



NAIC update: Summer 2022 National Meeting

On building new bridges—and strengthening existing ones

State insurance company regulators, staff, and industry appeared to be bridging divisions of the past decade at the Oregon Convention Center in Portland, [the City of Bridges](#),¹ after reorienting during the pandemic and amid the recent upheavals.

Civility, collaboration, a desire to act decisively for the greater good, and methodical craftsmanship held sway between the regulators and the regulated in a city looped together by a dozen bridges spanning the Willamette River.

In this issue

Artificial intelligence/machine learning (AI/ML) systems risk and oversight frameworks

Sweeping regulator/life insurance industry initiative on infrastructure investment for the social good

Climate and resiliency—wildfires, floods, and climate disclosures

Race and Insurance Committee member initiatives to find and rectify unintentional bias, especially from AI algorithms

NAIC staff scrutiny of structured securities

Spotlight on the improper marketing of health insurance

Also in this issue

Health care update

NAIC accounting update

What's next

[Fall National Meeting](#)

Tampa, Florida

December 12–16, 2022

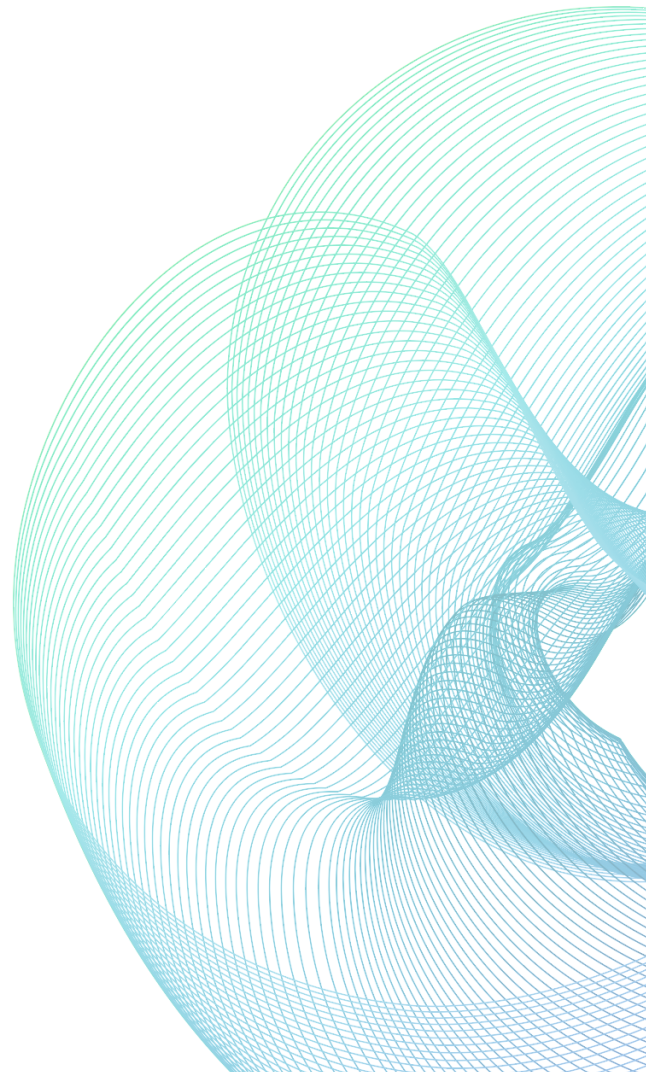
Topics discussed included artificial intelligence (AI) applications and climate risk issues, such as growing flooding, extreme heat, and wildfire threats to communities. [A deadly wildfire](#)² raged in Oregon soon after the meeting disbanded, reinforcing the importance of climate-related threats. The industry continues to be concerned about figuring out how to understand and comply with a growing network of climate-related, social, and governance requirements.

Among the strain of the workload and state differences, regulators must deal with emerging or growing risks as well as long-standing challenges that flank new opportunities. The persistent long-term care (LTC) insolvency and premium rate issues, brought into regulatory focus with the contested rehabilitation of an insolvent LTC insurer, continue to divide the state insurance commissioners. Wrestling with limited regulatory options for policyholders is also a point of contention—a sorrowful one as highlighted by consumer advocate representations.

Against this backdrop, Oregon's Insurance Commissioner Andrew Stolfi welcomed guests to Portland by painting a bright picture of the historical Oregon Trail and the tried-and-true, wagon-wheel-rutted route to progress it offers; but NAIC President Dean Cameron, in his remarks to officially open the meeting, presented a more obstacle-laden and dramatic view of a path forward. Cameron said state regulators should “defend our honor and our role and responsibility to regulate the industry.”

Cameron did hint at some challenges the organization feels when facing the Federal Insurance Office (FIO) as it is due to publish a report later this year on gaps in the supervision of climate risk disclosures and other climate change pressures. Another source of

challenges could be the international development of the Insurance Capital Standard (ICS), which US insurers worry might not recognize areas such as the full benefits of life insurers' management of long-duration products. The US capital solvency monitoring approaches developed at the Federal Reserve and by the NAIC are designed to do this.



Overview

The NAIC, as an organization, together with its stakeholders and state regulators are doing a yeoman's work on issues such as consumer protection, rising insurance losses, coverage adequacy, and product pricing challenges while promoting equity and fair outcomes. Key areas of discussion include these:

Big data/AI: NAIC members are actively seeking ways to work with industry to prevent biased outcomes for protected groups from AI's algorithms in auto, homeowners, and other retail insurance protection; underinsured and inadequately protected homes; and communities facing climate change's catastrophic floods and fires increasingly overwhelming populated areas.

Investing in social impact infrastructure: Stakeholders will be hearing more about climate-related actions in the coming months. Regulators repeatedly stressed across various sessions that they will not cut any solvency corners because their ultimate goal is consumer protection. On the industry side, insurers must design their investment offerings (in infrastructure and housing) to receive high ratings, so insurers are willing to use their "balance sheet dollars" to fund them, they acknowledged. This means the investment would be coming from the insurance company's investment funds, not a foundation it supports. The Securities Valuation Office (SVO) could be asked to revisit the capital requirement treatment of infrastructure investments (think transportation, energy and power, telecom, and water resources) so insurers can make inroads in funding resilient communities without taking a ratings or capital requirement hit for their efforts.

Climate risk and resiliency issues: Much discussion during meetings and on the sidelines of the open sessions with the Portland host (Oregon Insurance Commissioner Andrew Stolfi) centered on the controversial practice of using wildfire risk maps to underwrite for coverage and risk. In the wake of deadly flooding in Kentucky and as wildfires were soon to take hold, the Climate Risk and Resiliency Task Force featured presentations by disaster and emergency management experts, property casualty industry representatives, and consumer advocates focused on programs and outreach to communities to help them fortify their homes and yards in an increasing swath of wildfire-prone areas in the American West. Much effort is expended on research in the hopes it can be employed to help decrease losses.

Special Committee on Race and Insurance: The executive-level Special Committee on Race and Insurance is exploring areas such as quotes, marketing, underwriting, and premiums for unintentional bias and disparate impact. Property/casualty insurers aim to be well intentioned and construct well-wrought internal controls but, in the end, say they must underwrite for risk. Plans underway for some US jurisdictions to test for biased outcomes produced by AI/ML—and then solve for any problematic outcomes with legislation—are grabbing insurers' attention. These flashpoints in the sector's collective, mission-driven efforts to combat coverage and price discrimination against protected populations can fuel future meetings with pushback on proposed state regulations.

Valuation of Securities Task Force/Risk-Based Capital (RBC) Investment Risk and Evaluation Working Group: The securities valuation group at the NAIC working-group level and the staff at the SVO are continuing to build out stronger solvency platforms by trying to further measure and assign risk. The 13 *Regulatory Considerations Applicable to (But Not Exclusive to) Private Equity (PE) Insurers* have now mostly been assigned to various committees, who are working in earnest to provide guardrails for certain structures and investments. The NAIC said it intends to focus on activities rather than define the scope of private equity itself. The SVO and the Valuation of Securities (VOS) Task Force will potentially tackle some of the myriad concerns with structured securities as part of the scrutiny of private equity-owned insurers.

