the use of AI systems across the insurance life cycle. However, it is not a model law but incorporates existing NAIC model laws such as the Unfair Discrimination Unfair Trade Practices Model Act and the Unfair Claims Settlement Practices Model Act and statutes already on the books in individual states.

Maryland Insurance Commissioner Kathleen Birrane, chair of the NAIC's Innovation, Cybersecurity, and Technology (H) Committee, ushered the principles-based document through the process from its inception, working with the whole of the NAIC membership throughout, showcasing the collaborative work by the organization in a relatively compressed time frame –it had been less than a year since the bulletin was first broached publicly at the Fall National Meeting in Tampa in December 2022.

While up for adoption, stakeholders were supportive although wanted to address wordsmithing and refinements before the vote. No last-minute changes happened, despite multiple stakeholders voicing concern that the word bias, while not defined in the guidance, is not widely understood in a standardized way. However, removing the phrases or words and replacing them with something new could have unintended consequences, as Iowa Commissioner and (H) Committee Co-Vice Chair Doug Ommen pointed out. NAIC-funded consumer advocate and visiting professor of law at Southern University Law Center Peter Kochenburger agreed with commissioners and industry that ultimately it was time to move forward with the model bulletin.

Although the bulletin was adopted, AI oversight work by the NAIC will hardly need dusting off soon. (H) Committee members noted that the intent was to continue discussions on AI and how companies are balancing their innovation needs with consumer protection.

Significantly, Birrane let attendees know that a potential enforcement toolkit may be developed next. At the meeting, she stated that regulators have had many "fruitful discussions," with "a lot of really good work within individual working groups about what our best practices [will be] for regulatory oversight." She remarked that now it's time to bring those groups together and announced that a couple new collaboration forums would be formed, with one "beginning to look at enforcement around AI and the use of AI by regulators, what an enforcement effort would look like and what enforcement tools would look like," while making sure regulators are efficient and consistent in their approach and best practices with regard to AI oversight and enforcement. The other collaboration forum the group will form in 2024 is on data calls, according to Birrane.

As Vermont Commissioner Kevin Gaffney said during the morning meeting of the Big Data and Artificial Intelligence (H) Working Group, which he co-vice chairs, "The industry's moving very fast in the space we are trying to keep up. It would be nice to stay ahead, but I think the realistic vision right now is to make sure that we're still in the rearview mirror of industry." Gaffney called the AI model bulletin the "guardrails on the highway. They're already laid out; they're there."

"But now we have to figure out, does everyone know the rules of the road?" he pointed out, calling for more conversations on AI use and decision-making, corporate governance, and the use of third parties in AI.

The rearview mirror and highway analogy employed by Gaffney might be revisited after what Birrane termed an interesting, riveting, and "somewhat horrifying" presentation on Generative AI's explosive growth and potential uses. *The Dawn of a New Age*, a presentation by Victor Winter of the University of Nebraska–Omaha, set up exercises for potentially unethical AI use and manipulation that could unsettle insurance markets and make regulators' jobs exponentially more difficult—all demonstrated through AI itself.[9]

Consumer privacy revisited

However, the model law development on consumer privacy did not get much airtime in Orlando.

The Insurance Consumer Privacy Protection Model Law (#674) was exposed as a draft in March, and again in June, and then underwent a vigorous comment period with in-person and virtual meetings through midyear 2023 but was deemed not ready for (H) Committee submission and received an extension of a year (or until December 1, 2024) before it will be considered again.[10]

By that time, it could be redrafted or a decision could be made to revise a vintage privacy model law. "The business of insurance is more global than it was 30 to 40 years ago. This model law reflects those realities and addresses the need for additional protections for consumers," draft model version 1.2 notes.[11] The Privacy Protections (H) Working Group drafted a model that was intended to modernize two decades-old model laws on privacy through required privacy notices but became mired in thick debate by the NAIC's Summer National Meeting in Seattle.

Role of third-party data use will get more scrutiny

At the outset of the (H) Committee meeting, Birrane announced that the NAIC will form a new working group or task force, which will be focused on the regulation of the use of third-party data, to look at the appropriate framework for the issue of third-party models for the entities overseen by state regulators. The specific details of this new group were saved for the new year, Birrane said, noting she wanted to highlight what was in store.

The third-party theme resonated through the AI discussions at the Orlando meeting. Iowa's Ommen noted during the (H) Committee's discussion prior to AI model bulletin adoption, that although the principles-based bulletin strikes a balance in its oversight of insurers without regulation of third parties, significant work still needs to be done with respect to these data vendors. Ommen said he was referencing an earlier discussion in the Big Data (H) Working Group session, where attendees learned that third parties develop more than half of AI/machine learning (ML) models used by life insurers.

These vendors are now serving very large segments of the industry, and some medium to small carriers don't have access to some of the systems, Ommen noted later, at the parent (H) committee meeting. Although he did not propose any new changes regarding third-party relationships involving AI at the meeting, he expects to continue to focus on these relationships. Birrane said she could not agree with him more.

During the early morning Big Data meeting, Vermont's Gaffney said that third parties develop more than half of AI/ML models used by life insurers. The NAIC working group's recent survey of AI models used by life insurers revealed that for marketing and price and underwriting, roughly half were developed in-house and half by third parties. This was about the same ratio found in the auto and homeowners insurance surveys for marketing. However, during the session, regulators shared that for pricing and underwriting, previous surveys found auto and homeowners insurers mostly developed their models in-house.

Environmental, social, and governance (ESG) matters take center stage

P&C coverage and pricing woes

The plight of the property insurance market in climate-affected regions and beyond stayed in focus throughout the fall meeting even as the NAIC furnished a new national strategic plan on dealing with climate risk issues pivotal to the insurance sector.

During the fall meeting, veteran consumer advocate Birny Birnbaum from the Center for Economic Justice (CEJ) used his last meeting in the NAIC-funded consumer advocate role before exiting that role to make a speech on inadequate property insurance market coverage and high rates in a time of ever-increasing natural catastrophe events.

