

MEMORANDUM

TO: Tom Botsko, representing Judith L. French, Chair of the Capital Adequacy (E) Task Force
Mike Yanacheak, representing Doub Ommen, Vice-Chair of the Capital Adequacy (E) Task Force
Philip Barlow, Chair of the Life Risk-Based Capital (E) Working Group
Ben Slutsker, Vice-Chair of the Life Risk-Based Capital (E) Working Group

FROM: Dale Bruggeman, Chair of the Statutory Accounting Principles (E) Working Group
Kevin Clark, Vice-Chair of the Statutory Accounting Principles (E) Working Group

DATE: March 27, 2024

RE: SAPWG Referral for Investments in Tax Credit Structures

During the 2024 Spring National Meeting, the Statutory Accounting Principles (E) Working Group (SAPWG) adopted agenda item *2022-14: New Market Tax Credits*, a new SAP concept to replace *SSAP No. 93—Low-Income Housing Tax Credit Property Investments* with *SSAP No. 93R—Investments in Tax Credit Structures* which expands the scope of statutory guidance to include all qualifying tax credit investments regardless of structure or the underlying state/federal tax credit program. The new guidance will be effective on Jan. 1, 2025.

With this adoption, the Working Group directed NAIC staff to send a referral to both the Capital Adequacy (E) Task Force and Life Risk-Based Capital (E) Working Group to inform them of the impending changes to reporting lines. Per the Blanks (E) Working Group proposal (Ref #2024-11BWG), the reporting line, for federal guaranteed programs is proposed to be deleted because these types of tax credit investment structures were substantially eliminated by the *Historic Boardwalk Hall, LLC v. Comm of Internal Revenue* court decision in 2012. The remaining existing Low-Income Housing Tax Credit (LIHTC) Investment Asset Valuation Reserve (AVR) reporting lines are proposed to be renamed and would continue to include LIHTC investments but would also be expanded to include any type of state or federal tax credit program assuming the investment meets the criteria described in paragraph 2 of SSAP No. 93R.

As the current RBC factors were specifically developed for investments in LIHTC programs, this change may indicate the need for a review to update new RBC factors and/or reporting lines which would include new tax credit programs which are not real estate based. Attachment A summarizes both the original LIHTC investment AVR reporting lines and the proposed AVR reporting lines for tax credit investments for your reference. (see Note 1)

The Working Group appreciates your time and consideration of this referral. If you have any questions, please contact Dale Bruggeman, or Kevin Clark, SAPWG Chair and Vice Chair, with any questions.

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Cc: Julie Gann, Robin Marcotte, Jake Stultz, Jason Farr, Wil Oden, Eva Yeung, Dave Fleming, Maggie Chang, Kazeem Okosun

Note 1: Attachment A summarizes proposed changes to AVR reporting lines. Note that P/C and Health RBC formulas do not use AVR reporting lines. Yet, the proposed reporting lines for Schedule BA (Ref #2024-11BWG) use the same structure as proposed AVR reporting lines. For brevity, the proposed changes to Schedule BA are omitted herein.

https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Stat Acctg_Statutory_Referrals/2024/SAPWG to CATF and LRBCWG - 3-26-24.docx

AVR reporting lines under SSAP No. 93—Low-Income Housing Tax Credit Property Investments

Line Number	NAIC Designation	Description	1 Book/ Adjusted Carrying Value	2 Reclassify Related Party Encumbrances	3 Add Third Party Encumbrances	4 Balance for AVR Reserve Calculations (Cols. 1+2+3)	Basic Contribution		Reserve Objective		Maximum Reserve	
							5 Factor	6 Amount (Cols. 4x5)	7 Factor	8 Amount (Cols. 4x7)	9 Factor	10 Amount (Cols. 4x9)
		LOW INCOME HOUSING TAX CREDIT INVESTMENTS										
75		Guaranteed Federal Low-Income Housing Tax Credit.....					0.0003		0.0006		0.0010	
76		Non-guaranteed Federal Low-Income Housing Tax Credit.....					0.0063		0.0120		0.0190	
77		Guaranteed State Low Income Housing Tax Credit.....					0.0003		0.0006		0.0010	
78		Non-guaranteed State Low Income Housing Tax Credit.....					0.0063		0.0120		0.0190	
79		All Other Low-Income Housing Tax Credit.....					0.0273		0.0600		0.0975	
80		Total LIHTC (Sum of Lines 75 through 79)					XXX		XXX		XXX	

Proposed AVR reporting lines under SSAP No. 93R— Investments in Tax Credit Structures

		INVESTMENTS IN TAX CREDIT STRUCTURES										
75		Tax Credit Investments - Federal Non-guaranteed.....					0.0063		0.0120		0.0190	
76		Tax Credit Investments - State Guaranteed.....					0.0003		0.0006		0.0010	
77		Tax Credit Investments - State Non-guaranteed					0.0063		0.0120		0.0190	
78		Tax Credit Investments - Other					0.0273		0.0600		0.0975	
79		Total Tax Credit Investments (Sum of Lines 75 through 78)					XXX		XXX		XXX	