

Statutory Issue Paper No. 143 – Revised

Guaranty Fund Assessments

STATUS

Finalized October 18, 2010; Substantively revised October 12, 2017

Original SSAP and Current Authoritative Guidance: SSAP No. 35R

Type of Issue:

Common Area

SUMMARY OF ISSUE

1. Current statutory accounting guidance on guaranty funds and assessments is provided within *SSAP No. 35—Guaranty Fund and Other Assessments* (SSAP No. 35). SSAP No. 35 rejected the GAAP guidance for recording guaranty fund and other assessments previously contained within AICPA *Statement of Position 97-3, Accounting by Insurance and Other Enterprises for Insurance-Related Assessments* (SOP 97-3) and currently included within the *Accounting Standards Codification 405-30, Insurance Related Assessments* (ASC 405-30).

2. As detailed within *Issue Paper No. 35, Accounting for Guaranty Fund and Other Assessments* (Issue Paper No. 35), SOP 97-3 defined the condition of obligation differently than Issue Paper No. 35. Issue Paper No. 35 identified that probability and obligation have been satisfied when insolvency has occurred, regardless of whether the assessment is based upon premiums or losses written, incurred or paid before or after the insolvency. Issue Paper No. 35 also identified that SOP 97-3 was rejected because it was inconsistent with the concepts of conservatism and recognition outlined in the Statement of Concepts, as well as the accounting principles set out in *Issue Paper No. 5, Definition of Liabilities, Loss Contingencies and Impairments of Assets* (Issue Paper No. 5). Issue Paper No. 35 identified that language from SOP 97-3 regarding the ‘Ability to Reasonably Estimate the Liability’ was incorporated into statutory accounting.

3. The purpose of this issue paper is to re-evaluate the previous conclusion within Issue Paper No. 35, and reflected within SSAP No. 35, regarding the adoption of SOP 97-3 (ASC 405-30) for statutory accounting. This issue paper was subsequently amended to reflect additional changes adopted in December 2016 (Ref #2016-38) and March 2017 (Ref #2017-01) to *SSAP No. 35R—Guaranty Form and Other Assessments – Revised*. Added discussion is noted in paragraphs 19-41 and in new Exhibit B and Exhibit C of this issue paper.

SUMMARY CONCLUSION

4. Entities subject to assessments should recognize liabilities for insurance-related assessments when all of the following conditions are met:

- a. An assessment has been imposed or information available prior to the issuance of the financial statements indicates it is probable that an assessment will be imposed.
- b. The event obligating an entity to pay (underlying cause of) an imposed or probable assessment has occurred on or before the date of the financial statements.
- c. The amount of the assessment can be reasonably estimated.

5. Premium-based guaranty-fund assessments, except those that are prefunded, are presumed probable when a formal determination of insolvency occurs, and presumed not probable prior to a formal determination of insolvency. Pre-funded guaranty fund assessments and premium-based administrative-type assessments are presumed probable when the premiums on which the assessments are expected to be based are written. Loss-based administrative-type and second-injury fund assessments are presumed probable when the losses on which the assessments are expected to be based are incurred.

6. For premium-based assessments, the event that obligates the entity is generally writing the premiums or becoming obligated to write or renew (such as multiple-year, noncancelable policies) the premiums on which the assessments are expected to be based. Some states, through law or regulatory practice, provide that an insurance enterprise cannot avoid paying a particular assessment even if that insurance enterprise reduces its premium writing in the future. In such circumstances, the event that obligates the entity is a formal determination of insolvency or similar triggering event. Regulatory practice would be determined based on the stated intentions or prior history of the insurance regulators.

7. For loss-based assessments, the event that obligates the entity is an entity incurring the losses on which the assessments are expected to be based.

8. The following provides guidance on how guaranty-fund assessments and other insurance-related assessments should be applied:

- a. *Retrospective-premium-based guaranty-fund assessments* – An assessment is probable of being imposed when a formal determination of insolvency occurs. At that time, the premium that obligates the entity for the assessment liability has already been written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment should recognize a liability for the entire amount of future assessments related to a particular insolvency when a formal determination of insolvency is rendered.
- b. *Prospective-premium-based guaranty-fund assessments* – The event that obligates the entity for the assessment liability generally is the writing of, or becoming obligated to write or renew, the premiums on which the expected future assessments are to be based. Therefore, the event that obligates the entity generally will not have occurred at the time of the insolvency.
 - i. In states that, through law or regulatory practice, provide that an entity cannot avoid paying a particular assessment in the future (even if the entity reduces premium writings in the future), the event that obligates the entity is a formal determination of insolvency or a similar event. An entity that has the ability to reasonably estimate the amount of the assessment should recognize a liability for the entire amount of future assessments that cannot be avoided related to a particular insolvency when a formal determination of insolvency occurs.
 - ii. In states without such a law or regulator practice, the event that obligates the entity is the writing of, or becoming obligated to write, the premiums on which the expected future assessments are to be based. An entity that has the ability to reasonably estimate the amount of the assessments should recognize a liability when the related premiums are written or when the entity becomes obligated to write the premiums.
- c. *Prefunded-premium-based guaranty fund assessments* – A liability for an assessment arises when premiums are written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment should recognize a liability as the related premiums are written.

- d. *Other premium-based assessments* – Other premium-based assessments shall be accounted for in the same manner as prefunded-premium-based guaranty-fund assessments.
- e. *Loss-based assessments* – An assessment is probable of being asserted when the loss occurs. The obligating event of the assessment also has occurred when the loss occurs. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment should recognize a liability as the related loss is incurred.

DISCUSSION

9. Current statutory accounting guidance within SSAP No. 35 rejected the provisions of SOP 97-3, and required assessments for guaranty fund obligations to be accrued at the time of the insolvency, regardless of whether an event that “obligates” the reporting entity (i.e., the writing of premiums) has occurred. This position was considered necessary to be consistent with the concepts of conservatism and recognition outlined in the Statement of Concepts.

10. Before codification (and SSAP No. 35), the statutory accounting practice was driven by the line of insurance written by the reporting entity. For life insurers, assessments were accrued at the time of the insolvency, as the guaranty fund obligations were based on premiums written prior to the insolvency. For property and casualty insurers, the practice varied to reflect when the premiums were written. For assessments based on premiums written after an insolvency, the assessment was accrued when the premiums were written, as this was considered the event that obligated the entity.

11. Interested parties have identified that after the adoption of SSAP No. 35, property and casualty insurers have been able to develop estimates of their respective market shares, but that these insurers have had difficulty in trying to estimate the ultimate loss expected from insolvencies. Although property and casualty insurers have worked with the National Conference of Insurance Guaranty Funds (NCIGF) and various State Guaranty Fund Associations in an attempt to obtain additional information related to the ultimate loss expected from insolvencies, the rate information provided by the NCIGF does not extend beyond one year. Additionally, the NCIGF information does not provide sufficient data to allow for the calculation of an ultimate expected assessment exposure, which is necessary to meet the SSAP No. 35 requirements.