Birnbaum accused insurers of mismatches between vulnerabilities to weather events and pricing with all involved not acting in time to recognize and assess climate change and its risks. He called for a massive investment in loss mitigation and prevention on the local and national level, speaking before the NAIC/Consumer Liaison Committee. Birnbaum was also recognized for his 23 years of service as an NAIC consumer advocate during the meeting.

In a presentation before state regulators, Amy Bach, executive director of United Policyholders and an NAIC-funded consumer advocate for 15 years, expressed her gratitude to Birnbaum for his work and creativity in discussing the fundamentals of a proposed solution. Specifically, she and other consumer advocates envision a catastrophic property loss reinsurance program that would provide reinsurance for primary insurance companies offering residential and commercial property insurance—but in return for access to reinsurance from that fund, primary insurers would have to offer an all-perils product. The time has come, said Bach, to "have our innovative thinking caps on" to address consumer availability and affordability in the face of climate change.

Bach also asked regulators to consider concepts including loan guarantees for insurers of last resort for reinsurance obligations and a new national all-risks disaster insurance program offering limited essential benefits.

Commissioners, such as Mississippi's Mike Chaney, showed interest in more use of reinsurance to help absorb risk instead of raising rates. Birnbaum offered a true public-private partnership for reinsurance as a solution, but he said he sees a federal role with federal resources as part of it. Birnbaum expressed concern for unstable property insurance markets that could risk financial stability. In one of his last appearances as an NAIC consumer advocate, he raised the specter of the failure of mortgage insurers in 2008. The more reinsurance bought by thinly capitalized insurers, the greater costs of reinsurance, which will then be passed on to consumers in the former of higher premiums, Birnbaum said. Coupled with a volatile reinsurance market, a sellers' market could lead to property insurance market instability, he warned.

Rate and risk reduction a partial solution?

Louisiana Insurance Commissioner Jim Donelon, who was concluding his last term before retiring at the end of the year, lamented during the December 3 meeting of the Property and Casualty (C) Committee that he had to raise auto rates by 15% to 20% in Louisiana, a state "already the most expensive" for auto insurance, driven by the cost of coverage due to risk and inflation. He said that when he gets calls or complaints about the prohibitive costs, he tells consumers about usage-based insurance (UBI), which can come with a 20% cost reduction.

With UBI, Donelon said, about 80% of folks find they aren't as good a driver as they thought they were, although many later improved. He himself had yet to take advantage of it.

Donelon spoke after a (C) Committee presentation on telematics and UBI by Tony Cotto, public policy counsel for the National Association of Mutual Insurance Companies (NAMIC). Telematics programs measure how and how much a person uses their car. According to Cotto, 16 million auto policyholders use telematics programs, which can lead to a premium reduction, which other insurance industry representatives seconded, in support of the program's usage to lower rates and lead to safer driving habits. The presentation highlighted that even risky behaviors from the teen population were reduced by the use of telematics, and a healthy double-digit percentage reduction in risky behaviors occurred during a special contest using the program in Boston.

However, NAIC consumer advocate Michael DeLong of the Consumer Federation of America (CFA) expressed concern about consumers' data privacy and use by telematics programs and questioned the commercial use of the data. He advocated for guardrails on the use of telematics with more oversight by insurance regulators.[12]

Race and insurance

The Special Committee (EX) on Race and Insurance is heading into 2024 with plans for specific timelines and deliverables under its charges. Commissioner Mais, then president-elect at the time of the meeting, made clear the discussions and work would focus on closing protection gaps. This is a particular area of focus for Mais, who wants to see concrete action taken in 2024, according to his remarks in Orlando.[13]

In its December 2 session, the Special Committee discussed unfair bias in underwriting and rating; marketing, distribution, and access to life insurance products in minority communities; and financial literacy in underserved communities.[14]

During the Life and Annuities (A) Committee meeting, NAIC-funded consumer representatives Birnbaum and Brenda Cude of the University of Georgia raised issues about financial literacy in America, as a whole, citing studies that reveal only 55% of the population are financially literate.[15] The three areas to understand for basic financial literacy are compound interest, inflation, and risk diversification, Cude explained.

The Special Committee (EX) on Race and Insurance is planning to continue discussions around closing protection gaps in all sectors of insurance and working with industry and consumer groups to advance this goal. The relationship between mortality risk and disparate impact will be a subject of research and analysis in 2024, according to the charges laid out for the committee.

The P&C workstream is planning on using analysis and regulatory tools to explore more factors that go into underwriting protection products, identifying such variables as socioeconomic variables and criminal history. The group is focused on identifying proxy variables for race and potential bias in underlying data and the proper use of third-party data.

As such, Special Committee (EX) plans to continue to coordinate with existing groups such as the (H) Committee, Big Data and AI Working Group, and Casualty Actuarial and Statistical (C) Task Force and encourages those groups to continue their work on issues affecting people of color and/or historically underrepresented groups, particularly in predictive modeling, price algorithms, and AI, according to the charges laid out.

The Committee also heard updates on diversity, equity, and inclusion work and discussions in the workplace.

Strategic planning and strategic science

Climate and Resiliency (EX) Task Force saw the public meeting unveiling of a "first ever" *National Climate Resilience Strategy for Insurance*—a richly designed document that was adopted by the Climate Task Force but didn't move to the full Executive Committee and Plenary as it drew comments and feedback from industry participants and consumer advocates.[16]

The strategic plan for climate would build upon the Climate Task Force's existing work and create a framework for a set of action plans with their owns sets of deliverables.

The national resiliency strategy draft was oversee by California Insurance Ricardo Lara Commissioner, California and Alaska Insurance Director Lori Wing-Heier, the co-chairs of the Climate Task Force in 2023.

The resiliency actions, as outlined in the strategy plan, are as follows:

1. Close protection gaps.
2. Create a new flood insurance blueprint for expanding flood insurance options.
3. Perform a comprehensive P&C data collection and assessment.
4. Create risk mitigation initiatives, such as resilience tools.
5. Test scenarios through recommended scenario analysis tools to understand how climate risks are affecting insurer solvency.