Health insurance: As in years past, the NAIC is continuing to advocate for customers in the health insurance marketplace, most markedly during the public meetings by zeroing in on bad actors selling fraudulent plans to consumers using telemarketing leads bought elsewhere. The practice is worrying some in the agent community who do not want to be tainted by the illegal activity and who are trying to separate their communities from the fraudsters, but all concerned want it to stop. The federal government has since gotten involved with disciplinary action, which state regulators applauded. Another big concern of regulators, industry, and consumer advocates is what the end of the federal public health emergency for COVID-19 could mean for Medicaid coverage, which has been expanded through the pandemic. It could be renewed for another 90 days on October 13, but after that, Medicaid coverage for millions could be at risk.

Top stories in-depth

Big Data and Artificial Intelligence Working Group

Collaboration with industry participants, including discussions with industry data scientists and AI surveys in auto (private passenger), homeowners, and life insurance, underpinned the early-morning meeting. The August 10 session featured presentations from industry on algorithmic bias governance concerns and an actuarial focus on identifying and testing variables that could unfairly impact a protected class.

Working Group Chair Beth Dwyer, the Rhode Island banking and insurance superintendent, made it clear that the working group values coordination and collaboration with respect to innovation, technology, cybersecurity, and data privacy. Yet regulators assuaged industry concerns that they are watching for AI malfeasance or imperfect algorithmic models while noting that it is not their immediate intention during the data collection or pilot project/survey phase.

Regulators are clearly thinking ahead to a time when they will have to step in to have insurers fix problematic outcomes and enforce ongoing violations when the time comes. While Scott Kosnoff, partner with Faegre Drinker Biddle & Reath, said insurers must have “a good story” to tell regulators about their efforts to identify, manage, and mitigate the risks of negative outcomes in their algorithmic models, Dwyer expressed concern that machine learning could change over time. Kosnoff acknowledged that the machine might learn “bad habits” along the way.

“One and done would not be enough,” he said, stressing that testing cannot be only at the front end. “An algorithm green-lighted at the front end might not ultimately protect consumers down the line,” he noted. Companies should treat algorithmic bias as a governance risk management issue that should involve an insurer’s board, he said. This means the C-suite is on the line in the future for the use of their AI algorithms.

“It’s hard to put together a framework that really hits the mark,” said Kosnoff. “Until regulators have concrete guidance, those that use algorithmic models should have a good story to tell by taking ‘reasonable steps’ to identify, manage, and mitigate negative outcomes,” Kosnoff told the Big Data and AI Working Group.

Regulators also appeared intrigued by loss data compiled by the industry after a presentation on bias detection processes, methods, and tools presented by a consulting actuary.

One state regulator pointed to the firm’s data on loss experience for different protected classes and noted that despite how important this data is, regulators do not have access to it, which could possibly lead to future data requests. The industry actuary agreed this loss data is materially important and critical to any sort of analysis.

Industry appears concerned about balancing the current risk factors already permitted in states with new measures, such as Colorado’s law [SB21-169 – Protecting Consumers from Unfair Discrimination in Insurance Practices](#),³ and those outlined in some state insurance bulletins that prohibit companies from unintentionally discriminating against protected classes using external data sources and/or machine learning models. Washington State is looking at having auto insurers reporting all their underwriting factors, which some in the property casualty industry say is an old-fashioned approach and impossible now to untangle.

“How do potential restrictions on predictive or machine-learning data use fit within the risk-based pricing frameworks that exist in the laws in each state?” asked Dave Snyder of American Property Casualty Insurance Association later in the same session. “What ultimately is unfair discrimination, and how does it fit within the framework of all of your states?” he asked regulators. Snyder did not immediately receive an answer.

Vermont Insurance Commissioner Kevin Gaffney attempted to reassure during the meeting that numerous companies have expressed concern that the AI/ML surveys underway in the various lines of insurance by various states, using their market conduct authorities, might be an attempt to find fault with the company’s use of AI, which they claim might stifle innovation.

“I want to say our focus is to first gain an understanding of the current level of risk and exposure out there and to gain an understanding of what companies might be doing to mitigate or manage that risk; and second, to use that knowledge to inform our approach for a regulatory strategy and identify regulatory resource needs now and in the future,” Gaffney reassured.

Commissioners did update what to expect from the surveys in the coming weeks and months. The private passenger auto AI/ML survey, one of the workstreams of the working group, is in the analysis phase after being conducted last year. The NAIC has already produced a confidential data analysis report of private passenger auto data. (Expect a public report at the fall national meeting in Tampa, according to Gaffney.) Regulators will be developing FAQs in the next few weeks for the homeowners insurance survey, which was exposed

for comment, with none received (now closed). Regulators are finalizing the homeowners survey, and then 10 states will formally issue the market conduct data call letters, with a likely 30-day timeline. Companies will be able to start data compilation before the countdown starts, as the survey will be available before then. The third survey, life insurance, is in the development phase and will be prepared for exposure by the end of August. The pilot was with a handful of life insurance companies who offered the expertise of their data scientists and offered technical input and feedback.

Presenters from Google, the Society of Actuaries, and an insurance law professor and consumer advocate also contributed to the afternoon session, telling companies and sometimes regulators what they should do to manage and mitigate the risk of unintended bias and unfair discrimination when developing and using AI/ML.

Daniel Schwarcz, University of Minnesota Law School professor, acknowledged what some regulators might be thinking but haven't yet deployed: "You cannot, at the end of the day, have any type of any effective bias detection process unless you test the outcomes of those models with respect to protected classes," he said. "The only way to really make meaningful progress in this arena is to accept there is a need to test outputs," the longtime consumer advocate stressed. Schwarcz added, however, that insurers do not have systemic data about policyholders' membership in protected classes, a significant barrier to testing. "Insurers refuse to collect this data in many cases and in some states are not even permitted to collect it," he said. Schwarcz suggested that insurers be explicitly permitted and even required to collect information about policyholders' membership by actually gathering data. He pointed to the District of Columbia's current project to test auto insurers' models by predicting membership in protected groups using a variety of different algorithmic methods. "Even

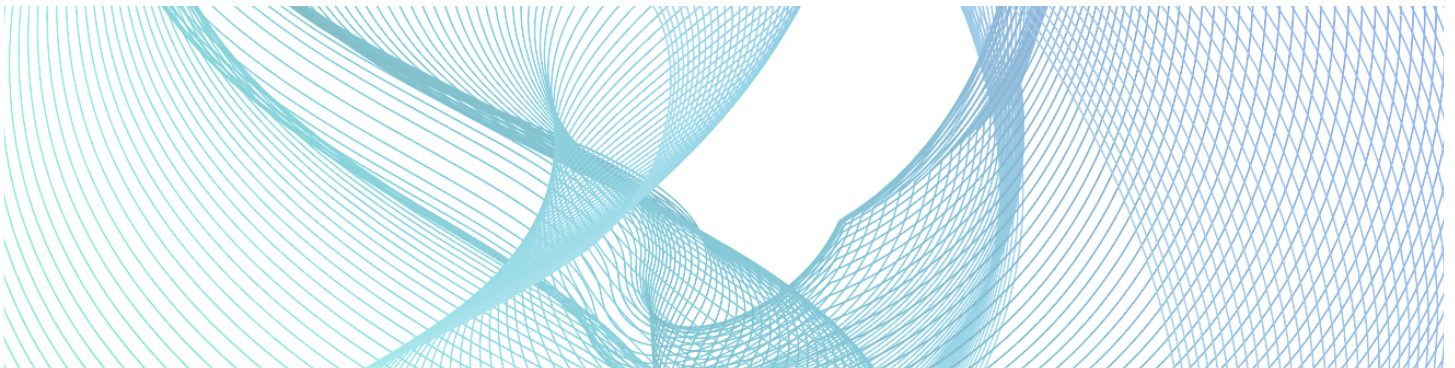
while many are waiting for the results and policy initiatives that come from this project," said Schwarcz, "it is an approach that is always going to be second best to actually collecting data."

The same biases we build into technology can be the same biases that we build into machine learning, Tulsee Doshi of Google warned in her presentation. Biases can also filter into the data pool, the collectors of the data, the labeling of the data, the teaching of the model, and more. Human bias can filter into how we react to the data, as well. She advised that companies have responsibility "baked in" and documented, with humans providing oversight at every stage of the process. Unfortunately, insurance claims data is notably sparser than in other industries, such as the banking/loan industry, Doshi said.

Doshi concluded by asking, pointedly, how a company solves for bias, once identified. Others certainly will be asking the same in the coming months.