12. Interested parties also identified that the range of outcomes among property and casualty insurers illustrates that there is a lack of consistency of estimates among these reporting entities. This lack of consistency creates concern as to the extent SSAP No. 35 can be applied reliably. Based on the request of interested parties, the Statutory Accounting Principles (E) Working Group formed the Guaranty Fund (E) Subgroup to review the current statutory requirements within SSAP No. 35 and reconsider the adoption of SOP 97-3 (ASC 405-30).

13. To complete an assessment, the Subgroup conducted state surveys and received information from the NCIGF. In considering the results of state surveys, several states noted that waiting to record prospective-based guaranty fund assessments until the obligating premium was written would not impact their assessment of the insurers. A few states indicated that waiting would actually improve their assessment of the insurer as the liability information would be more accurate. In contrast, two states specifically noted that insurers should not wait to record the liability on their financial statements, and thus favored the current SSAP No. 35 approach.

14. After considering the presentation by NCIGF, the Subgroup concluded that in addition to mirroring the GAAP requirements, adopting the approach within ACS 405-30 (SOP 97-3) would result with the recognition of liabilities that are better estimates, more consistently determined, and more verifiable than the existing statutory approach.

- a. *Better Estimates* - Using the current approach, it has been communicated that insurers do not have adequate information to calculate ultimate expected assessment exposure as of the liquidation date. It has been communicated that relying on the last annual statement filed of the insolvent insurer would not be timely or provide the best estimate for assessments. This is due to limited filed financial statement information, if any, if rehabilitation or runoff has occurred prior to insolvency. Insurers have communicated that they can use the NCIGF "Assessment Liability Report" to estimate their assessment liabilities and that this report is accepted by auditors as support for determining assessment liabilities under ACS 405-30 (SOP 97-3).
- b. *More Consistently Determined* – The guaranty associations determine annually how much to assess the insurance industry according to their funding needs. State laws establish the maximum assessment percentage that can be assessed by a guaranty association per year. Under the prospective assessment method, used by 54 of the 57 guaranty associations (as reported by the NCIGF), the assessment amount is a percentage of direct written premiums for the prior year for lines covered by the guaranty association. Assessments received by the guaranty association in a particular year are used to fund claims originating from all insolvencies, regardless of when those insolvencies occurred. Prospective-premium based assessments are assessments made on premiums written after an insolvency occurs; assessments in any year are generally limited to a percentage of premiums written the year before the assessment is made.
- c. *More Verifiable* – It has been communicated that utilizing the GAAP method improves the auditability of property and casualty insurer estimates as the information is based on "real" data. As previously stated in this issue paper, it has been communicated that the information provided by the NCIGF, which is in accordance with the GAAP standards, is accepted as support for the insurance company's assessment liability.

15. The Subgroup also noted that the inconsistencies in reporting and the lack of verifiable information reduced the conservative benefits received under the existing guidance in SSAP No. 35. As the result of these findings, the Subgroup agreed to present an Issue paper to the Working Group proposing substantive revisions to SSAP No. 35 to incorporate the ASC 405-30 (SOP 97-3) approach for guaranty fund liability recognition. Under this approach, accounting requirements for guaranty fund assessments would be determined in accordance with the type of guaranty-fund assessment imposed, and incorporate the concept of an 'obligating event' for prospective-based premium assessments in determining whether liability accrual should occur.

16. Exhibit A includes the proposed substantive revisions to reflect the adoption with modification of ASC 405-30 (SOP 97-3), in the form of *SSAP No. 35R—Guaranty Form and Other Assessments – Revised* (SSAP No. 35R). The substantive revisions are proposed to be initially effective for the reporting period beginning January 1, 2011.

17. Statutory accounting modifications from ASC 405-30 (SOP 97-3) are as follows:

- a. The option to discount accrued liabilities (and reflect the time value of money of anticipated recoverables) is rejected for statutory accounting. Liabilities for guaranty funds or other assessments shall not be discounted.
- b. The use of a valuation allowance for premium tax offsets and policy surcharges no longer probable for realization has been rejected for statutory accounting. Evaluation of assets shall be made in accordance with SSAP No. 5, and if it is probable that the asset is no longer realizable, the asset shall be written off and charged to income in the period the determination is made.

- c. Guidance within ASC 405-30 pertaining to noninsurance entities has been rejected as not applicable for statutory accounting.
18. SSAP No. 35 has three statutory accounting interpretations (INTs). No revisions are considered necessary to these interpretations as a result of the substantive revisions proposed within SSAP No. 35R:
- a. *INT 02-22: Accounting for the U.S. Terrorism Risk Insurance Program* (INT 02-22) – This interpretation indicates that there is a transfer of underwriting insurance risk under the Terrorism Insurance Program and accordingly, the recovery of such losses should be reported as reinsured losses. This interpretation also indicates that because the terrorism loss risk-spreading premium is imposed on policyholders as a surcharge, and that the Department of Treasury provides for insurers to collect the surcharge and “remit amounts collected to the Secretary”, the surcharge generally meets the requirements of paragraph 10 of SSAP No. 35:
 - 10. In certain circumstances, a reporting entity acts as an agent for certain state or federal agencies in the collection and remittance of fees or assessments. In these circumstances, the liability for the fees and assessments rests with the policyholder rather than with the reporting entity. The reporting entity’s obligation is to collect and subsequently remit the fee or assessment. When both the following conditions are met, an assessment shall not be reported in the statement of operations of a reporting entity:
 - a. The assessment is reflected as a separately identifiable item on the billing to the policyholder; and
 - b. Remittance of the assessment by the reporting entity to the state or federal agency is contingent upon collection from the insured.
 - b. *INT 03-01: Application of SSAP No. 35 to the Florida Hurricane Catastrophe Fund* (INT 03-01) – This interpretation was nullified due to Florida Legislative Changes.
 - c. *INT 07-03: EITF 06-3: How Taxes Collected from Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement (That is, Gross versus Net Presentation)* (INT 07-03) – This interpretation discusses the correct accounting treatment of taxes charged to a customer by collected and remitted by a reporting entity. Similar to INT 02-22, this interpretation focuses on the application of paragraph 10 and how the collection of assessments or charges from policyholders shall impact the reporting entity’s financial statements.

DISCUSSION – MODIFICATIONS REGARDING LONG-TERM CARE ASSESSMENTS

Tax Asset Parity – Agenda Item 2016-38

19. In November 2016, agenda item 2016-38 exposed revisions to modify *SSAP No. 35R—Guaranty Fund and Other Assessments* (SSAP No. 35R) to address the accounting for a guaranty fund assessments and related assets recognized from future premium tax credits by writers of short-duration health insurance products. The revisions exposed were intended to make the guidance for short-duration health products comparable to writers of long-duration life products. The agenda item proposed changes to mitigate the disparate financial statement impact as result of a declaration of insolvency for a long-term care insurer. The revisions were requested because current information from the impending insolvency of a long-term care writer indicated that short-duration health products will be subject to assessments for losses on this long-duration health product.