The plan's identified actions include the creation of a blueprint for the future of flood insurance, beyond reliance on the National Flood Insurance Program (NFIP) run by the Federal Emergency Management Agency (FEMA). "We can coordinate on insurance regulator approaches to new strategies on innovative products, risk assessment tools, risk communication, and risk mitigation programs that can help close protection gaps for flooding," the landmark plan states.

It also includes the already announced NAIC climate P&C data call on the availability and affordability of insurance. The strategic plan calls for the data collected "to reinforce the connection between risk reduction and insurance availability to understand trends in the recent actions of insurance companies by geography, impacts to consumers, and to develop risk mitigation and risk communication priorities."

The NAIC is nearly ready to release its P&C data call, which will inform the implementation of the NAIC's Climate Resilience Strategy, according to Alaska Insurance Director and Climate Task Force Co-Chair Lori Wing-Heier. The action plan's deliverables combined into a unified state regulatory strategy will be valuable for state insurance oversight, she said, mentioning a previous regulator-only review of the NAIC Protection Gap Dashboard. One of the deliverables of the first action item of the strategy is to launch this dashboard to understand current protection gaps, so states can better address insurance availability.

In contrast, the Federal Insurance Office (FIO) climate data call proposal first was announced in 2022, amended in 2023, and was submitted to the Office of Management and Budget (OMB) in the fall.[17]

Wing-Heier thinks this strategy plan's "collective response" of the NAIC membership will be a "living document." She referred to the document that is "somewhat of a response to FIO," so the public will know what the NAIC is doing with respect to climate change. Wing-Heier also linked work on the NAIC Center of Excellence (COE) on Catastrophe Modeling with its upcoming national data call as a synergetic exercise that will furnish insurance regulators with richer data for more insightful conclusions to their analysis.

As a document, the Climate Resilience Strategy not only highlights accomplishments and diverse state initiatives, such as Strengthen Alabama Homes, but is meant to both defend and strengthen the state-based system through the use of tools such as a dashboard and catastrophe modeling. The work to "creating stronger cohesion" is organized among four workstreams, which are solvency, technology and innovation, climate risk disclosure, and pre-disaster mitigation.

Feedback on the document from stakeholders, including some regulators, centered on transparency in the document's formation, opportunities to perhaps comment further before formal NAIC adoption, and a concern by one industry participant that the document could be "weaponized against" the NAIC in whether its goals were aspirational or doable.

Washington Insurance Commissioner Mike Kreidler argued that the document was developed as an internal document from the standpoint of a strategy process and there should be no need to delay it. "If you can't run your show without having everybody tell you just exactly when to sharpen your pencil, then you've got a real problem," Kreidler said. He called it a good, comprehensive document. Other commissioners agreed. "[It] simply reflects what we have been doing and it provides context," President-Elect Mais added during the Climate Task Force session.

Task Force Co-chair and California Insurance Commissioner Ricardo Lara appeared virtually, as he was concurrently attending the United Nations' annual climate meeting, COP28, in Dubai, remarking that the strategy paper is a "living document," but the idea is to keep it moving to meet NAIC timelines.

According to the NAIC summary of the meeting, the plan is to continue discussions and perhaps update document wording before it is considered for adoption by the full Plenary, effectively exposing the document for review.

"We think there is insufficient emphasis on state and local government In terms of land use, building codes, nature, based solutions and other things like that in order to create the predicate so that you and we can actually close the protection gaps," said David Snyder, vice president with American Property Casualty Insurance Association (APCIA).

The very content-rich Task Force session also featured presentations on parametric insurance solutions and carbon capture technology.

Edda Björk Ragnarsdóttir, a business development executive for Carbfix, fascinated regulators and attendees with an explanation of her company's work turning carbon (CO_2) into stone. Carbfix, a subsidiary of an Icelandic utility, received grants and is growing fast in its global effort to meet international climate goals and capture, store, and reduce 115 tons of carbon in the atmosphere by the end of 2060.[18]

The company has identified North America as a top priority location when it comes to scaling up technology, Ragnarsdóttir said, showing a presentation slide meant to illustrate how the company's carbon capture process has enormous potential in the United States. Using water, the company's technology applications take CO_2 and mineralize it with basaltic rocks, which are very porous and the most common rock formation on Earth. The company captured CO_2 into stone underground in less than two years through a proprietary technology that basically imitates and accelerates natural processes, according to the company.[19]

Solvency and capital initiatives draw a wealth of response

Domestic: The 'eyes of the [investment] world' are on the SVO?

"An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims," the NAIC has repeated, maintaining a theme that gained force—and vocal responses on process—during the meeting in Orlando.[20]

The NAIC's in-house Securities Valuation Office (SVO) and its evaluation of securities is taking further shape, as the Valuation of Securities (E) Task Force under the parent Financial Condition (E) Committee discussed NAIC designations of securities, an ongoing and highly scrutinized process in the insurance investment arena.[21] Discussions on the NAIC designations and the SVO's discretion over designations assigned by credit rating agencies drew standing room-only crowds in Orlando. The NAIC's financial oversight team is striving to assert insurance regulatory solvency primacy in a world of complex financial instruments used by a large swathe of investors—insurers among them.[22]

At the Financial Condition (E) Committee, one industry commenter declared that "the eyes of the financial world are upon us" as the NAIC seeks to develop a holistic framework for dealing with current or emerging issues that could potentially affect insurer solvency and the SVO has sought to model collateralized loan obligations (CLOs) for 2024 and set risk-based capital (RBC) for residual trances, and deal with credit ratings on securities that it might adjust or scrutinize further. The NAIC is now seeking a broader approach to addressing these issues.[23]

As the lead financial insurance regulator from Nebraska stated during the (E) Committee meeting, the goal is to make sure SVO has the tools it needs.

This proposed holistic framework, or *Framework for Regulation of Insurer Investments*, to modernize the SVO—and potentially expand and rename it—is still under development but the NAIC is committed to facing the rigorous solvency oversight over the increasing complexity of many of the life insurance industry's company investments.

This framework development has been prioritized for 2024 by the NAIC members.

"The historical focus of the SVO has been on risk assessment of individual securities, with filing exempt securities blindly reliant on credit rating providers (CRPs) for designations," the draft informs. The NAIC is "envisioning a modernization of the role and capabilities of the SVO in a way that correlates with the observed shift towards more complex and asset-intensive insurer business strategies."