What's next: Regulators are considering potential steps for enhanced regulatory oversight of third-party vendors and models, with one approach discussed involving certifications or other verification sent to regulators that the third-party models comply with their AI standards prior to using the model. Iowa Insurance Commissioner Doug Ommen updated participants on his workstream, which is leveraging the results of the AI/ML private passenger auto survey. Another approach under initial stages of discussion, he said, is the concept that state insurance regulators create a library of third-party vendors classified by line of insurance and operational area.

Regulators are continuing to evaluate tools and resources to monitor industry use of AI/ML, as Dwyer reminded the room later at the H Committee (Innovation Cybersecurity and Technology) lead group meeting on that afternoon. Bias-testing protocols are still in their infancy, but some NAIC members are taking the next steps to create them.



CIPR summer event: Investing in social impact infrastructure

There was collaboration among regulators, industry, and charitable endeavors toward necessary goals in equity and social justice at the NAIC meeting at the infrastructure and investing event sponsored by the NAIC's Center for Insurance Policy and Research session on August 10.

Dubbed "Gauging the Potential for Insurance Industry Investments and Social Infrastructure and Community Development Initiatives—An Industry and Regulatory Initial Dialogue," it was the most aspirational of all the NAIC sessions in that industry and regulators sought an avenue forward for packaging infrastructure investments that would directly benefit communities that had suffered due to institutional discrimination and neglect.

In the past, insurers have made a push for improved SVO or rating agency treatment of infrastructure investments, but this time the lens is focused on social infrastructure to improve outcomes for disadvantaged communities. The effort has heavy-duty regulatory backing. Kathy Belfi, the Connecticut Insurance Department Director of Financial Regulation, came out of retirement to work with Connecticut Commissioner Andy Mais on the project to make impact investing work with prudent accounting standards. The new initiative is supported by an ad hoc group of commissioners from California, Iowa, New York, and Wisconsin, as well as Connecticut. It is in a three-month "discovery phase" in which ideas pour in from researchers, stakeholders, and nonprofits.

"The regulatory community is very serious about this," Belfi said. She spoke after representatives from a major mutual life insurance company and the American Council of Life Insurers (ACLI) gave impassioned speeches about their companies' collective desire, led by their CEOs, to make a long-term difference and invest in affordable housing and help bolster communities with actual general account money, not solely the charitable donation funds associated with nonprofits they help fund. Yet the economics have to work, and the investments need scale and efficiency, they acknowledged. They are seeking investment structures that don't penalize companies and a process that addresses solvency risks.

Belfi said the idea had been bandied about in 2019, when carriers had been going to their commissioners about investments that didn't fit into their regulatory structures. Then the pandemic hit, and things slowed. The ACLI said their entry into this commitment of balance sheet investments for social good came after the George Floyd incident.

"The life insurance CEOs got together and said, 'We have to do something, but let's do something more, something meaningful,'" said Pat Reeder of the ACLI. The life insurers set up an Economic Empowerment and Racial Equity Initiative of four pillars, with one pillar being impact investment, particularly focusing on affordable housing, and partnering with those in the community investment ecosystem.

Carrie Mears, the Iowa Insurance Division's chief investment specialist, noted that funds for these social infrastructure investments might not be seen as top investment-grade material. She wants to get away from a fund stigma but acknowledged that regulators are not going to "lower [their] standards" on solvency assessments. These must be strong investments for insurance balance sheets, regulators stressed.

Regulators want to see investments structured in a way that makes sense economically for the investors and the investment universe, not just investments structured in a way to meet a prescribed regulatory outcome, Mears warned. Regulators are quite open to the dialogue and very supportive in a "cautious manner," so they are not reducing protections and standards around accounting and RBC, according to Mears.

During the session presentations, the industry and regulators struggled with what an ideal product might look like: Yet to be developed by insurers, this elusive product would satisfy all needs, perhaps a series of small transactions grouped together with others and obtain an adequately high investment rating from the SVO. If there was an easy product to put on the shelf right now that had a significant amount of scale to be investment grade and also served affordable housing needs, the investing professionals and companies would be out there selling it, the ACLI representative retorted. The life industry is trying to work on identifying and removing barriers, he said.

Regulators want to engage in discussions with institutions like banks not only for their experience in investing in low-income communities and for social good through the Community Reinvestment Act but also for their data on such investments.

What's next: The philanthropic Robert Wood Johnson Foundation, which presented during the session, is helping provide pre-development funding as part of a multiyear effort. The NAIC Executive Committee has approved moving forward with its discovery phase request. The very large health foundation has a focus on lenders—bankers that have the exclusive focus of serving low-income people and "last-mile communities" with appropriate financial products that lead to better health outcomes, its representative said at the meeting. It is seeking alignment between the capital needs of lenders and the insurance sector.

Climate and Resiliency Task Force

Co-Chair of the Climate and Resiliency Committee California Insurance Commissioner Ricardo Lara opened the meeting on August 11 by noting the extreme floods that have taken lives over the summer and cost substantial property damage. He rallied thoughts for Kentucky Commissioner Sharon Clark and the hundreds of families affected in Kentucky, which suffered extreme flooding in the eastern part of the state in late July after torrential rains and flash flooding.

The meeting pivoted from the climate disasters of flood to wildfires, with Lara stressing the importance of wildfire mitigation—prescribed burning was an important strategy used by tribes in Native American communities for centuries, he said. He underscored the importance of hardening homes and communities. The sector is imploring homeowners to do everything they can to their properties, from roof to curb, to try to prevent more fire spread and destruction of property.

The discussion of wildfire mitigation in various workstreams continued in a panel discussion with experts who already have been collaborating through many long months, like Roy Wright, leader of Insurance Institute for Business & Home Safety, and Amy Bach, a consumer advocate, and longtime head of United Policyholders, as well as property/casualty (p/c) industry reps.

Panelists presented an all-in approach among a host of organizations and agencies that are striving to narrow the path of destruction of wildfires with research on mitigation and outreach to homeowners with advice on how to harden their property against becoming a wick. Amy Bach offered a hopeful outlook by noting there had been progress in wildfire risk mitigation and funding for grants, work by states to compel insurers to recognize risk reduction steps in their rates.

"I think we need that across the board," said Bach. "Consumer advocates are also seeking renewal protections, such as the wildfire partners program in Colorado, where insurers are voluntarily agreeing not to drop people who graduate from that program."

Commissioner Lara took the collaboration theme and ran with it in the interest of protecting outcomes for California and other consumers.

"A point of collaboration is increasing funding for pre-disaster mitigation," Lara said. "Another point of collaboration is having tough discussions—working with local government officials on incentives to do the right thing and perhaps not build in some of these communities where we are currently building. It's a lie to tell consumers a house is affordable if you cannot get insurance for it or the house can burn and potentially kill you," he warned.

Government attention on wildfires is also coming from Washington. The NAIC reminded participants that wildfire disaster coverage is squarely on the minds of those in Congress as House Financial Services Committee Chairwoman Maxine Waters, D-CA, has introduced legislation that would require the Federal Emergency Management Agency and the Government Accountability Office to study wildfire insurance coverage and how homeowners insurance carriers are dealing with the threat in the market and with their customers. The Wildfire Response and Drought Resiliency Act was passed by the House in early August and included her bill, the [Wildfire Insurance Coverage Study Act of 2022](#).⁴ Moreover, on September 22, the Committee's panel on Housing, Community Development, and Insurance will host a hearing called "State of Emergency: Examining the Impact of Growing Wildfire Risk on the Insurance Market."

The sizable work the NAIC is doing on its climate risk disclosures positions it very well with respect to disclosure and resiliency work done at the federal level by the Financial Stability Oversight Council (FSOC), according to Rhode Island's Dwyer. Dwyer is the NAIC representative on FSOC and spoke the following day to give an update on FSOC activities.

Regulators, industry, and disaster professionals showed appetite and stamina for collaborative work to deal with the growing threat of wildfires. But issues like rate adequacy and the sharing of wildfire risk maps and losses reveal tension. There is a strong industry concern in the wake of catastrophic events like wildfires coupled with the current inflationary environment and the reinsurance market cycle, the industry made clear. There is significant volatility for insurers now, said the APCIA's Karen Collins.