20. Under SSAP No. 35R, insurers subject to retrospective assessments are required to accrue a guaranty fund assessment liability when it is probable that an assessment has been imposed and the amount of the assessment can be reasonably estimated. (For retrospective assessments, the obligating event has already occurred.) As such, health insurers and life insurers subject to retrospective assessments will be required to accrue a guaranty fund assessment liability immediately on the declaration of insolvency of a long-term care insurer. As detailed in SSAP No. 35R, paragraph 10, assets recognized from accrued liability assessments are determined in accordance with the type of guaranty fund assessment. For retrospective premium assessments for long-duration contracts, an asset based on in-force persistency rates is recognized if it is probable that accrued liability assessment will result in a recoverable amount. This guidance was adopted from U.S. Generally Accepted Accounting Principles (GAAP), and is consistent with *Accounting Standards Codification 405-30, Insurance-Related Assessments*. Also consistent with U.S. GAAP, the guidance in SSAP No. 35R, paragraph 10.b.i., excluded consideration of renewals for short-duration contracts. The revisions proposed in agenda item 2016-38 proposed a narrow and specific deviation from U.S. GAAP to allow recognition of assets for short-term health contracts when the retrospective assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts. This modification from U.S. GAAP was proposed to allow consistent treatment for entities subject to the same guaranty fund liability assessments.

21. The ability for an insurer with long-duration contracts to recognize an asset based on in-force expected renewals, with the disallowance of such ability to insurers with short-duration contracts, results in a disparate impact for insurers. Under existing guidance in SSAP No. 35R, short-duration contracts were not permitted to recognize assets based on expected renewals, but instead were limited to current business in-force. As a result, the corresponding asset for future premium tax credits for short-duration contracts are accrued in smaller increments over many accounting periods as in-force business is renewed. On the other hand for long-duration contracts, the asset recognized for the premium tax credit, as they are allowed to consider expected renewals, would initially be larger and could be recognized in one accounting period, thereby significantly reducing the surplus impact of the liability accrual for the assessment. With the different accounting rules for short-duration and long-duration contracts based on long-duration contract assessments, regulators and health industry representatives noted a concern that without the proposed revisions in agenda item 2016-38 the assessments would result in a larger capital decrease to a writer of short-duration health products relative to a writer of long-duration life products for similar insolvency assessments.

Accounting Overview

22. Liability Recognition – SSAP No. 35R provides guidance that requires recognition of a liability for insurance-related assessments in accordance with the type of assessment (retrospective, prospective, etc.). This guidance is based on *Accounting Standards Codification 405-30, Insurance Related Assessments* which is adopted with modifications to reject the discounting of the assessment liabilities and require an evaluation for impairment rather than a valuation allowance and to reject the noninsurance entity guidance.

23. Liability Timing – SSAP No. 35R, paragraphs 4, 6 and 14 provide guidance regarding the liability recognition for premium-based guaranty-fund assessments. As noted in paragraph 4, recognition of the assessment is affected when an insolvency is determined, the event obligating the entity has occurred, and the amount of the assessment can be reasonably estimated. As noted in paragraph 6, an insolvency shall be considered to have occurred when a reporting entity meets a state's (ordinarily the state of domicile of the insolvent reporting entity) statutory definition of an insolvent reporting entity. In most states, the reporting entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation.

24. Tax Credit Assets – Most states follow the *Life and Health Insurance Guaranty Association Model Act* (#520) and allow a premium tax credit for paid assessments. SSAP No. 35R, paragraph 10,

allows for the recognition of an asset for these credits and policy surcharges when it is probable that a paid or accrued assessment will result in a receivable/surcharge that will be collected in the future. The amount that SSAP No. 35R allows to be recognized as an asset takes into consideration various factors such as current state law, projections of future premium collections or policy surcharges from in-force policies when determining the future ability to realize the tax credit. SSAP No. 35R, paragraph 10, allows two types of assets:

- a. An asset based on paid assessments which are recoverable from future premium tax recoverables and policy surcharges which will be collected in the future. Since this is based on paid assessments, the type of guaranty fund assessment (retrospective, prospective, etc.,) does not impact the ability to recognize an asset.
- b. An asset based on accrued liability assessments which are recoverable in a future period from in-force business. As this asset is based on liability accruals, the type of assessment (retrospective or prospective) is a factor for this allowance. This is the asset under discussion.

25. Assets Accrued Based on Premium – For retrospective-premium-based assessments, an asset can be recognized at the time the liability is recorded, to the extent that it is probable that accrued liability assessments will result in a recoverable amount in a future period from business currently in-force. Pursuant to the prior guidance in SSAP No. 35R, paragraph 10.b.i., which excluded expected renewals of short-term contracts, writers of long-duration products were allowed to accrue a larger asset. Different accounting treatment arises under paragraph 10.b.i. for health writers relative to life writers when the insolvency of a company that wrote long-duration contracts (such as long-term care) is funded by companies that write primarily short-duration contracts, such as health contracts. Because a life insurance company's in-force business typically consists of long-duration contracts, the life company is allowed to take into consideration future years premium renewals using persistency rates in determining the amount of the asset that can be recognized under paragraph 10.b.i. However, because a health company's in-force business typically consists of short-duration contracts, the health company is limited to generally one year of premiums—the amount of premiums generated by its in-force short-term contracts. As a result, for an identical accrued guaranty fund assessment, a life insurer is allowed to recognize a much larger asset when the liability is initially recorded relative to a health writer.

26. U.S. GAAP to SAP Difference – SSAP No. 35R, paragraph 10, is based on existing U.S. GAAP guidance in *Accounting Standards Codification 405-30, Insurance Related Assessments* (ASC 405-30-30-11), and also prohibits the consideration of expected renewals of short-term contracts. With the proposed revisions to SSAP No. 35R under agenda item 2016-38, narrow and specific modifications from U.S. GAAP are proposed to allow assets based on expected renewals for short-duration contracts under statutory accounting. This change would make the U.S. GAAP balance sheet asset lower and more conservative than the statutory accounting balance sheet asset for writers of short-duration contracts.

Working Group Actions

27. When SSAP No. 35R was substantively revised, effective for January, 1, 2011, as documented in this issue paper, consideration was given to U.S. GAAP in establishing the guidance. Industry comments received (which also supported admission of the asset) identified why the provisions were established for long-duration contracts, rather than short-term contracts:

The terms and conditions (as well as the duration) of policies written by life insurers differs significantly from those written by property and casualty companies in that life policies are long-term and of a nature such that it is in the policyholder's best interest to keep a policy in force to avoid forfeiture or certain fees. Therefore, there is a much higher likelihood that a life policy will remain in force than it is that a property and casualty policy would be renewed; accordingly, future

premiums such as renewals should be included in the estimate of the premium tax credit and the asset for in-force life insurance contracts.