Stakeholders lined up for a speedy round of comments, where speakers representing a company, trade, or advocacy role had a mere two minutes each to make their point.

Industry sentiments from life insurers and private equity industry representatives ranged from concerns about resource allocation and the need to avoid "blind reliance on credit rating providers," to worries over the NAIC's role in portfolio analysis versus individual securities and the potential expansion of the SVO and what could or should be done by the states instead of the NAIC's internal national organization. Industry raised the issue of the pace of proposed changes in modeling CLOs to caution to not depress activity in asset-backed securities and use an appropriate risk framework at a time when corporate bonds have lost a significant amount to their value amid a move to alternative investments globally. Some commenters worried about the difference in the gap between a credit rating agency opinion and the SVO's assessment, triggering potential action. Speakers acknowledged that insurers are increasing their investments in assets with private letter ratings. Alternative investment managers and PE representatives championed private equity and alternative investment strategies as a natural match to meet life insurance companies' long-term investment liabilities.[24]

Regulators were encouraged to adopt principles for risk oversight that have clarity, consistency, and governance and make prudent use of agency ratings.

A ratings agency representative said he agreed that the NAIC should develop a framework on the review of ratings, but be narrowly focused, and potentially expand a certain type of stator investment reporting (Schedule D) to prevent regulatory arbitrage or ratings inflations.

One industry representative recommended an outside consultant to look at reforming the office as he called the SVO an anachronism from when its duty was to look at securities, not do credit analysis.

On December 4, 2023, the NAIC exposed for comment amendments to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* for 53 days. A significant amendment is a proposal to update the definition of an NAIC securities designation with a more "concise" definition that reflects credit quality as well as any inconsistencies with the existing regulatory assumptions and any default or tail risk. Another is an amendment authorizing the procedures for the SVO's discretion over NAIC designations assigned through the filing exemption (FE) process, with a proposed effective date of January 1, 2025.

The NAIC revised this amendment to incorporate steps after feedback from interested parties' steps, which involve first identifying an FE security with an NAIC designation determined by a rating that appears to be an unreasonable assessment of risk.

The NAIC has stated that the process to enhance the SVO's desired initiative, if adopted, will require time and funding, potentially postponing the intended effective date.[25]

The FE process is an exemption from filing a security that would otherwise be required to be filed with the SVO to receive an in-house NAIC designation denoting credit risk or quality.[26]

While this is a technical discussion, key state regulators involved in solvency discussions and SVO staff have stressed that insurer solvency oversight is at stake.[27]

The NAIC has been zeroing in on the use of credit rating provider (CRP) ratings in determining an NAIC designation to a security with the goal of ensuring greater consistency, uniformity, and appropriateness of that rating.[28] This is part of the NAIC's effort to oversee insurers' financial solvency, of which investments are a backbone.[29]

The issues involving designations and the use of credit rating agency designations that might not align with insurance regulatory oversight interests have been brewing for several years. The NAIC has repeatedly expressed concern about "increasingly opaque" structures of securities found in structured equity and funds, or feeder funds, and taken action before to manage life risk-based capital (RBC) formulas for residual tranches of structured securities for year-end RBC filings.[30]

"It is incredibly important to note that designations ultimately fall under the purview of state insurance regulators. While the definition is still being worked on, it is necessary to clearly highlight this authority of state insurance regulators and reiterate that designations are solely for use within the insurance regulatory framework, and they are not ratings themselves," state regulators stated.[31] The NAIC has no intention to displace rating agencies or ratings, said Iowa financial regulator Carrie Mears, who co-chairs the VOS Task Force. However, the group is empowering SVO to take action if necessary in a very targeted way, she explained.

Regulators have striven to build a robust system where they are not reliant on credit rating agency ratings and to be able to act when there is a misalignment between an outside rating and NAIC expectations for a designation due to a variety of factors, necessitating that the NAIC make an adjustment.[32]

At the VOS Task Force, attendees were presented with a slide show on the history of the FE process that dated back to 1907 when Massachusetts first raised concerns about discrepancies in insurer valuation practices.[33]

The presentation by NAIC staff concluded that although the FE process has been in use for 20 years and is not going away, "there has never been an absolute right to use rating agency ratings, including today."[34]

The NAIC also noted it is moving ahead in its proposed CLO modeling methodology, which is continuing apace, as it is not pausing its work even as the SVO itself is considered for a potential remake and expansion.

International

The International Insurance Relations (G) Committee discussed progress on initiatives of the International Association of Insurance Supervisors (IAIS) against the backdrop of the IAIS's recent annual meeting in Tokyo, less than a month prior, and the impending decisions due by year-end 2024.[35]

In October, the IAIS began its assessment of whether the Aggregation Method (AM) provides comparable outcomes to the Insurance Capital Standard (ICS). To help provide more detailed information on, and better understanding of, the AM beyond what is already available, a document describing the provisional AM for use in the comparability assessment was released in September and is available on the NAIC website.

These initiatives include the implementation and assessment of updated Insurance Core Principles (ICPs), the Common Framework for Supervision of Internationally Active Insurance Groups (ComFrame), and a holistic framework for systemic risk assessment. The committee is geared up for the year ahead in which the IAIS will decide whether the US version of the global ICS, termed the AM, is comparable in outcomes to the ICS and will be accepted. The provisional AM is being used in the comparability assessment, and a final decision on the AM is slated for the fourth quarter of 2024.[36]

"As we believe the IAIS' final assessment criteria provides a viable and fair pathway, we look forward to the final decision in 2024 that establishes the AM as an outcome-equivalent approach for ICS implementation," then-NAIC President Lindley-Myers stated at the NAIC's opening session December 1.[37]

While the International Insurance Relations Committee meeting was in no way strained or tense, Incoming Secretary-Treasurer Dwyer's words at the final session on December 4 served as a sober reminder that more advocacy is going to be required on the international stage in the coming year in support of the US position.[38] As noted, Dwyer made clear during the Plenary session that the states and the NAIC must remain vigilant against those "who have different approaches that would adversely affect our markets," but expressed confidence the United States is prevailing.[39]

Participation in national forums was highlighted, and in other meetings, the extensive career and work of Louisiana's Donelon, a former NAIC president (2013) who did not run for re-election, was recognized and lauded by his fellow commissioners. Donelon had been an active and well-known committee participant and leader at the NAIC since 2006 and was elected four times after stepping up to the role initially. He remained active and involved in high-level discussions with other commissioners throughout his last meeting as an insurance regulator, especially on climate risk issues.[40]

Federal oversight initiatives spur concern, debate

The unveiling by the Department of Labor (DOL)'s Employee Benefits Security Administration of a proposed rule that would bring sales of annuities, among other products, in workplace retirement products and plans under fiduciary status on October 31 weighed heavily on attendees in Orlando, with many voicing strong concerns and outright criticism of the proposal.