What's next: The FIO is slated to issue a report by the end of the year on any gaps or shortcomings in insurance supervisory oversight of climate risk and its potential impact on financial stability, a point of tension between the state and the federal entity. Back in April, the NAIC endorsed a climate-related risk disclosure standard aligned with the Task Force on Climate-related Financial Disclosures (TCFD), to which 15 jurisdictions representing nearly 80% of the insurance market have committed to use.

Additionally, California is garnering a lot of attention now on amended legislation known as [Senate Bill 260 Climate Corporate Accountability Act](#), which would require a comprehensive disclosure at all levels of business, from suppliers to customers of greenhouse gas emissions, and be accompanied by hefty penalties. It would apply to companies with more than \$1 billion in revenue in California. The [terms of the updated bill](#)⁵ are seen as a potential conflict with the Securities and Exchange Commission's disclosure regime as well as international standards.

Special Committee on Race and Insurance

Missouri Insurance Director Chlora Lindley-Myers first highlighted the efforts and work being undertaken by state regulators toward identifying and removing any unfair discrimination as the session opened on August 11.



Already, under some insurance state bulletins, companies are prohibited “at a high level” from unintentionally discriminating against protected classes. Insurers fret about how they can untangle individual factors that their AI-fed algorithms continuously compute and remove unintentional bias as measured by standards they still do not know.

Some efforts are already well underway, not just at the NAIC committee level but by state insurance departments.

Acting on concerns about unintentional bias in practice, the District of Columbia’s Commissioner Karima Woods said her department [is working on a project](#)⁶ to ferret out instances of this bias. The project centers on a data call to collect information from all DC private passenger auto insurers on their underwriting factors that lead to unintentionally penalizing consumers on race or other protected characteristics.

The analysis includes personal lines quotes, denials of coverage, premiums, and loss ratios and looks at factors like credit scores, education, and occupation. The District’s Department of Insurance, Securities, and Banking held a hearing in late June and put out a request for comments. Regulators intend to share and discuss

the data call with stakeholders before issuing it, Woods said. If unintentional bias is indeed identified, the analysis will help to provide a framework for evaluating the necessary modifications to eliminate the bias, she said.

According to a department press release, the final report will be public and will result in legislative changes to address the use of certain factors used in underwriting and rating methodology if these factors have indeed led to unintentional bias. The factors of age, loss history, and driving record are permitted, and if differences in outcomes between protected groups are explained by these factors, they won’t be considered unintentional bias.

What’s next: Other states have been invited to reach out to the District of Columbia in its anti-bias testing. This process could provide a blueprint for other states and legislative bodies if the analysis clearly shows bias. The DC Department of Banking, Insurance, and Securities has already had discussions with a few states about the project, and an additional state reached out to it after the NAIC meeting.

At the committee level, regulators have been completing recommendations and will be providing action items after the summer national meeting on steps regulators and insurance companies can take to increase the level of diversity and inclusion in the industry and collect input on any existing gaps in available industry diversity-related data. This is the charge of the Special Committee’s Workstream One, according to the co-chair of the workstream, Iowa Insurance Commissioner Doug Ommen.

Workstream Five’s focus in health equity, barriers to treatment from network providers, and narrow networks is being explored by state regulators through medical and health associations and their data collection and research. Minnesota Commissioner Grace Arnold expects the group to issue a toolkit of sorts by year-end on everything her group learned during the course of the year on its undertaking. She highlighted the work [DC Healthlink](#) is doing within the program to identify and remedy barriers to communities of color in benefits and clinical standards.

VOS Task Force & RBC Investment Risk and Evaluation Working Group

Collateralized loan obligations (CLOs) are getting top billing in discussions in these subgroups, all eager progenies of the Financial Condition Committee. For many in the industry, though, CLOs are actually solutions in search of a problem. They have opined that the NAIC's capital markets, valuation of securities, and RBC development staff are spending time investigating investments that actually have performed well or even buoyed the life insurance industry during times of stress and the lengthy low-interest-rate environment.

Enhanced regulatory treatment of CLOs has received an increasing amount of attention from regulators in recent months, with modeling on the table and the possible development of RBC charges for these diversified pools of loans, which is causing some consternation among the industry about shaking up structured securities.

The broader insurance and capital markets industries have pushed back in comment letters and discussions against the new CLO scrutiny in the areas of methodology, transparency, timeline, and policy arguments, appealing to the importance of CLOs to the capital markets and their good historical performance as an asset class during financial market downturns and crises.

CLOs account for 60% of all leveraged loans and provide over \$900 billion of capital to the US syndicated institutional leveraged loan market, the Loan Syndications Trading Association said in a July comment letter.

For now, all eyes will be on the relatively new RBC Investment Risk & Evaluation Working Group (RBC IRE WG) as it undertakes two tasks it has now been given by the VOS Task Force and NAIC staff in determining the appropriate RBC charge for CLOs and then addressing potential arbitrage for these collateralized assets. A lot of the developments spilled into the VOS Task Force meeting on August 12.

CLOs are currently filing exempt-like at the SVO, which uses ratings from other credit rating providers to receive an NAIC designation using general bond C1 factors for RBC.

"The historical performance of CLOs has indeed been good. This is especially true for the top of the CLO capital stack. Senior CLO tranches have performed extremely well through three economic downturns—dot-com bubble, GFC, and COVID," stated the regulatory staff discussion of CLOs. However, the NAIC is

positioning itself as a bulwark against problems that could arise in order to protect policyholders.

Regulators in the RBC IRE WG will focus on the residual tranches when trying to assess arbitrage. New RBC factors are supposed to account for the tail risk in any of the structured finance tranches, according to a May memo from the NAIC Structured Securities Group (SSG), Capital Markets Bureau, and SVO to the VOS Task Force.

The chair of the task force, Carrie Mears, also directed staff to propose an amendment to the purposes and procedures manual that would give the SSG responsibility for assigning NAIC designations to CLOs. This will be discussed at a future meeting and exposed for comment, as will other proposals and the methodologies that accompany them.

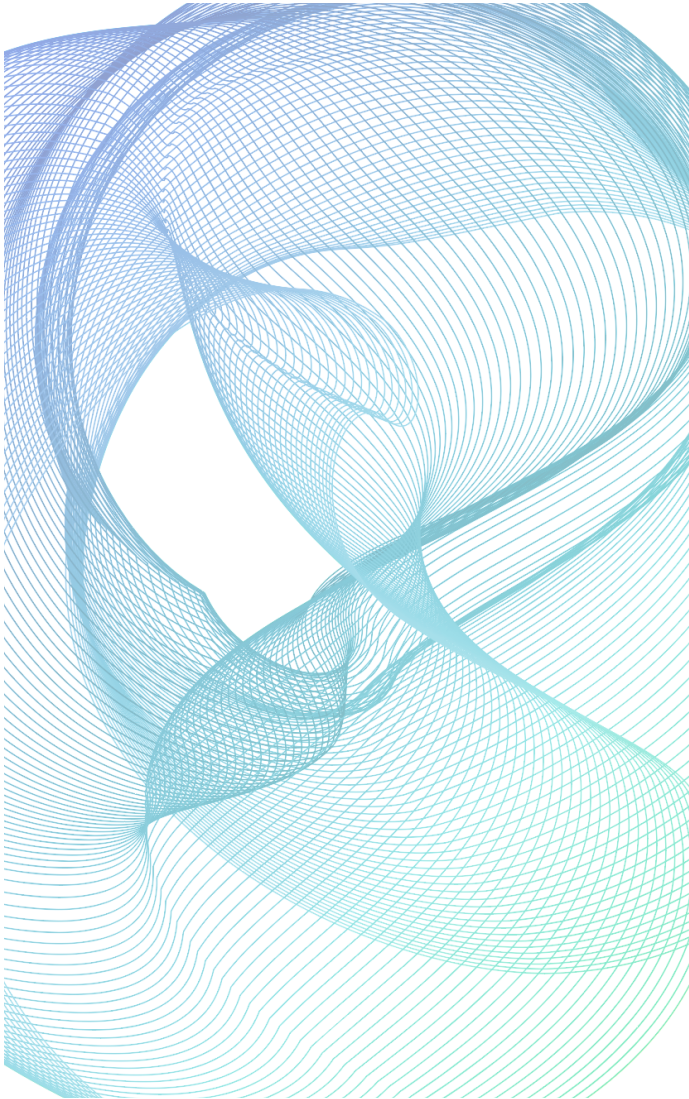
As it starts looking at RBC charges for CLOs, the new RBC IRE WG might or might not use the CLO modeling the SVO has been planning to do. At its June 9 meeting, the VOS Task Force exposed a memo for comment calling for internal modeling of CLOs.