28. Although the guidance proposed in agenda item 2016-38 deviates from U.S. GAAP, the Statutory Accounting Principles (E) Working Group supported incorporating these accounting revisions as it would ensure that insurers subject to similar retrospective long-term care assessments would be allowed to accrue assets based on similar factors. Agenda item 2016-38 was exposed on November 16, 2016, with a proposed effective date of January 1, 2017. The accelerated timeline was to provide certainty for industry preparers in advance of an expected insolvency. The revisions from the initial exposure incorporated prior to adoption were primarily clarifications which can be summarized as follows:

- a. Scope revisions to note that the revisions specifically apply to health contracts subject to long-term care guaranty assessments.
- b. Edits which differentiated the asset recognized under health contracts, which is based on renewals, from the asset recognized under life contracts, which is based on in-force persistency rates. Additional language was also added to paragraph 11 to make this distinction clear. The change was consistent with the concepts in the recommendation made by interested parties.
- c. Changed some of terminology – replaced “short-duration” with “short-term” to be consistent with existing language in SSAP No. 35R.
- d. Changed losses on long-duration contracts (e.g., long-term care) to (assessments) for the insolvencies of insurers that wrote long-term care contracts. This change was recommended by interested parties and it does have the potential to scope in additional assessments.

29. The substantive revisions, adopted at the 2016 Fall National Meeting and effective January 1, 2017, allow expected renewals of short-term health contracts to be considered in determining the assets recognized from accrued guaranty fund liability assessments. The adopted revisions, illustrated in Exhibit B, result with more comparable accounting treatment between life insurers and health insurers subject to similar retrospective guaranty assessments for long-term care products. As these substantive revisions were only exposed for one comment period, a super-majority vote was required and the revisions were adopted without opposition. The Working Group directed the existing Issue Paper No. 143R to be amended to document the revisions.

Long-Term Care Discounting – Agenda Item 2017-01

30. At the 2016 Fall National Meeting, the Working Group also reviewed comments from two large health industry insurance groups which noted that direct writers of long-term care policies were allowed to discount reserve liabilities. Both insurance groups requested consideration of statutory accounting revisions that would allow guaranty fund assessment liabilities and related accrued assets from insolvencies of insurers that wrote long-term care contracts to be discounted. The Working Group directed NAIC staff to prepare a separate agenda item (Ref #2017-01), for discussion in January 2017, proposing changes to SSAP No. 35R that would permit discounting guaranty fund liabilities and related accrued assets related to long-term care insolvencies.

31. Life and health products are generally subject to retrospective assessments. Because the liability attaches to previously written premium, SSAP No. 35R requires a liability to be recognized when the insolvency is known and reasonably estimated. (The assessment meets the definition of a liability, even though the liability may not be paid for years.) Generally long-tailed lines of business are assessed on other long-tailed lines of business. However, in the case of long-term care it has been determined that short-tailed health lines will also be assessed because long-term care is a health product.

32. SSAP No. 35R prohibits discounting, but U.S. GAAP *Accounting Standards Codification (ASC) 405-30, Insurance-Related Assessments*, 405-30-30-9 and 405-30-30-10 allow the option of discounting the liability; in addition (see authoritative literature section). ASC 405-30-30-12 notes that “In instances in which the recovery period for an asset is substantially longer than the payout period for the liability, it may be appropriate to record the asset on a discounted basis regardless of whether the liability is discounted.” Both of these U.S. GAAP concepts are currently rejected in SSAP No. 35R. Although the SSAP No. 35R discounting guidance is generally consistent with other statutory accounting principles, based on the health industry requests, the Working Group discussed the possibility of incorporating revisions to consider discounting in limited situations.

33. The Working Group discussed concerns if certain entities obtain permitted practices to discount the guaranty fund assessments related to an impending large long-term care insolvency. The Working Group noted that such permitted practices could create an un-level playing field among entities subject to the assessments. In addition, concerns were noted regarding the impact of guaranty fund association requests to prefund discounted assessments on small health insurers, many of which have suffered liquidity deterioration since the implementation of the federal Affordable Care Act. It was noted that prefunding could affect the small insurers’ liquidity. The Working Group also clarified that discounting the assessment of an already discounted liability (e.g., if the liability is already discounted by the insolvent entity’s estate) is not supported.

34. The Working Group had concerns regarding inconsistencies in assessment calculations because of the many different variables in the calculation and noted that having these variables, along with a varying discount rate, could compound inconsistencies. The Working Group directed NAIC staff to research the feasibility of having the liquidated entities (or other designee) develop the liability side of the guaranty fund assessment (both pre and post discount).

Timeline and Comments of Working Group Discussion

35. December 2016 – Comments from two large health industry insurance groups requested the ability to discount long-term care guaranty fund assessments. Commenters noted that direct writers of long-term care policies were allowed to discount reserve liabilities. Both of the December 2016 comment letters received from the large health insurance groups recommended the use of an actuarially justified discount rate, but did not request the use of a specific rate. One of the letters referenced the use of a rate set at inception consistent with the application of the Standard Valuation Law (Model #820). At the 2016 Fall National Meeting, the Working Group expressed an interest in having a specific discount rate used by all affected reporting entities.

36. January 2017 – The Working Group moved this item to the active listing, categorized as substantive, and exposed the January 2017 proposed revisions to SSAP No. 35R. With the exposure the Working Group directed the Receivership and Insolvency (E) Task Force be notified of the exposure. Key points in the initial exposure were as follows:

- a. Liability – In researching the liability determination, NAIC staff informally discussed the feasibility of having the liquidated entity (or other designee) develop the liability side of the guaranty fund assessment with representatives of the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA). They indicated that because of state variations in the guaranty associations that it would not be feasible to have one entity determine the assessment liabilities for all entities. The assessment of liabilities by each guaranty association will be impacted by different factors, such as run-off, covered amounts and funding strategies. While reports from NOLHGA may assist in determining expected liabilities, ultimately, management of each reporting entity is responsible for developing its estimate of obligations. Therefore, each reporting entity will have to use best available information, including information from each guaranty association, in determining its ultimate liability at each reporting date.

- b. Discount Rate – The Working Group exposed applying the whole life discount rate in effect as of the date of the insolvency recognition. The reasoning for this is that the Health Insurance Reserves Model Regulation (Model #10) states, in section 4B (1) (b), that the maximum interest rate for health insurance contract reserves is specified in the Model’s Appendix A, Specific Standards for Morbidity, Interest and Mortality. In turn, Appendix A stipulates that the maximum interest rate for contract reserves is the maximum allowed by the Standard Valuation Law (Model #820) in the valuation of whole life insurance. The corresponding references in the *Accounting Practices and Procedures Manual* are in Appendix A-010, paragraph 36, and Exhibit I, paragraph 3.