At the opening session of the NAIC, President Lindley-Myers invoked the DOL fiduciary proposal, the "Retirement Security Rule: Definition of an Investment Advice Fiduciary," noting how the NAIC had weighed in on it.[41]

The new fast-moving process (the DOL did not grant an extension to the proposal's comment period or hearing dates) to apply fiduciary status under the Employee Retirement Income Security Act (ERISA) spurred heated reactions and discussions both in meetings and at the sidelines of the conference in Orlando.[42]

In past NAIC meetings, federal agency guests have been participants at sessions, but the DOL was not represented at the Fall National Meeting. Regardless, the effect of its proposed rulemaking was evident in comments delivered by stakeholders and state regulators.

The Life Insurance and Annuities (A) Committee meeting on December 3 opened up the floor for comments on the proposal after NAIC staff discussed the proposed rule and its amendments, including changes to current prohibited transaction exemptions (PTEs) that allow investment advice fiduciaries to receive compensation and engage in certain transactions that would otherwise be prohibited.[43]

NAIC stakeholders assembling to deliver comments before the Life (A) Committee did not mince words. Marc Cadin, CEO of the trade group Financial Security for All (Finseca), condemned the proposed rule saying that it's not only offensive, but the rule itself is "substantively bad, and its roll-out is misleading and insulting," adding it would reduce choices in the marketplace.[44]

Another trade group representative, Roger Moore of the National Association of Insurance and Financial Advisors (NAIFA) echoed Finseca and called for the NAIC's swift and strong opposition to DOL's actions, calling it "unnecessarily burdensome, duplicative, and ultimately harmful" to investors and Americans families.[45]

Like many state regulators and industry groups, he and others underscored the sentiment that the NAIC's updated *Suitability in Annuity Transactions Model Regulation*, adopted in 2020, is sufficient and protects consumers.[46] This revised model law, with clearer, enhanced standards for annuity sales has been adopted in 40 states so far.[47]

Industry comments and regulators resisted characterizations of state regulation and the NAIC suitability model law itself as not comprehensive just because it doesn't impose a state-based fiduciary standard. The model was created after input for several years in the wake of the DOL's last attempt, since struck down by the 5th Circuit Court of Appeals in 2018, to impose a standard of "fiduciary investment advice" under ERISA.[48]

One life insurance trade representative said the proposal would cut into the retirement protection gap and is fundamentally a mistake. Some said the proposal, if enacted, would disproportionally affect low-to-moderate-income savers, and multiple stakeholders vowed to fight it.

However, Birnbaum, the veteran NAIC consumer advocate, stated that the Center for Economic Justice as well as other named consumer groups fully support the DOL proposal, and he thinks state-based measures don't provide adequate protection.

The DOL proposal would affect the sales of fixed indexed annuities through workplace accounts and potentially the product structure down the line.

Stakeholders at the NAIC, some of whom would testify at the end of the DOL's public hearings less than two weeks later, reacted to the Executive Office of the President's Council of Economic Advisers' stance that "the rule would expand the existing fiduciary standard that commonly covers advice over purchasing securities like mutual funds, to include new types of non-securities like fixed index annuities, advice to employers and plan fiduciaries, and one-time advice for transactions like 401(k) rollovers. The rule will cut junk fees in retirement products, potentially providing billions more in savings for those saving for retirement."[49]

Just one month prior, on November 1, the NAIC had issued a statement that opposed the fiduciary rule and the way it was characterized by the Biden administration: "We fundamentally disagree with the White House's characterization of state consumer protections for annuity products."[50] The White House press conference that repeatedly focused on "junk fees" in the sale of fixed indexed annuities, and the umbrage the NAIC and industry took at the time, continued to be heard in Orlando conference rooms and hallways.[51] The NAIC, in its response to the press conference, continued: "The White House press statement that oversight of these products 'varies state by state' and provides 'inadequate protections and misaligned incentives' suggests either ignorance of, or willful disregard for, the hard work of the 40 states and counting that have worked diligently to enhance protections for consumers by adopting the NAIC's *Suitability in Annuity Transactions Model Regulation*."[52]

The DOL fiduciary proposal is not the only federal or global oversight perceived incursion into state regulatory authority that sparked reaction at the meeting. For example, in the realm of data oversight, the FIO's impending exercise, as revised, to collect homeowners insurance data it says isn't otherwise publicly available on a nationwide level by ZIP Code was met, in part, with the NAIC's new climate strategy plan, discussed above.[53] Alaska's Wing-Heier, co-chair of the Climate Task Force had referred to the new strategy plan as "somewhat of a response to FIO," so the public will know what the NAIC is doing with respect to climate change.

The FIO action, of course, stems from President Biden's Executive Order on Climate-Related Financial Risk in May 2021, which specifically called on FIO to assess climate-related gaps in the supervision and regulation of insurers as well as consult with states in assessing potential disruption in property markets caused by climate events or changes in vulnerable markets.[54]

Conclusion

As 2024 continues to unfold, the complexity of issues affecting the industry and intertwining themselves through it are expected to continue to grow. Developments geopolitically—in technology, markets, governments, and climate incidents—could add more layers to the NAIC leadership commitment to closing consumer protection gaps amid solvency considerations.[55] Ongoing federal interest and anticipated action in the insurance regulatory space will accelerate as well, with the DOL and Treasury-led initiatives potentially coming to fruition. This complex dynamic will come into sharper focus during the NAIC Spring National Meeting, the first of three national gatherings planned in 2024, to be held in Phoenix, March 15–19. By then, NAIC President Mais's assembled leadership for core committees will have created a strong set of priorities, action items, and specific deliverables for the year. Mais made it clear in his public remarks during the NAIC Fall National Meeting that action on key items and his strong commitment to addressing consumer protection gaps are a minimum expectation for his year at the helm of the NAIC. A robust agenda is expected to greet a new NAIC internal executive leader when that person is selected—almost a year has passed since former NAIC CEO Mike Consedine stepped down from his role.