What's next: The RBC IRE WG will likely hear back from an actuarial group by the NAIC fall national meeting to find out what the charge development might look like. Industry people have been saying an interim solution might be to increase charges for lower-rated CLOs in the B range and below and leave the top-rated A and above investments alone. While most large insurers have higher-rated investments, some profess regulators are looking for trouble in an area that has held up well and serves a good purpose in the current environment for their balance sheets.

In order for any RBC charges to take hold for CLOs, they will have to involve the Capital Adequacy Task Force, the Financial Condition Committee, and Executive & Plenary after getting approval by the other RBC working groups (life, health, and p/c).

The VOS Task Force raised a lot of the issues of concern to the industry on its intended path ahead to address CLOs. They were particularly concerned about how quickly the process of scrutinizing and changing treatment for CLOs was occurring.

Regulators tried to reassure the industry they would be heard along a timeline that appears to stretch into 2024 for final implementation, especially for the RBC component, or December 31, 2023, at the earliest.



The Task Force exposed a presentation on CLOs for 30 days of NAIC staff responses to its CLO work and discussed how it had been running stress tests on CLOs since 2018. The methodology paper on the stress tests was published in 2018, staff reminded industry who seemed a little mystified by the CLO stress testing activities. Regulators, who acknowledged the past performance of CLOs and lack of trouble from them, vowed to be transparent and have an open dialogue with industry. They said that regulatory actions underway are being developed to allow insurers to continue finding favor in the CLO market.

SVO and NAIC Structured Securities Group and Capital Markets Bureau Staff had earlier, back in May, recommended that the Capital Adequacy Task Force and RBC IRE WG consider adding two new RBC factors to account for the tail risk in any structured finance tranche, according to meeting minutes.

“The actions contemplated are designed to allow insurers to continue participating in the CLO market without the risk that aggressive structuring puts the policyholders and the investments in jeopardy,” the securities valuation regulators wrote.

Improper marketing of Health Insurance Working Group

Alarmed by the proliferation of fraudulent sales of health insurance through third parties like lead generators, regulators have been trying to expand their abilities to regulate the marketplace.

Nebraska's Deputy Insurance Director Martin Swanson corralled a concerned group of regulators and panel of industry and consumer advocates on August 11 to explore ways to rein in marketing practices that harm consumers who are offered or seeking health insurance.

Lead generators are not regulated by state insurance departments currently, although some states are pushing legislation that requires insurance companies to specify certain behavior with third parties. For now, state regulators are reviewing existing models and guidelines to see if they can regulate marketing behaviors beyond the insurance companies and agents/brokers they do license.

To that end, changes to the existing NAIC Model 880, the Unfair Trade Practices Act, are under discussion with suggested amendments out for comment through mid-September.

The working group is also collaborating with agent and broker groups. Swanson stressed the importance of collaboration, a word that functioned as the coin of the realm throughout the Portland meeting as regulators realize they need to work with industry to tame egregious behaviors or outcomes and learn how to bring good to communities.

Wes Bissett, representing the Independent Insurance Agents & Brokers of America, recommended metaphoric “public hangings”—highly publicized public enforcement actions—as a deterrent to further bad behavior and said his association would be publicizing these activities and to be aware of them with his group.

The working group will have a forum in Kansas City in September at the NAIC regulatory summit there.

In May, the federal Centers for Medicare & Medicaid Services [issued](#)⁷ their own final rules for third-party marketing organizations that regulators believe would add heft to their market conduct portfolios, and one regulator from Rhode Island suggested

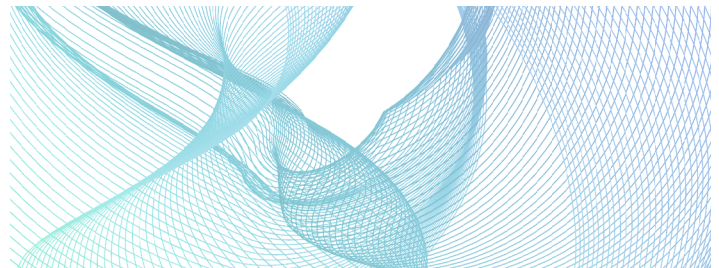
getting permission to allow states to take over some of the compliance actions for Medicare Advantage.

Market conduct exams are also bearing down on insurers who are not controlling their third-party operators. The Rhode Island regulator noted that his state conducted a few market conduct exams and found a couple of insurers who were not able to produce records in a timely fashion; nor were their third parties able to provide the documentation. This prompted him to propose amendments pertaining to failure to maintain marketing records. Swanson said these comments would be reviewed before any suggestions were included.

What's next: Expect more market conduct scrutiny. As Swanson noted, other agencies at the state and federal level have already jumped in to take enforcement actions.

As the Portland meeting was getting underway, the Federal Trade Commission (FTC) had just taken action, fining one company to the tune of \$100 million in refunds. [The FTC action](#)⁸ charges the company with illegally charging people “exorbitant junk fees for unwanted add-on products without their permission” and prohibited its former leaders from selling or marketing any health care-related product and one of them from telemarketing. It is “good to see” the FTC has taken that particular action, Deputy Director Swanson said.

Additionally, [a broad coalition](#)⁹ of state attorneys general (AGs) are working on combatting health care plan marketing fraud from a different perspective—against robocalls by telecommunication providers, as Swanson pointed out. When the AGs gather for collective action, a crackdown on activities they deem illegitimate could be next.



Health care update

The mission of the Health Insurance and Managed Care (B) Committee is to consider issues relating to all aspects of health insurance. During the Summer 2022 meeting the Health Insurance and Managed Care (B) Committee continued to focus on those issues that resound across the health plan environment, including the COVID-19 pandemic, the impending end of the COVID-19 public health emergency, and ultimately reducing health care disparities by increasing access to quality care.

One critical element at play during the meeting, subject to much discussion by regulators and interested parties alike, was the looming end of the public health emergency (PHE) for COVID-19, as declared by the Secretary of Health and Human Services (HHS) under section 319 of the Public Health Service Act (42 U.S.C. §247d).

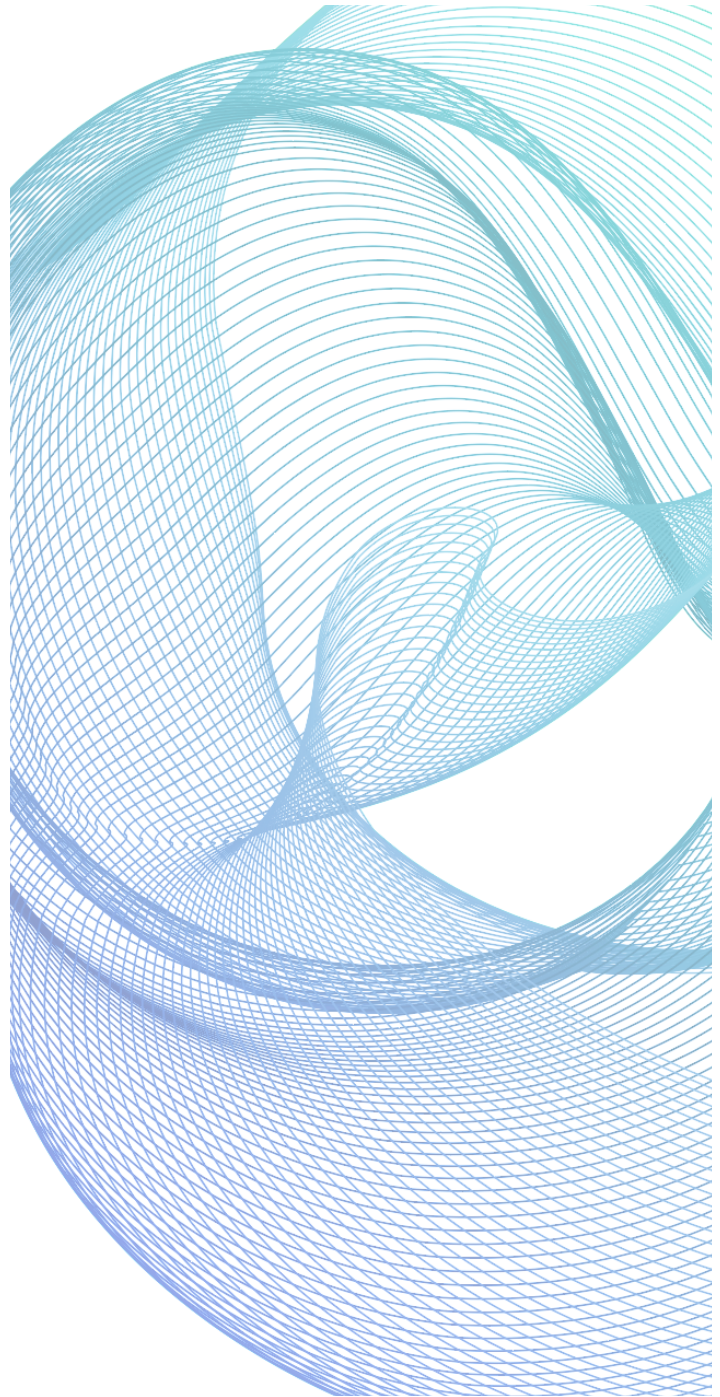
On October 13, President Biden extended the PHE until January 11, 2023. This extension ensures expanded Medicaid coverage through COVID testing and treatment benefits and the continuous enrollment requirement.