The pertinent sections of Model #820 that provide guidance in the determination of the maximum interest rate for whole life insurance are subsection B(1)(a), subsection B(2), subsection C(1)(a) and subsection D(1)(a) of Section 4b, Computation of Minimum Standard by Calendar Year of Issue. In the *Accounting Practices and Procedures Manual* these sections are also represented in Appendix A-820 paragraphs 5.a., 6.a. and 7.a. The relevant quotes from the *Accounting Practices and Procedures Manual Appendix A – Excerpts of Model Laws* were included in the proposed changes.

The “whole life discount rate” is the maximum statutory valuation interest rate prescribed under the Standard Valuation Law for Long-Term Care policies. This rate is determined by calendar year and is formula driven. Although the long-term care reserves and guaranty fund assessments are fundamentally different liabilities, the whole life rate would be consistent with the rate required for long-term care liabilities and is a rate that can be consistently determined. In discussing this issue with a few actuaries, it seems to be the most relevant discount rate.

Model #820 applies a rate that is determined at the date of policy issuance. For active life reserves, the calendar year rate at time of issue (or reserve set-up in this case) is appropriate. For calendar years 2013-2017, the rate is 3.5%. In this case the “date of issuance” was initially proposed to be the date of the liability recognition for the insolvency by the reporting entity. The whole life rate in effect on the date of the specific insolvency was proposed to be a locked-in discount rate applied for all future reporting periods. (Note per March 2017 discussion update, the discount rate would be based on the current whole life rate in effect as of each reporting date.)

If the guaranty association requires prefunding (pay all at once), discounting the liability is not proposed to be required. However, consistent with the ASC 405-30, paragraph 30-12 discounting of the asset would be required if the time to recoverability is in excess of one year. Related assets would be discounted over the time to forecasted recovery and should be subject to impairment analysis as specified in SSAP No. 35R, paragraph 11.

- c. Consumer Receivable – One of the December 2016 comment letters also requested the ability to set up an additional consumer receivable based on the present value of future premiums in order to make the total transaction economically surplus-neutral. The Working Group discussion noted the request was beyond the scope of this issue; therefore, changes were not proposed on how such an accrual would be estimated.
- d. Premium Tax Credits – One edit to paragraph 10.b. in SSAP No. 35R to specifically reference “premium tax credits” was exposed to be clear regarding the scope of the accrued asset noted in agenda item 2016-38. This edit is consistent with the Fall 2016 National Meeting discussion.
- e. Disclosures – The Working Group exposed disclosures similar to those initially recommended by industry and include the undiscounted and discounted amounts of assets

and liabilities, the discount rate applied to each insolvency; a description of the estimated discount time periods used for the assets and liabilities on a jurisdiction-by-jurisdiction basis; how the time periods were determined; and changes to the discount time periods used for the assets and liabilities from the prior reporting period.

37. February 2017 – The Working Group received and considered the following comments:

- a. Interested parties of the Working Group noted support for the proposal. The comment letter noted concern that the exposed SSAP No. 35R paragraph 18.e.iii. disclosure, which would require companies to provide a breakdown of the assets and liabilities by jurisdiction, was too granular and questioned how the disclosure would enhance solvency supervision. In addition, interested parties noted the disclosures of gross and discounted assessment liability and information on the estimated discount periods would prove challenging if it is not provided by the National Organization of Life and Health Insurance Guaranty Associations (NOLHGA).
- b. The two large health industry insurance groups also expressed support for the proposal and made a similar comment to the interested parties regarding the granularity of the disclosure in paragraph 18.e.iii. The letter also recommended that the Working Group bifurcate how the discount rate is determined to have the rate in effect at initial recognition and which would have all entities move to the rate in effect at the date of liquidation to ensure that all entities would apply the same long-term rate for the particular insolvency.

38. March 2017 – Comments were received from interested parties, which included representation from two large health insurance groups, noting support for adopting the exposed language to be effective for first quarter 2017 reporting.

39. March 2017 – Comments from two funded consumer representatives were received which recommended rejection of the change pending a more thorough and broader analysis. In providing more context to the discussion, NAIC staff noted the following:

- a. Liabilities – The March 2017 estimate of the Penn Treaty insolvency, which is the current long-term care insolvency, is \$4.2 billion. Applying the current whole life discount rate of 3.5% would reduce the estimated liability (assuming a 20-year payout) to approximately \$2.1 billion. The exact number of years of the assessments is unknown. Different state guaranty associations will employ different strategies for funding.
- b. Assets – Determining the asset impact is more complex; however, broadly it can be noted that the discounted assets will not completely offset the discounted liabilities and will have to be discounted for a longer time period than the discounted liabilities.
- c. At least three states do not provide tax credits for payments to guaranty associations, but the majority of states do allow future tax credits from guaranty fund payments to be used over time. The use of tax credits is generally spread out over a number of years after payment. However, this varies by jurisdiction.
- d. Life entities and health entities do not have the same premium renewal or persistency rates. So the discounted assets will be similar but not the same between different lines of business.
- e. Scope – The Working Group discussed that it did not want to pursue a broader carve-out for other long-tailed lines of business at this time because not all long-tailed lines (e.g., workers comp and med mal) use retrospective assessment. Therefore, the scope of the

proposed change will apply to all entities subject to assessments for insolvent entities that wrote long-term care products. The adopted revisions provided equal relief but the issue is more important for short-term products, which may not have been priced with these anticipated assessments.

40. March 2017 – The Working Group adopted the discounting language illustrated in Exhibit C of this issue paper related to long-term care guaranty fund assessments and the related asset and adopted disclosures, with an effective date of first quarter 2017 reporting. The Working Group noted that the discounting is for long-term care assessments that will be paid over a number of years. Discounting the long-term assessments which are payable in excess of 12 months at a conservative and consistent rate specified by the whole life discount rate in effect as of the reporting date was deemed a reasonable accommodation to an industry request regarding an historically large insolvency. This would allow the assessed entities to reflect a liability that is somewhat consistent with the insolvent entity (which reflects a discounted reserve liability). The same whole life discount rate would be applied by all entities. The discount rate that was adopted was for the whole life discount rate that is in effect as of the reporting date. This rate will move over time and is different than the initial proposed use of the whole life discount rate which would have been locked in as of the date of recognition of the insolvency.

41. In adopting the proposal the Working Group noted that the revisions will ensure a level playing field as all entities subject to the assessment would apply the same conservative discount rate (the whole life discount rate as of the reporting date). Furthermore, the disclosures will allow for adequate tracking of the discounted and undiscounted amounts.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

42. SSAP No. 35 provides the following guidance:

1. This statement establishes statutory accounting principles for guaranty fund and other assessments.
2. Guaranty fund assessments represent a funding mechanism employed by states to provide funds to cover policyholder obligations of insolvent reporting entities. Most states have enacted legislation establishing guaranty funds for both life and health insurance and for property and casualty insurance to provide for covered claims or to meet other insurance obligations of insolvent reporting entities in the state. Guaranty funds generally make assessments after an insolvency based upon retrospective premium writings.
3. This statement addresses other assessments including but not limited to workers' compensation second injury funds and for funds that pay operating costs of an insurance department, a state guaranty fund, and/or the workers' compensation board. This statement also addresses health related assessments including but not limited to state health insurance high-risk pools, health insurance small group and individual reinsurance pools, state health demographic or risk adjustment assessments.