Regulators and stakeholders will be primed to continue vigorously discussing and debating regulatory changes and reactions to market and climate forces while also putting great effort into addressing ever-accelerating innovative technology advances. This interplay will directly affect the lives of consumers in profound and perhaps unforeseen ways, as the US state regulatory system's role amid federal and international insurance initiatives and ongoing tensions gains the spotlight.

The urgency of regulators' mission to close protection gaps and find sustainable ways forward for consumers and the industry amid weather-related and market challenges and the development of blueprints for a new solvency and capital framework will also dominate the days in upcoming 2024 meetings.

NAIC accounting update

This section of the NAIC update focuses on accounting and reporting changes discussed, adopted, or exposed by the Statutory Accounting Principles (E) Working Group (SAPWG), the Accounting Practices and Procedures (E) Task Force, and the Financial Condition (E) Committee during the 2023 Fall National Meeting. New Statutory Accounting Principles (SAP) Concepts (formerly known as substantive changes), which are changes in accounting principles or method of applying the principles, have explicit effective dates as documented below. All SAP Clarifications (formerly known as nonsubstantive changes), which are changes that clarify existing accounting principles, are effective upon adoption, unless otherwise noted.

Statutory Accounting Principles Working Group

Current developments: The SAPWG adopted the following New SAP Concepts during the 2023 Fall National Meeting.

Ref#	Title	Ins. type	Revisions adopted	F/S impact	Disclosure	Effective

2023-17	**SSAP No. 2R—Cash, Cash Equivalents, Drafts, and Short-Term Investments**	P&C
		Life
		Health
			Adopted revisions to further restrict what is considered a short-term investment and recommend reporting of such items on *Schedule BA: Other Long-Term Invested Assets*.
			
			Effective date: **January 1, 2025**
			
			The action was prompted by discovery of collateral loans and other long-term invested assets reported on *Schedule DA: Short-Term Investments*, which were designed to have the characteristics of a short-term investment but continually rolled over or replaced, resulting in continued reporting on Schedule DA for multiple years.
			
			The following investment types are excluded from cash/cash equivalent and short-term reporting:
			• Asset-backed securities
			• Schedule BA investments
			    ◦ Failed bond definition
			    ◦ Collateral loans/non-collateral loans
			    ◦ Working capital finance investments
			    ◦ Surplus notes
			• Mortgage loans
			• Derivatives
			• Securities with terms that reset
				Y	N	2025

Ref#	Title	Ins. type	Revisions adopted	F/S impact	Disclosure	Effective

2023-15	**SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve**	Life
		Health
			Adopted revisions to remove guidance from the Annual Statement instructions that permits the allocation of non-interest-related losses to the interest maintenance reserve (IMR).
			• Intent of this item is to address situations that focused on the change in NAIC designations as the catalyst for reporting losses as asset valuation reserve (AVR).
			    ◦ Investments sold in response to known credit events before the designation downgrade was reflected.
			    ◦ Mortgage loan guidance that permitted impaired mortgage loan losses to be taken to IMR as long as they were sold before the loan was 90 days past due or in foreclosure.
			Effective: **January 1, 2024**
			Mortgage loans
			• Credit related—AVR
			• Interest related—IMR
			Debt securities
			• More than one designation change or acute credit event—AVR
			• Designation change of one or less—IMR
				Y	N	2024

Current developments: The SAPWG adopted the following SAP Clarification items as final during the 2023 Fall National Meeting and Interim Meetings.

Ref#	Title	Ins. type	Revisions adopted	F/S impact	Disclosure	Effective
2023-18	**SSAP No. 5R—Liabilities, Contingencies** **SSAP No. 92—Postretirement Benefits Other Than Pensions** **SSAP No. 102—Pensions** **SSAP No. 103R—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities**	P&C Life Health	Adopted, with modification, certain elements of *ASU 2016-19, Technical Corrections and Improvements*. Remainder to be rejected.	N	N	2023
2022-11	**SSAP No. 20—Nonadmitted Assets** **SSAP No. 21R—Other Admitted Assets**	P&C Life Health	Adopted revision clarifies that collateral loans must be collateralized by admitted invested assets. Adopted revisions also clarify that *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* type investments must have an audit in order to serve as collateral for collateral loans. Evidence of fair value of underlying collateral must be maintained and available for the domiciliary state regulator and independent auditor.	Y	N	2023
2023-23	**SSAP No. 30—Unaffiliated Common Stock** **SSAP No. 32—Preferred Stock**	P&C Life Health	Certain legal entities captured in SSAP No. 48, such as LLCs that are corporate-like, do not issue preferred stock in legal form, but instead issue identical instruments labeled preferred units, interests, or shares. Adopted clarification to require investments in common stock and preferred stock that are, *in substance*, residual interests to be reported as other long-term investments on Schedule BA.	Y	N	2023
2023-12	**SSAP No. 43R—Loan-Backed and Structured Securities**	P&C Life Health	Previously, the Working Group defined the concept of residual interests and concluded they were not bonds. Ultimately, residual interests are reported on Schedule BA as an "other long-term investment". Adopted revisions that clarify all forms of residual interests, even those structured as limited partnerships, joint ventures, or other equity fund investments, fall within the SSAP No. 43R definition and are to be reported on Schedule BA. A separate agenda item was also exposed to recommend additional reporting categories for Schedule BA to capture the various forms of residual interests. (2023-16)	Y	Y	2023