However, when the PHE ends (and it *will* eventually end), Medicaid redeterminations will resume. This could mean Medicaid coverage for millions of Americans is at risk. The Medicaid reverification process is anticipated to be a staggering effort that could leave previously covered members uninsured due to unsuccessful verification and result in newly ineligible members and a high cost for other types of coverage.

However, Medicaid needs the assistance of private health plans to mitigate these foreseen issues. Private health plans have an opportunity to serve as partners throughout the redetermination process by reaching out to members before and during the process, before the member loses coverage, to proactively transition the member to the marketplace, for example.

On August 31, 2022, the Biden administration proposed a new rule to improve the enrollment process for Medicaid. In a Notice of Proposed Rule Making, HHS “is working to reduce red tape and simplify application and verification processes to make it easier for children, older adults, and people with lower incomes with Medicaid and CHIP coverage to enroll in and retain vital health insurance.”

In this environment, in this health care system, plagued with the COVID-19 pandemic and health care disparities, the health plan is uniquely positioned to lead the charge toward attaining health equity through member outreach, education, and through increasing access to better-quality, low-cost health care coverage.



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 2022 Spring, Summer, and Interim Meetings. New Statutory Accounting Principles (SAP) concepts (formerly known as *substantive* changes), which are changes in accounting principles or methods of applying the principles, finalized during these meetings have explicit effective dates as documented below. All SAP clarifications (formerly known as nonsubstantive changes), which are changes that clarify existing accounting principles, finalized during these meetings are effective upon adoption unless otherwise noted.

Statutory Accounting Principles Working Group

Current developments: The SAPWG adopted the following **new SAP concept** during the 2022 Summer National and Interim Meetings:

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2021-20	SSAP No. 86— <i>Derivatives</i>	P/C Life Health	<p>The intent of this agenda item is to consider US-GAAP guidance from <i>ASU 2017-12: Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities</i> pertaining to the determination of whether a derivative is highly effective.</p> <p>There is no specific reason for US GAAP and SAP to differ in assessments of hedge effectiveness even though there are differences in measurement and reporting under US GAAP and SAP.</p> <ul style="list-style-type: none"> • SAPWG adopted, with modification, the US GAAP guidance in assessing hedge effectiveness, including permitted excluded components. • Also clarified that the measurement methods of hedging instruments, including excluded components of the instruments, shall follow statutory specific guidance in SSAP No. 86. • Effective: January 1, 2023, with early adoption permitted. • The annual statement blanks and instructions will be revised to incorporate a new electronic-only field for Schedule DB – Derivative Instruments, to capture excluded components of instruments in hedging relationships. 	Y	Y	2023

Prior developments: The SAPWG adopted the following **SAP clarification** items as final during the 2022 Spring National and Interim Meetings:

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2021-24 INT21-02	SSAP No. 2R— <i>Cash, Cash Equivalents, Drafts, and Short-Term Investments</i>	P/C Life Health	<p>In 2021, SAPWG adopted an interpretation to SSAP No. 2R (<i>INT 21-01: Accounting for Cryptocurrencies</i>) requiring nonadmission of cryptocurrencies held directly by insurance reporting entities. During the development of the interpretation, the Working Group discovered that some insurance companies did, in fact, hold cryptocurrencies, but it was very difficult to identify within the statutory financial statements. This agenda item recommends a new general interrogatory for the Blanks Working Group to consider that captures details regarding insurers' use of cryptocurrencies.</p> <ul style="list-style-type: none"> • Information captured: <ul style="list-style-type: none"> – Whether held – Where reported – Accepted as premium payment – Conversion to US dollars 	N	N	NA
2021-29	SSAP No. 22R— <i>Leases</i>	P/C Life Health	<p>This agenda item addresses recently issued US GAAP guidance related to implementation of the updated lease guidance. <i>ASU 2021-05, Leases (Topic 842), Lessors—Certain Leases with Variable Lease Payments</i>, applies to lessors with lease contracts that: (1) have variable lease payments that do not depend on a reference index or rate, and/or (2) would have resulted in the lessor being required to recognize a day-one selling loss at the commencement of the lease if classified as a sales-type lease or direct financing. The GAAP guidance requires such leases to be categorized as operating leases. Under SSAP No. 22R, all leases are classified as operating.</p> <p>This ASU was added to the list of nonapplicable GAAP guidance in Appendix D of the <i>Accounting Practices and Procedures Manual</i>.</p>	N	N	2022
2021-23	SSAP No. 43R— <i>Loan-Backed and Structured Securities</i>	P/C Life Health	<p>The Valuation of Securities Task Force of the NAIC recently updated the financial modeling guidance for residential mortgage-backed securities and commercial mortgage-backed securities in the <i>Purposes and Procedures Manual of the Investment Analysis Office</i>. As a result, SAPWG adopted revisions to the summarized financial modeling guidance in SSAP No. 43R due to these updates.</p>	N	N	2022
2021-28	SSAP No. 68— <i>Business Combinations and Goodwill</i>	P/C Life Health	<p>Last year, the FASB issued <i>ASU 2021-03, Intangibles – Goodwill and Other—Accounting Alternative for Evaluating Triggering Events</i> that provides private companies and not-for-profit entities with an optional accounting alternative for goodwill impairment evaluation. Existing SAP and prior US GAAP required impairment evaluation based on the triggering event date. The ASU provides alternatives to alleviate the complexity of assessments upon the triggering event for private companies and not-for-profits. SAPWG concluded this provision was not consistent with SAP concepts. As such, the ASU was rejected in SSAP No. 68.</p>	N	N	2022

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2021-27	SSAP No. 72— <i>Surplus and Quasi-Reorganizations</i>	P/C Life Health	<p>The FASB issued ASU 2021-04, <i>Earnings Per Share (Topic 260)</i>, <i>Debt—Modifications and Extinguishments (Subtopic 470-50)</i>, <i>Compensation—Stock Compensation (Topic 718)</i>, and <i>Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)</i>—<i>Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options</i>. The ASU impacts all entities that issue freestanding written call options, which are then modified in connection with either an equity issuance, a debt origination, or a debt modification.</p> <ul style="list-style-type: none"> • Revisions reject ASU 2021-04. • However, SAPWG decided to incorporate a clarification in SSAP No. 72 that modifications or exchanges are accounted for as an exchange of the original instrument for a new instrument. 	Y	N	2022
2021-22	SSAP No. 97— <i>Investments in Subsidiary, Controlled and Affiliated Entities</i>	P/C Life Health	<p>This agenda item relates to the reporting requirements for SCAs under SSAP No. 97, paragraph 51 and Appendix A. A Sub-1 filing is required upon initial acquisition of a SCA. A Sub-2 filing is the annual filing and details the valuation method utilized for reporting in the investment schedules of the annual statement. The filing is reviewed, and, in some cases, adjustments are provided to be reflected in subsequent statutory financial statement filings. Regulators have become aware that these adjustments are often not reflected. As a result, this agenda item recommends additions to <i>Schedule D-6-1—Valuation of Shares of Subsidiary, Controlled or Affiliated Companies</i> in electronic-only format. This information will help identify missing adjustments required by the Sub-2 filing.</p> <p>There is no revision adopted for SSAP No. 97. The following is a recommendation to the Blanks Working Group for consideration to capture information related to valuation adjustments resulting from Sub-2 filings.</p> <ul style="list-style-type: none"> • Prior Year Book-Adjusted Carrying Value • Prior Year Nonadmitted Amount • Prior Year Sub-2 Verified Value • Prior Year VISION Filing Number 	N	N	2022
2021-26EP	<i>Various Sections of the AP&P Manual</i>	P/C Life Health	<p>In 2021, SAPWG adopted changes in terminology for revisions to accounting included in the statements of statutory accounting principles (SSAPs). This item revises the term “Substantive” to “New SAP Concept” and revises the term “Nonsubstantive” to “SAP Clarification” throughout the sections of the <i>NAIC Accounting Practices and Procedures Manual</i>.</p>	N	N	2022