SUMMARY CONCLUSION

4. This statement applies *SSAP No. 5—Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5) to guaranty fund and other assessments. SSAP No. 5 requires accrual of a liability when both of the following conditions are met:
 - a. Information available prior to issuance of the statutory financial statements indicates that it is probable that an asset has been impaired or a liability has been incurred at the date of the statutory financial statements. It is implicit in this condition that it is probable that one or more future events will occur confirming the fact of the loss or incurrence of a liability; and

- b. The amount of loss can be reasonably estimated.

For the purposes of subparagraph 4 b., loss generally means assessment or assessment rate. Guaranty fund and other assessments shall be charged to expense (Taxes, Licenses and Fees) and a liability shall be accrued when the above criteria are met except for certain health related assessments which shall be reported as a part of claims. Health related assessments that are reported as a part of claims instead of taxes, licenses and fees are those assessments that are designed for the purpose of spreading the risk of severe claims or adverse enrollment selection among all participating entities, and where the funds collected via the assessment are re-distributed back to the participating entities based upon the cost of specific claims, enrollment demographics, or other criteria affecting health care expenses.

5. For refunded guaranty or other fund assessments and assessments used to fund state operating expenses, reporting entities shall credit the refund or charge the assessment to expense when notification of the refund or assessment is made.

6. For guaranty fund assessments, subparagraph 4 a. is met when the insolvency has occurred, regardless of whether the assessments are based on premiums written before or after the insolvency. For purposes of applying this guidance, the insolvency shall be considered to have occurred when a reporting entity meets a state's (ordinarily the state of domicile of the insolvent reporting entity) statutory definition of an insolvent reporting entity. In most states, the reporting entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation. Loss-based administrative-type and second injury fund assessments are presumed probable when the losses on which the assessments are expected to be based are incurred.

7. Subparagraph 4 b. requires that the amounts can be reasonably estimated. For guaranty fund assessments, a reporting entity's estimate of the liability shall reflect an estimate of its share of the ultimate loss expected from the insolvency. The reporting entity shall also estimate any applicable premium tax credits and policy surcharges. An entity need not be able to compute the exact amounts of the assessments or be formally notified of such assessments by a guaranty fund to make a reasonable estimate of its liability. Entities subject to assessments may have to make assumptions about future events, such as when the fund making the assessment will incur costs and pay claims to determine the amounts and the timing of assessments. The best available information about market share or premiums by state and premiums by line of business generally should be used to estimate the amount of future assessments. Estimates of loss-based assessments should be consistent with estimates of the underlying incurred losses and should be developed based upon enacted laws or regulations and expected assessment rates. Premium tax credits or policy surcharges may only be considered in the estimate if it is probable they will be realized. Changes in the amount of the liability (or asset) as a result of the passage of time and revisions to estimates in the amount or timing of the payments shall be recorded in taxes, licenses and fees.

8. In accordance with SSAP No. 5, when the reasonable estimate of the loss is a range, the amount in the range that is considered the best estimate shall be accrued. When, in management's opinion, no amount within management's estimate of the range is a better estimate than any other amount, however, the midpoint (mean) of management's estimate in the range shall be accrued. For purposes of this statement, it is assumed that management can quantify the high end of the range. If management determines that the high end of the range cannot be quantified, then a range does not exist, and management's best estimate shall be accrued.

9. The liability for assessments shall be established gross of any probable and estimable recoveries from premium tax credits and premium surcharges. Because assessments are generally paid before premium tax credits are realized or policy surcharges are collected, an asset may result, which represents a receivable for premium tax credits that will be taken and policy surcharges which will be collected in the future. These amounts, to the extent it is probable they will be realized, meet the definition of assets, as specified in *SSAP No. 4—Assets and*

Nonadmitted Assets and are admitted assets to the extent they conform to the requirements of this statement. The asset shall be established and reported independent from the liability (not reported net).

10. In certain circumstances, a reporting entity acts as an agent for certain state or federal agencies in the collection and remittance of fees or assessments. In these circumstances, the liability for the fees and assessments rests with the policyholder rather than with the reporting entity. The reporting entity's obligation is to collect and subsequently remit the fee or assessment. When both the following conditions are met, an assessment shall not be reported in the statement of operations of a reporting entity:

- a. The assessment is reflected as a separately identifiable item on the billing to the policyholder; and
- b. Remittance of the assessment by the reporting entity to the state or federal agency is contingent upon collection from the insured.

Disclosures

11. Describe the nature of any assessments that could have a material financial effect and state the estimate of the liability or that an estimate cannot be made. To the extent assessments have been accrued disclose the amounts of the liabilities, any related asset for premium tax credits or policy surcharges, the periods over which the assessments are expected to be paid, and the period over which the recorded premium tax offsets or policy surcharges are expected to be realized.

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

Relevant Literature

13. This statement rejects GAAP guidance for recording guaranty fund and other assessments, which is contained in *AICPA Statement of Position 97-3, Accounting by Insurance and Other Enterprises for Insurance-Related Assessments*.

Generally Accepted Accounting Principles

43. *Accounting Standards Codification 405-30, Insurance-Related Assessments* (ASC 405-30) provides the following guidance:

405-30-05 Overview and Background

05-1 Insurance entities as well as noninsurance entities are subject to a variety of assessments related to insurance activities, including those by state guaranty funds and workers' compensation second-injury funds. Some entities may be subject to insurance-related assessments because they self-insure against loss or liability. This Subtopic provides guidance on accounting for insurance-related assessments.

State Guaranty Funds

05-2 States have enacted legislation establishing guaranty funds. The state guaranty funds assess entities licensed to sell insurance in the state to provide for the payment of covered claims or to meet other insurance obligations—subject to prescribed limits—of insolvent insurance entities. The assessments are generally based on premium volume for certain covered lines of business. Most state guaranty funds assess entities for costs related to a particular insolvency after the insolvency occurs. At least one state, however, assesses entities before insolvencies.

05-3 State guaranty funds use a variety of methods for assessing entities. This Subtopic identifies the following four primary methods of guaranty-fund assessments:

- a. *Retrospective-premium-based assessments.* Guaranty funds covering benefit payments of insolvent life, annuity, and health insurance entities typically assess entities based on premiums written or received in one or more years before the year of insolvency. Assessments in any year are generally limited to an established percentage of an entity's average premiums for the three years preceding the insolvency. Assessments for a given insolvency may take place over several years.
- b. *Prospective-premium-based assessments.* Guaranty funds covering claims of insolvent property and casualty insurance entities typically assess entities based on premiums written in one or more years after the insolvency. Assessments in any year are generally limited to an established percentage of an entity's premiums written or received for the year preceding the assessment. Assessments for a given insolvency may take place over several years.
- c. *Prefunded-premium-based assessments.* At least one state uses this kind of assessment to cover claims of insolvent property and casualty insurance entities. This kind of assessment is intended to prefund the costs of future insolvencies. Assessments are imposed before any particular insolvency and are based on the current level of written premiums. Rates to be applied to future premiums are adjusted as necessary.
- d. *Administrative-type assessments.* These assessments are typically a flat (annual) amount per entity to fund operations of the guaranty association, regardless of the existence of an insolvency.