Ref#	Title	Ins. type	Revisions adopted	F/S impact	Disclosure	Effective
2023-22	**SSAP No. 54—Individual and Group Accident and Health Contracts**	P&C Life Health	For insurers with both Long-Term Care (LTC) and other Accident and Health business. The agenda item was prompted by noted inconsistent application of the interaction of *Actuarial Guideline 51, The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51), which is specific to LTC, and *Appendix A-010, Minimum Reserve Standards for Individual and Group Accident and Health Insurance Contracts.* Adopted revisions clarify that gross premium valuation and cash flow testing are both required, if indicated by results. AG 51 is a test for additional reserves. Passing AG 51 does not relieve the reporting entity of the requirement of SSAP No. 54R and A-010 to have adequate accident and health reserves indicated by the gross premium valuation.	Y	N	2023
2023-21	**SSAP No. 92—Postretirement Benefits Other Than Pensions** **SSAP No. 102—Pensions**	P&C Life Health	Adopted revisions to remove the transition guidance related to initial adoption in both SSAPs.	N	N	2023
2023-04	**SSAP No. 101—Income Taxes**	P&C Life Health	The Inflation Reduction Act was enacted in 2022 and included a new corporate alternative minimum tax (CAMT) which goes into effect for 2023 tax years. Adopted *INT 2023-02: Third Quarter 2023 Inflation Reduction Act – Corporate Alternative Minimum Tax* to address issues for third quarter 2022 through third quarter 2023 reporting. *(Since nullified)* The CAMT presents several accounting challenges, including treatment of tax-sharing agreements, consideration regarding the CAMT DTA in the statutory valuation allowance (VA) analysis, and the treatment of CAMT DTAs in the overall DTA admissibility calculation. Adopted *INT 23-03: Corporate Alternative Minimum Tax Guidance*, which requires VA and admission to adhere to existing guidance in *SSAP No. 101*, including admission by offset by deferred tax liabilities. *NOTE: Specific transition guidance provided for revised corporate tax-sharing agreements filed on or before December 31, 2023.*	Y	Y	2023

The SAPWG exposed the following items for written comments by interested parties:

Ref#	Title	Ins. type	Revisions exposed	F/S impact	Disclosure	Effective
2023-14	**SSAP No. 7—Asset Valuation Reserve and Interest Maintenance Reserve**	Life Health	**Proposed New SAP Concept** This item is the establishment of a broader long-term project to address accounting and reporting for the AVR and IMR.	Y	Y	TBD

2019-21	**SSAP No. 21R—Other Admitted Assets**	P&C
		Life
		Health
			Proposed SAP Clarification
			
			This item relates to the principles-based bond definition. Re-exposed revisions as follows:
			Clarifies accounting and reporting requirements for:
			• Debt securities that do not meet the updated definition of bonds.
			    · Initially reported at acquisition at cost, including brokerage and other related fees on Schedule BA: *Other Long-Term Invested Assets.*
			    · Subsequently reported at the lower of amortized cost or fair value, with changes recorded as unrealized gains or losses.
			• Measurement of residual interests in such securities.
			    · Original exposure required a lower of "adjusted cost" or fair value measurement method with no amortization or accretion and no changes based on changes in cash flow expectations other than OTTI.
			    · Updated exposure:
			        – Effective yield method with a cap on income – cash received. Carrying value may not accrete above the cost of consideration paid.
			        – Practical expedient – Cost Recovery Method – distributions received reduce the book adjusted carrying value prior to the recognition of interest income.
				Y	N	TBD

2023-28	**SSAP No. 21R—Other Admitted Assets**	P&C Life Health	**Proposed SAP Clarification** Proposed data-captured disclosure: • Total amount of collateral loans, and the collateral loans admitted, nonadmitted, by qualifying investment type.	N	Y	TBD

Ref#	Title	Ins. type	Revisions exposed	F/S impact	Disclosure	Effective
2022-12	**SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance** **SSAP No. 62R—Property and Casualty Reinsurance** **SSAP No. 63—Underwriting Pools** **INT 03-02: Modification to an Existing Intercompany Pooling Arrangement**	P&C Life Health	**Proposed SAP Clarification** Re-exposed this agenda item that proposes to nullify INT 03-02, which is an interpretation of the following SSAPs: • *SSAP No. 61R—Life, Deposit-Type and Accident and Health Reinsurance* • *SSAP No. 62R—Property and Casualty Reinsurance* • *SSAP No. 63—Underwriting Pools* This interpretation requires transferred assets and liabilities among affiliates in conjunction with the execution of a new reinsurance agreement(s) that substantively modifies the existing intercompany pooling arrangement to be valued at book value for assets and statutory value for liabilities. Valuation at book or statutory value for transfers between affiliates and related parties is inconsistent with *SSAP No. 25—Affiliates and Other Related Parties*. As such, the Working Group is considering nullification of INT 03-02. Due to comments received, the Working Group will continue to work with industry on this matter during the interim period.	Y	N	TBD
2022-14	**SSAP No. 93—Low Income Housing Tax Credit Property Investments** **SSAP No. 94R—Transferable and Non-Transferable State Tax Credits**	P&C Life Health	**PROPOSED NEW SAP CONCEPT** Relates to the New Market Tax Credits (NMTC) Program established by Congress in December 2000. FASB adopted ASU 2023-02 to permit the use of the proportional amortization method for all tax credit programs and tax investment structures. Current proposal considers a revision to *SSAP No. 93—Low Income Housing Tax Credit Property Investments* considering alternatives in expanding SSAP No. 93 to other qualifying tax equity investments. Also impacts the annual statement blanks and Risk-Based Capital. Proposed revisions of *SSAP No. 94R—Transferable and Non-Transferable State Tax Credits* to include both federal and state tax credits.	Y	TBD	TBD

Ref#	Title	Ins. type	Revisions exposed	F/S impact	Disclosure	Effective
2023-30	**SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities**	P&C Life Health	**Proposed SAP Clarification** Exposed revisions to clarify application of the admissibility requirements for downstream noninsurance holding companies. • Audit required unless it meets the look-through criteria.	Y	N	TBD
2023-25 2023-26 2023-27	**Appendix D—Nonapplicable GAAP Pronouncements**	P&C Life Health	Expose rejections of the following FASB Accounting Standards Updates as not applicable to statutory accounting: • ASU 2023-03, Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 120, SEC Staff Announcement at the March 24, 2022, EITF Meeting, and Staff Accounting Bulletin Topic 6.B, Accounting Series Release 280—General Revision of Regulation S-X: Income or Loss Applicable to Common Stock • *ASU 2023-06, Codification Amendments in Response to the SEC's Disclosure Update and Simplification Initiative* • *ASU 2023-04, Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121,* which amends SEC paragraphs from the Accounting Standards Codification for the issuance of *SEC Staff Accounting Bulletin (SAB) 121*	N	N	TBD

The SAPWG held an interim meeting on January 10, 2024, to address exposures at the Fall 2023 National Meeting that are effective December 31, 2023.