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2021-30	<i>Appendix D—Nonapplicable GAAP Pronouncements</i>	P/C Life Health	Rejected the following as nonapplicable to statutory accounting: <ul style="list-style-type: none"> ASU 2021-06, <i>Presentation of Financial Statements (Topic 205)</i>, <i>Financial Services—Depository and Lending (Topic 942)</i>, and <i>Financial Services—Investment Companies (Topic 946)</i>, <i>Amendments to SEC Paragraphs Pursuant to SEC Final Rule Releases No. 33-10786, Amendments to Financial Disclosures about Acquired and Disposed Businesses</i>, and <i>No. 33-10835, Update of Statistical Disclosures for Bank and Savings and Loan Registrants</i>. 	N	N	2022

Current developments: The SAPWG adopted the following **SAP clarification** items as final during the 2022 Summer National and Interim Meetings:

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2022-01	<i>SSAP No. 4—Assets and Nonadmitted Assets Preamble</i>	P/C Life Health	This revision relates to recent updates to <i>FASB Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements</i> ; and <i>FASB Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 7, Presentation</i> . <ul style="list-style-type: none"> Adopted FASB's updated definition in SSAP No. 4: <ul style="list-style-type: none"> An asset shall be defined as: A present right of an entity to an economic benefit. An asset has two essential characteristics: <ul style="list-style-type: none"> It is a present right, and The right is to an economic benefit. 	N	N	2022
2022-05	<i>SSAP No. 22R—Leases</i>	P/C Life Health	Adopted the rejection of ASU 2021-09, <i>Leases (Topic 842)</i> , <i>Discount Rate for Lessees That Are Not Public Business Entities</i> . <ul style="list-style-type: none"> This ASU relates to the discount rate used to determine the capitalized lease and right-to-use asset. As statutory accounting requires nearly all leases to be treated as operating leases, the Working Group exposed this item to reject this ASU. 	N	N	2022
2022-04	<i>SSAP No. 24—Discontinued Operations and Unusual or Infrequent Items</i>	P/C Life Health	This revision is addressing previously issued US GAAP in ASU 2021-10, <i>Government Assistance, Disclosures by Business Entities About Government Assistance</i> , which increases financial statement transparency regarding certain types of government assistance: <ul style="list-style-type: none"> Include the form in which the assistance has been received (for example, cash or other assets); Information regarding significant terms and conditions of the transaction, with items including, to the extent applicable, the duration or period of the agreement; Commitments made by the reporting entity, provisions for recapture, or other contingencies. 	N	Y	2022

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2021-21	SSAP No. 25— <i>Affiliates and Other Related Parties</i> SSAP No. 43R— <i>Loan-Backed and Structured Securities</i>	P/C Life Health	<p>This agenda item addresses accounting and disclosure for investments with related parties. Previously, the Working Group adopted guidance to ensure that US GAAP and SAP definitions of related parties were consistent and state-approved rebutted control of an affiliate did not alleviate accounting and reporting requirements for related parties under SSAP No. 25.</p> <ul style="list-style-type: none"> • Adopted clarified guidance on related party and affiliate transactions. • Adopted added disclosures for investments acquired from a related party. <p>The Working Group also recommended adding new reporting codes for 2022 investment schedules to identify the role of the related party.</p>	Y	Y	2022
2022-07	SSAP No. 47— <i>Uninsured Plans</i> SSAP No. 68— <i>Business Combinations and Goodwill</i>	P/C Life Health	<p>FASB <i>dBusiness Combinations, Accounting for Contract Assets and Contract Liabilities from Contracts with Customers</i> requires acquiring entities to apply Topic 606 (the topic that specifies the accounting for revenue and liabilities resulting from contracts with customers), when valuing and recognizing contract-related assets and liabilities in a business combination. SAP previously rejected the revenue recognition guidance included in Topic 606.</p> <ul style="list-style-type: none"> • Adopted the rejection of ASU 2021-08. • Clarified that rejection in SSAP No. 68 does not impact or revise US GAAP accounting requirements in determining US GAAP net book value in an acquired entity that is included within SSAP No. 68. 	N	N	2022
2022-02	SSAP No. 48— <i>Joint Ventures, Partnerships and Limited Liability Companies</i>	P/C Life Health	<p>This agenda item is re-evaluating valuation methods for situations where the investor has a minor ownership interest (less than 10%) in the investee and, therefore, cannot compel the entity to obtain audited US GAAP financial statements for valuation purposes under SAP.</p> <ul style="list-style-type: none"> • The Working Group decided to retain the audited US Tax basis equity valuation method but clarify that the audit must reside at the investee level. 	N	N	2022
2022-06	SSAP No. 104R— <i>Share-Based Payments</i>	P/C Life Health	<p>FASB issued ASU 2021-07, <i>Compensation—Stock Compensation (Topic 718), Determining the Current Price of an Underlying Share for Equity-Classified Share-Based Awards</i> to offer nonpublic companies a practical expedient to one of the several inputs necessary for option-priced modeling.</p> <ul style="list-style-type: none"> • Adopted a revision to incorporate the practical expedient in ASU 2021-07. • Adopted updated disclosures related to use of the practical expedient. 	Y	Y	2022

Ref#	Title	Sector	Amendments adopted	F/S impact	Disclosure	Effective date
2022-08	<i>INT 22-01T: Freddie Mac When-Issued K-Deal (WI Trust) Certificates</i>	P/C Life Health	<p>The Working Group adopted an interpretation to <i>SSAP No. 43R—Loan-Backed and Structured Securities</i> to address questions regarding the accounting and reporting for Freddie Mac “When-Issued K-Deal” (WI Program).</p> <ul style="list-style-type: none"> The consensus of the adopted interpretation concludes that the Freddie Mac WI Program should be included within the scope of <i>SSAP No. 43R</i>. 	Y	N	2022
2022-03	<i>Blanks Proposal</i>	P/C Life Health	<p>This agenda formally recommends blanks instructional changes primarily to:</p> <ul style="list-style-type: none"> <i>Schedule T—Premiums and Other Considerations—Allocated by States and Territories,</i> <i>The State Page, and</i> <i>Accident and Health Policy Experience Exhibit (AHPEE) to clarify guidance for premium adjustments to ensure that entities are reporting premium by jurisdiction.</i> <p>All premium adjustments (both increases and decreases), including but not limited to Affordable Care Act (ACA) premium adjustments related to the risk adjustment program, shall be allocated as premium in the respective jurisdiction.</p>	N	N	NA

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

Ref#	Title	Sector	Amendments exposed	F/S impact	Disclosure	Effective date
2019-11	<i>SSAP No. 26R—Bonds</i> <i>SSAP No. 43R—Loan-Backed and Structured Securities</i>	P/C Life Health	<p>Proposed New SAP Concept</p> <p>The Working Group exposed the following:</p> <ul style="list-style-type: none"> Updated Bond Definition Updated Issue Paper SSAP No. 26R—Bonds SSAP No. 43R—Asset-Backed Securities Bond Proposal Reporting Revisions <p>Overall, the Working Group is separating bonds from asset-backed securities in both the SSAPs and the investment schedules. To be reported on Schedule D, investments must comply with the definition of a bond (issuer credit obligation) or an asset-backed security.</p> <p>Investments that are NOT within the scope of the proposed revisions to SSAP No. 26R and SSAP 43R will likely be moved to Schedule BA: Other Long-Term Invested Assets.</p> <p>Discussion regarding effective date is now contemplating 1/1/2025.</p>	Y	Y	TBD