05-4 State laws often allow for recoveries of guaranty-fund assessments by entities subject to assessments through such mechanisms as premium tax offsets, policy surcharges, and future premium rate structures. The policy surcharges referred to in this Subtopic are those surcharges that are intended to provide an opportunity for assessed entities to recover some or all of the amounts assessed over a period of time.

Other Insurance-Related Assessments

05-5 Entities are subject to a variety of other insurance-related assessments. Many states and a number of local governmental units have established other funds supported by assessments. The two most prevalent uses for such assessments are as follows:

- a. To fund operating expenses of state insurance regulatory bodies (for example, the state insurance department or workers' compensation board)
- b. To fund second-injury funds, which provide reimbursement to insurance carriers or employers for workers' compensation claims when the cost of a second injury combined with a prior accident or disability is greater than what the second accident alone would have produced. The employer of an injured or handicapped worker is responsible only for the workers' compensation benefit for the most recent injury; the second-injury fund would cover the cost of any additional benefits for aggravation of a prior condition or injury. The intent of the fund is to help insure that employers are not made to suffer a greater monetary loss or increased insurance costs because of hiring previously injured or handicapped employees.

05-6 The primary methods used to assess for these other insurance-related assessments are the following:

- a. *Premium-based.* The assessing entity imposes the assessment based on the entity's written premiums. The assessing entity may be at the state, county, municipality, or other

such level. The base year of premiums is generally either the current year or the year preceding the assessment.

b. *Loss-based.* The assessing entity imposes the assessment based on the entity's incurred losses or paid losses in relation to that amount for all entities subject to that assessment in the particular jurisdiction.

405-30-10 Objectives

10-1 The objective of this Subtopic is to establish consistent accounting and disclosures for guaranty-fund and other insurance-related assessments to improve comparability of reported information.

405-30-15 Scope and Scope Exceptions

Entities

15-1 The guidance in this Subtopic applies to all entities that are subject to guaranty-fund and other insurance-related assessments, including entities that are subject to insurance-related assessments because they self-insure against loss or liability. For example, one state specifies that self-insurers of workers' compensation should use as a base for assessment the amount of premium the self-insurer would have paid if it had insured its liability with an insurer for the previous calendar year.

Transactions

15-2 The guidance in this Subtopic applies to assessments mandated by statute or regulatory authority that are related directly or indirectly to underwriting activities (including self-insurance), except for income taxes and premium taxes.

15-3 The guidance in this Subtopic does not apply to the following transactions and activities:

- a. Amounts payable or paid as a result of reinsurance contracts or arrangements that are in substance reinsurance, including assumed reinsurance activities and certain involuntary pools that are covered by Topic 944.
- b. Assessments of depository institutions related to bank insurance and similar funds.

405-30-25 Recognition

Reporting Liabilities

25-1 Entities subject to assessments shall recognize liabilities for insurance-related assessments when all of the following conditions are met:

- a. *Probability of assessment.* An assessment has been imposed or information available before the financial statements are issued or are available to be issued (as discussed in Section 855-10-25) indicates it is probable that an assessment will be imposed.
- b. *Obligating event.* The event obligating an entity to pay (underlying cause of) an imposed or probable assessment has occurred on or before the date of the financial statements.
- c. *Ability to reasonably estimate.* The amount of the assessment can be reasonably estimated.

See Examples 1 through 3 (paragraphs 405-30-55-1 through 55-15) for illustrations of the computation of assessment liabilities.

Probability of Assessment

25-2 Premium-based guaranty-fund assessments, except those that are prefunded, are presumed probable when a formal determination of insolvency occurs, and presumed not probable before a formal determination of insolvency. For purposes of this Subtopic, a formal determination of insolvency occurs when an entity meets a state's (ordinarily the state of domicile of the insolvent insurer) statutory definition of an insolvent insurer. In most states, the entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation.

25-3 Prefunded guaranty-fund assessments and premium-based administrative-type assessments, as defined in paragraph 405-30-05-3, are presumed probable when the premiums on which the assessments are expected to be based are written. Loss-based administrative-type and second-injury fund assessments are presumed probable when the losses on which the assessments are expected to be based are incurred.

Obligating Event

25-4 Because of the fundamental differences in how assessment mechanisms operate, the event that makes an assessment probable (for example, an insolvency) may not be the event that obligates an entity. The following defines the event that obligates an entity to pay an assessment for each kind of assessment identified in this Subtopic:

- a. For premium-based assessments, the event that obligates the entity is generally writing the premiums or becoming obligated to write or renew (such as multiple-year, noncancelable policies) the premiums on which the assessments are expected to be based. Some states, through law or regulatory practice, provide that an insurance entity cannot avoid paying a particular assessment even if that insurance entity reduces its premium writing in the future. In such circumstances, the event that obligates the entity is a formal determination of insolvency or similar triggering event. For example, in certain states, an insurance entity may remain liable for assessments even though the insurance entity discontinues the writing of premiums. In this circumstance, the underlying cause of the liability is not the writing of the premium, but the insolvency. Regulatory practice would be determined based on the stated intentions or prior history of the insurance regulators.
- b. For loss-based assessments, the event that obligates an entity is an entity's incurring the losses on which the assessments are expected to be based.

Ability to Reasonably Estimate

25-5 One of the conditions (see paragraph 450-20-25-2(b)) for recognition of a liability is that the amount can be reasonably estimated. Paragraph 450-20-25-5 provides that some amount of loss can be reasonably estimated when available information indicates that the estimated amount of the loss is within a range of amounts. Paragraph 450-20-30-1 explains that, if no amount within the range is a better estimate than any other amount, the minimum amount in the range should be accrued.

Applying the Recognition Criteria

25-6 Application of the recognition criteria in paragraphs 405-30-25-1 through 25-5 to the methods used to address guaranty-fund assessments and other insurance-related assessments, as described in paragraphs 405-30-05-3 through 05-6, is as follows:

- a. *Retrospective-premium-based guaranty-fund assessments.* An assessment is probable of being imposed when a formal determination of insolvency occurs. At that time, the premium that obligates the entity for the assessment liability has

already been written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability for the entire amount of future assessments related to a particular insolvency when a formal determination of insolvency is rendered.