Ref#	Title	Ins. type	Revisions adopted	F/S impact	Disclosure	Effective
2023-24	**Various SSAPs and INT 06-07: Definition of Phrase "Other Than Temporary Impairment"**	P&C Life Health	Rejection of ASU 2016-13 *Financial Instruments–Credit Losses (Topic 326), Measurement of Credit Losses on Financial Instruments (CECL).*	N	N	2023

None	**SSAP No, 61R—Life, Deposit-Type and Accident and Health Reinsurance**	Life
		Health
			Due to a 2023 liquidation order of a US-based life reinsurer, the Working Group exposed *INT 23-04T: Scottish Re Life Reinsurance Liquidation Questions.*
			• Apply paragraph 58 of SSAP No. 61R for recaptures and commutations.
			• Reinsurance recoverable evaluated for impairment under paragraph 42 of SSAP No. 61R rather than having a valuation allowance set up for potentially uncollectable amounts.
			• Reporting of receivables:
			  ◦ Receivable for paid claims existing prior to the cancellation of the reinsurance contract - line 16.1 – Amounts Recoverable from Reinsurers.
			  ◦ Other amounts receivable from the reinsurer's estate - line 25 – Write-in for Other than invested assets.
			  ◦ Amounts owed to the reinsurer - line 9.3 – Other Amounts Payable on Reinsurance.
			• The Working Group is considering admission:
			  ◦ Secured by assets in an *Appendix A-785 – Credit for Reinsurance* compliant trust.
			  ◦ Receivables for ceded paid claims prior to contract cancellation.
			Follow existing disclosure requirements and provide sufficient information to understand the nature and impact of the reinsurer liquidation.
				Y	Y	2023

NAIC health insurance update

The 2023 Fall National NAIC Meeting of the Health Insurance and Managed Care (B) Committee held December 2 chiefly centered on a review and regulatory officials' recap of the (B) Committee's 2023 priorities and its vigorous efforts and actions throughout 2023 to fulfill its priorities.

As chaired by Michigan Insurance Commissioner Anita G. Fox, the (B) Committee's priorities included addressing network adequacy, Medicaid unwinding, essential health benefits, pharmacy benefit manager regulation, and state-based marketplaces.[56] The over-arching theme of the session related to expanding and maintaining access to insurance coverage for consumers.

Additionally, now that the COVID-19 Public Health Emergency formally ended last spring, the state Medicaid redetermination process for eligibility for Medicaid coverage has resumed—and has since remained a continuing focus for not only the (B) Committee but the federal government as well as the millions of Medicaid beneficiaries whose medical insurance coverage hangs in the balance.[57]

As expected from the outset of the process, the Medicaid redetermination process has demanded a staggering amount of effort and has not been without its challenges, as documented by state insurance regulators trying to reduce the number of uninsured people in their states.[58]

Discussion is expected to continue in 2024; Fox will continue to helm the (B) Committee, with Minnesota Department of Commerce Commissioner Grace Arnold and Oklahoma Insurance Department Commissioner Glen Mulready as new co-chairs in 2024.[59]

During the meeting in Orlando, Dr. Ellen Montz of the federal Centers for Medicare and Medicaid Services' (CMS) Center for Consumer Information and Insurance Oversight (CCIIO) spoke on CCIIO's Medicaid redetermination efforts, indicating that only 50% of people subject to the Medicaid redetermination have actually completed the process.

That means, however, there is still ample time to make improvements in the overall process and create improvements for the future. To that end, CMS has provided states several options under section 1902(e)(14)(A) of the Social Security Act to secure uninterrupted Medicaid coverage for previous Medicaid beneficiaries.[60]

The meeting and Montz's status update discussion underscored how the individual states and state regulators also maintain a unique perspective as it relates to the Medicaid redetermination process since they are deeply familiar with the specific insurance environment in their state as well as the overall needs of the people in their geographic regions. The options afforded to the states by CMS allow flexibility on the states' behalf to employ the strategies best suited to their respective populations.

One trend that appears to be emerging among many states is the use of ex parte renewals. This renewal mechanism allows Medicaid beneficiaries to reenroll without submitting eligibility information to the state. As of January 2024, all states except Florida had adopted various 1902(e)(14) waivers and other such strategies to increase ex parte renewals. Further, as of January 18, 2024, CMS had approved 394 such waivers.

Similar to the states and state regulators, health plan organizations also have a role in promoting uninterrupted insurance coverage across their populations. Health plan organizations have perspective on continuity of coverage across their plan options as well as the needs of their enrollees.

The (B) Committee highlighted how it has fostered a platform through 2023 that brought together state regulators, federal regulators, and health plans to address the specific needs of their respective constituents related to continuity of insurance coverage, whether that is Medicaid, commercial health insurance, state-based exchange coverage, or federal exchange coverage. There still appears to be a long way to go, and most likely the collective efforts will continue into 2024 and beyond.

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The Deloitte Center for Regulatory Strategy provides valuable insight to help organizations in the financial services industry keep abreast of emerging regulatory and compliance requirements, regulatory implementation leading practices, and other regulatory trends. Home to a team of experienced executives, former regulators, and Deloitte professionals with extensive experience solving complex regulatory issues, the Center exists to bring relevant information and specialized perspectives to our clients through a range of media, including thought leadership, research, forums, webcasts, and events.