Statutory Accounting Principles (E) Working Group

**Maintenance Agenda Submission Form**

**Form A**

## **Issue: SSAP No. 62R effective date**

**Check (applicable entity):**

 P/C Life Health

Modification of existing SSAP [x]  [x]  [x]

New Issue or SSAP [ ]  [ ]  [ ]

Interpretation [ ]  [ ]  [ ]

Description of Issue:

*Summary:*

This agenda item has been drafted to further clarify the effective date guidance regarding the updates to *SSAP No. 62R—Property and Casualty Reinsurance*, which was adopted on November 15, 2018. The Working Group adopted substantive revisions to SSAP No. 62R to clarify the determination of reinsurance credit and incorporate language from *EITF 93-6, Accounting for Multi-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises* and *EITF Topic D-35, FASB Staff Views on Issue No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises,* with a January 1, 2019 effective date in agenda item 2017-28 - Reinsurance Credit.

The majority of adopted revisions explicitly incorporated U.S. generally accepted accounting principles (GAAP) guidance that had previously been adopted by reference in SSAP No. 62R. EITF 93-6 was adopted with modification by reference in SSAP No. 62R when it was originally effective in 2001. The revisions provided clarity and improved consistency with GAAP and incorporated more of the GAAP implementation guidance on existing concepts into relevant locations.

The revisions were drafted in cooperation with an informal drafting group which included members of industry and regulators. The exposure of the revisions requested comments on the effective date and no comments were received. Members of the drafting group supported the January 1, 2019 effective date.

Subsequent to the November 2018 adoption, NAIC staff received queries asking if the adopted revisions were to be applied to reinsurance contracts in effect as of January 1, 2019 or reinsurance contracts entered into or amended on or after January 1, 2019.  Since risk transfer is evaluated at inception of the reinsurance contract, the distinction of the applicability of the effective date of the clarifying guidance may be important for some reporting entities

Because of the following reasons, NAIC staff thinks that the intent of the January 1, 2019 effective date was not intended to “grandfather” any contracts that existed prior to January 1, 2019 which continue to be effective on January 1, 2019:

* EITF 93-6 has been adopted by reference in SSAP No. 62R since its inception.
* The extensive drafting group discussions noted that the outcome of the revisions was to provide more explicit alignment with GAAP and was consistent with the original intent and currently understood application of the existing guidance.
* Some of the guidance was incorporated to be more consistent with the current GAAP formatting after the 2009 FASB codification.

NAIC staff believes that the revisions will not prompt many entities to revise their evaluation of risk transfer for reinsurance contracts in effect as of January 1, 2019. However, if a reporting entity, after reading the incorporated guidance, now has a better understanding that they were applying existing guidance incorrectly, they do have a duty to update their risk transfer assessments for all contracts that were in effect as of January 1, 2019. For these entities, their risk transfer determination at the contract’s inception date was not in accordance with the original intent of the guidance.

Existing Authoritative Literature:

*SSAP No. 62R—Property and Casualty Reinsurance* provides the following:

129. This statement adopts with modification *FASB Statement No. 113, Accounting and Reporting for Reinsurance of Short-Duration and Long-Duration Contracts* (FAS 113) and FASB *Emerging Issues Task Force No. 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises* for the following:

1. Reinsurance recoverables on unpaid case-basis and incurred but not reported losses and loss adjustment expenses shall be reported as a contra-liability netted against the liability for gross losses and loss adjustment expenses;
2. Amounts paid for prospective reinsurance that meet the conditions for reinsurance accounting shall be reported as a reduction of unearned premiums;
3. The gain created by a retroactive reinsurance agreement because the amount paid to the reinsurer is less than the gross liabilities for losses and loss adjustment expenses ceded to the reinsurer is reported in the statement of income as a write-in gain in other income by the ceding entity and a write-in loss by the assuming entity. The gain created by a retroactive reinsurance agreement is restricted as a special surplus account until the actual retroactive reinsurance recovered is in excess of the consideration paid;
4. This statement requires that a liability (provision for reinsurance) be established through a provision reducing unassigned funds (surplus) for unsecured reinsurance recoverables from unauthorized or certified reinsurers and for certain overdue balances due from authorized reinsurers;
5. Some reinsurance agreements contain adjustable features that provide for adjustment of commission, premium or amount of coverage, based on loss experience. This statement requires that the asset or liability arising from the adjustable feature be computed based on experience to date under the agreement, and the impact of early termination may only be considered at the time the agreement has actually been terminated;
6. Structured settlements are addressed in *SSAP No. 65—Property and Casualty Contracts*. Statutory accounting and FAS 113 are consistent in accounting for structured settlement annuities where the reporting entity is the owner and payee and where the claimant is the payee and the reporting entity has been released from its obligation. FAS 113 distinguishes structured settlement annuities where the claimant is the payee and a legally enforceable release from the reporting entity’s liability is obtained from those where the claimant is the payee but the reporting entity has not been released from its obligation. GAAP requires the deferral of any gain resulting from the purchase of a structured settlement annuity where the reporting entity has not been released from its obligation; and
7. This statement requires that reinsurance recoverables on unpaid losses and loss adjustment expenses be presented as a contra-liability. Requirements for offsetting and netting are addressed in SSAP No. 64.

134. The substantive revisions adopted November 15, 2018, which primarily incorporated guidance originally from EITF 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises and from EITF D-035, FASB Staff Views on Issue No. 93, are effective January 1, 2019.

Activity to Date (issues previously addressed by the Working Group, Emerging Accounting Issues (E) Working Group, SEC, FASB, other State Departments of Insurance or other NAIC groups):

Revisions to SSAP No. 62R were adopted in November 2018 in agenda item 2017-28 Reinsurance Credit

**Information or issues (included in *Description of Issue*) not previously contemplated by the Working Group:**

None

**Convergence with International Financial Reporting Standards (IFRS): None**

Staff Recommendation:

NAIC Staff recommends that the Working Group move this item to the active listing, categorized as nonsubstantive and expose revisions to SSAP No. 62R as illustrated below:

134. The substantive revisions adopted November 15, 2018, which primarily incorporated guidance originally from *EITF 93-6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises* and from *EITF Topic D-35, FASB Staff Views on Issue No. 93 -6, Accounting for Multiple-Year Retrospectively Rated Contracts by Ceding and Assuming Enterprises*, are effective for contracts in effect on or after January 1, 2019. These revisions are required for contracts in effect as *EITF 93-6* had been adopted with modification in this statement from its original 2001 effective date. The revisions adopted in November 2018 primarily added clarification and implementation guidance. (Companies that have previously been following the original intent, as clarified in the revisions, should not be impacted by the November 2018 revisions.) However, if a reporting entity becomes aware that the prior application of reinsurance credit guidance was not consistent with the adopted guidance, the updates should be applied as a change in accounting principle to contracts in effect as of January 1, 2019.

Staff Review Completed by:

Robin Marcotte

**NAIC Staff**

**Status:**

On April 6, 2019, the Statutory Accounting Principles (E) Working Group moved this agenda item to the active listing, categorized as nonsubstantive, and exposed revisions to *SSAP No. 62R—Property and Casualty Reinsurance*, as detailed above, to further clarify the effective date guidance regarding the updates to SSAP No. 62R, which were adopted on November 15, 2018. The exposed guidance clarifies that it applies to contracts in effect as of Jan. 1, 2019. If a change is required to prior application, it shall be applied as a change in accounting principle

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