Ref#	Title	Sector	Amendments exposed	F/S impact	Disclosure	Effective date
2022-01	SSAP No. 5R— <i>Liabilities, Contingencies and Impairments of Assets</i>	P/C Life Health	<p>Proposed SAP Clarification</p> <p>Re-exposed the issue paper related to the definition of liabilities related to new adopted US GAAP in <i>Concepts Statement No. 8, Conceptual Framework for Financial Reporting—Chapter 4, Elements of Financial Statements</i>.</p> <p>Re-exposure provides interested parties time to analyze individual SSAPs and provide further comment.</p>	TBD	TBD	TBD
2021-25	SSAP No. 19— <i>Furniture, Fixtures, Equipment and Leasehold Improvements</i> SSAP No. 73— <i>Health Care Delivery Assets and Leasehold Improvements in Health Care Facilities</i>	P/C Life Health	<p>Proposed SAP Clarification</p> <p>Re-exposed proposed guidance requiring leasehold improvements to be expensed upon lease termination UNLESS such improvements relate to the functionality of health care delivery assets.</p> <ul style="list-style-type: none"> Excludes situations where the real estate lease agreement has a purchase option that contains language that allows leasehold improvements necessary for the functionality of specific health care delivery assets to be excluded from the purchase cost of the real estate. 	Y	N	TBD
2022-11	SSAP No. 21R— <i>Other Admitted Assets</i>	P/C Life Health	<p>Proposed SAP Clarification</p> <p>Proposed revision clarifies that collateral loans must be collateralized by assets that would qualify as admitted assets if held directly.</p>	TBD	N	TBD
2022-13	SSAP No. 25— <i>Affiliates and Other Related Parties</i> SSAP No. 97— <i>Investments in Subsidiary, Controlled, and Affiliated Entities</i>	P/C Life Health	<p>Proposed SAP Clarification</p> <p>Earlier this year, the Working Group adopted revisions to:</p> <ul style="list-style-type: none"> Clarify the reporting of affiliate transactions within investment schedules while remaining consistent with the existing definitions of an “affiliate” in other SSAPs and regulations. Incorporate new reporting codes for investment transactions with related parties. <p>This agenda item discusses the guidance that clarifies that investments in exchange-traded funds and mutual funds does not reflect ownership in an underlying entity unless ownership results in “control” with the owner to direct or cause the direction of management of the underlying company.</p> <p>This item considers adding investments in foreign open-end investments funds regulated by foreign jurisdictions.</p>	Y	TBD	TBD

Ref#	Title	Sector	Amendments exposed	F/S impact	Disclosure	Effective date
2022-10	SSAP No. 36— <i>Troubled Debt Restructurings</i>	P/C Life Health	<p>Proposed SAP Clarification</p> <p>Proposed revisions to reject ASU 2022-02: <i>Troubled Debt Restructurings and Vintage Disclosures</i>.</p> <p>This ASU eliminates prior US GAAP guidance for troubled debt restructurings (TDRs) by creditors and requires evaluation of whether the modification is a new loan or continuation of an existing loan given the guidance in ASU 2016-13: <i>Measurement of Credit Losses on Financial Instruments</i>.</p> <p>The Working Group continues to evaluate ASU 2016-13 but doubts full adoption given existing statutory accounting.</p> <ul style="list-style-type: none"> • Insurers commonly hold assets at amortized cost. • Asset Valuation Reserve for life and fraternal insurers establishes a reserve to offset potential credit-related investment losses on most investments. <p>Under existing SAP, ASU 2022-02 is not applicable.</p> <p>The Working Group also requests comments on whether additional disclosure is desirable regarding type of modifications under TDR.</p>	N	TBD	TBD
2022-09	SSAP No. 86— <i>Derivatives</i>	P/C Life Health	<p>Proposed New SAP Concept</p> <p>Proposed revisions to incorporate US GAAP guidance from ASU 2017-12, <i>Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities</i>, and ASU 2022-01, <i>Fair Value Hedging—Portfolio Layer Method</i> related to portfolio and partial-term hedges.</p> <p>Also mirror US GAAP guidance for hedge assessment on portfolio layer method.</p> <p>Disclosures are proposed to be revised to provide information when the hedge is discontinued.</p>	Y	Y	TBD

Ref#	Title	Sector	Amendments exposed	F/S impact	Disclosure	Effective date
2022-12	<i>INT 03-02: Modification to an Existing Intercompany Pooling Arrangement</i>	P/C Life Health	<p>This agenda item proposes to nullify INT 03-02, which is an interpretation of the following SSAPs:</p> <ul style="list-style-type: none"> • <i>SSAP No. 61R—Life, Deposit-Type, and Accident and Health Reinsurance</i> • <i>SSAP No. 62R—Property and Casualty Reinsurance</i> • <i>SSAP No. 63—Underwriting Pools</i> <p>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.</p> <p>Valuation at book or statutory value for transfers between affiliates and related parties is inconsistent with <i>SSAP No. 25—Affiliates and Other Related Parties</i>.</p> <p>As such, the Working Group is considering nullification of the interpretation.</p>	Y	N	TBD

The SAPWG also took the following actions, received updates, and provided direction to NAIC staff on the following items:

Ref#	Title	Sector	Amendments exposed	F/S impact	Disclosure	Effective date
TBD	<i>SSAP No. 101—Income Taxes</i>	P/C Life Health	The Working Group noted that a review of the impact of the <i>Inflation Reduction Act of 2022</i> on statutory accounting and reporting of income taxes will be conducted during the interim period.	TBD	TBD	TBD

Endnotes

1. Jim Kettner, "[Bridges of Portland](#)," Travel Portland, February 12, 2022.
2. Jason Hanna and Rebekah Riess, "[Oregon wildfire triples its reach in 1 day, burning thousands more acres and forcing evacuations](#)," CNN, August 27, 2022.
3. Colorado Department of Regulatory Agencies (DORA), [SB21-169 – Protecting Consumers from Unfair Discrimination in Insurance Practices](#), accessed November 3, 2022.
4. Eric C. Peck, "[House passes act to expand wildfire insurance coverage](#)," DSNews.com, August 2, 2022.
5. Securities Industry and Financial Markets Association (SIFMA), "[Assembly Floor Alert re: Opposition to Senate Bill 260 \(Wiener\): Climate Corporate Accountability Act](#)," letter from California Bankers Association, American Bankers Association, Bank Policy Institute, and Securities Industry and Financial Markets Association, August 17, 2022.
6. DC Department of Insurance, Securities and Banking (DISB), "[Evaluating unintentional bias in private passenger automobile insurance](#)," accessed November 3, 2022.
7. [Final Rule by Centers for Medicare & Medicaid Services](#), 87 FR 27704, May 9, 2022.
8. Federal Trade Commission (FTC), [FTC v. Benefytt Technologies, et al.](#), August 8, 2022.
9. Elaine Povich, "[State attorneys general unite against robocalls](#)," *Missouri Independent*, August 18, 2022.

Contacts

Karl Hersch

Principal
US Insurance leader
US Insurance Consulting leader
Deloitte Consulting LLP
+1 973 602 5252
khersch@deloitte.com

Richard Godfrey

Principal
US Insurance Risk & Financial Advisory leader
Deloitte & Touche LLP
+1 973 602 6270
rgodfrey@deloitte.com

Contributors**John Tittle**

Specialist
Deloitte & Touche LLP
+1 312 486 5486
johntittle@deloitte.com

Senior editor**David Sherwood**

Managing director
Deloitte & Touche LLP
+1 203 423 4390
dsherwood@deloitte.com

Josh Martin

Managing director
Deloitte & Touche LLP
+1 860 725 3153
joshmartin@deloitte.com

Barry Vanderloop

Managing director
Deloitte & Touche LLP
+1 612 659 2718
bvanderloop@deloitte.com

Sara Gambino

Managing director
Deloitte & Touche LLP
+1 313 396 2903
sgambino@deloitte.com

**About this newsletter**

This newsletter is distributed for promotional purposes and is not intended to represent investment, accounting, tax, or legal advice. Any opinions and analyses presented herein are those of the authors and are not intended to represent the position of Deloitte LLP or other individual members of the firm. Data presented herein has been obtained from sources believed to be reliable.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the "Deloitte" name in the United States, and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.