- b. *Prospective-premium-based guaranty-fund assessments.* The event that obligates the entity for the assessment liability generally is the writing of, or becoming obligated to write or renew, the premiums on which the expected future assessments are to be based (for example, multiple-year contracts under which an insurance entity has no discretion to avoid writing future premiums). Therefore, the event that obligates the entity generally will not have occurred at the time of the insolvency. Law or regulatory practice affects the event that obligates the entity in either of the following ways:
 1. In states that, through law or regulatory practice, provide that an entity cannot avoid paying a particular assessment in the future (even if the entity reduces premium writings in the future), the event that obligates the entity is a formal determination of insolvency or a similar event. An entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability for the entire amount of future assessments that cannot be avoided related to a particular insolvency when a formal determination of insolvency occurs.
 2. In states without such a law or regulatory practice, the event that obligates the entity is the writing of, or becoming obligated to write, the premiums on which the expected future assessments are to be based. An entity that has the ability to reasonably estimate the amount of the assessments shall recognize a liability when the related premiums are written or when the entity becomes obligated to write the premiums.
- c. *Prefunded-premium-based guaranty-fund assessments.* A liability for an assessment arises when premiums are written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability as the related premiums are written.
- d. *Other premium-based assessments.* Other premium-based assessments, as described in paragraph 405-30-05-5, would be accounted for in the same manner as prefunded-premium-based guaranty-fund assessments.
- e. *Loss-based assessments.* An assessment is probable of being asserted when the loss occurs. The obligating event of the assessment also has occurred when the loss occurs. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability as the related loss is incurred.

25-7 Administrative-type assessments are generally expensed in the period assessed.

Asset for Premium Tax Offsets and Policy Surcharges

25-8 When it is probable that a paid or accrued assessment will result in an amount that is recoverable from premium tax offsets or policy surcharges, an asset shall be recognized for that recovery.

25-9 For retrospective-premium-based assessments, to the extent that it is probable that paid or accrued assessments will result in a recoverable amount in a future period from business currently in force considering appropriate persistency rates for long-duration contracts (see paragraph 405-30-30-11), an asset shall be recognized at the time the liability is recorded.

25-10 An asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.

25-11 Policy surcharges that are required as a pass-through to the state or other regulatory bodies shall be accounted for in a manner such that amounts collected or receivable are not recorded as revenues and amounts due or paid are not expensed (meaning, similar to accounting for sales tax).

405-30-30 Initial Measurement

Estimating the Liability

30-1 Entities subject to assessments may be able to obtain information to assist in estimating the total guaranty-fund cost or the following years' assessments, as appropriate, for an insolvency from entities such as the state guaranty fund associations, the National Organization of Life and Health Insurance Guaranty Associations, and the National Conference of Insurance Guaranty Funds.

30-2 An entity need not be able to compute the exact amounts of the assessments or be formally notified of such assessments by a guaranty fund to make a reasonable estimate of its liability. Entities subject to assessments may have to make assumptions about future events, such as when the fund will incur costs and pay claims that will determine the amounts and the timing of assessments.

30-3 The best available information about market share or premiums by state and premiums by line of business shall be used to estimate the amount of an insurance entity's future assessments.

30-4 If a noninsurance entity's assessments are based on premiums, it may be necessary to consider the amount of premium the self-insurer would have paid if it had insured its liability with an insurer. If a noninsurance entity's assessments are based on losses, it shall consider the losses that have been incurred by the entity when determining the liability. Most often, assessments that have an impact on noninsurance entities that self-insure workers' compensation obligations are for second-injury funds. Second-injury funds generally assess insurance entities and self-insurers based on paid losses.

30-5 A noninsurance entity may develop an accrual for its second-injury liability based on any of the following:

- a. The ratio of the entity's prior period paid workers' compensation claims to aggregate workers' compensation claims in the state that was used as a basis for previous assessments
- b. Total fund assessments in prior periods
- c. Known changes in the current period to either the number of employees self-insured by the entity or the number of workers who are the subject of recoveries from the second-injury fund that might alter total fund assessments and the entity's proportion of the total fund assessments.

30-6 Estimates of loss-based assessments shall be consistent with estimates of the underlying incurred losses and shall be developed based on enacted laws or regulations and expected assessment rates.

30-7 Estimates of some insurance-related assessment liabilities may be difficult to derive. The development or determination of estimates is particularly difficult for guaranty-fund assessments because of uncertainties about the cost of the insolvency to the guaranty fund and the portion that will be recovered through assessment. Examples of uncertainties include the following:

- a. Limitations, as provided by statute, on the amount of individual contract liabilities that the guaranty fund will assume, that cause the guaranty fund associations' liability to be less than the amount by which the entity is insolvent
- b. Contract provisions (for example, credited rates) that may be modified at the time of the insolvency or alternative payout options that may be offered to contract holders that affect the level and payout of the guaranty fund's liability
- c. The extent and timing of available reinsurance recoveries, which may be subject to significant uncertainties
- d. Alternative strategies for the liquidation of assets of the insolvent entity that affect the timing and level of assessments
- e. Certain liabilities of the insolvent insurer that may be particularly difficult to estimate (for example, asbestos or environmental liabilities).

30-8 Because of the uncertainties surrounding some insurance-related assessments, the range of assessment liability may have to be reevaluated regularly during the assessment process. For some ranges, there may be amounts that appear to be better estimates than any other within the range. If this is the case, the liability recorded shall be based on the best estimate within the range. For ranges in which there is no such best estimate, the liability that should be recorded shall be based on the amount representing the minimum amount in the range.

Present Value Measurement of the Obligation

30-9 Current practice in the insurance industry is to allow, but not require (with limited exceptions, such as pensions and postretirement benefits), the discounting of liabilities to reflect the time value of money when the aggregate amount of the obligation and the amount and timing of the cash payments are fixed or reliably determinable for a particular liability.

30-10 Similarly, for assessments that meet those criteria, the liability may be recorded at its present value by discounting the estimated future cash flows at an appropriate interest rate.

Asset for Premium Tax Offsets and Policy Surcharges

30-11 The asset recognized under paragraph 405-30-25-8 shall be measured based on current laws and projections of future premium collections or policy surcharges from in-force policies. In determining the asset to be recorded, in-force policies do not include expected renewals of short-duration contracts but do include assumptions as to persistency rates for long-duration contracts.

30-12 The time value of money need not be considered in the determination of the recorded amount of a potential recovery if the liability is not discounted. In instances in which the recovery period for an asset is substantially longer than the payout period for the liability, it may be appropriate to record the asset on a discounted basis regardless of whether the liability is discounted.

30-13 The recognition of such assets related to prospective-premium-based assessments is limited to the amount of premium an entity has written or is obligated to write and to the amounts recoverable over the life of the in-force policies. The expected premium tax offset or policy surcharge asset related to the accrual of prospective-premium-based assessments shall be based on and limited to the amount recoverable as a result of premiums the insurer has written or is obligated to write.

405-30-35 Subsequent Measurement

Asset for Premium Tax Offsets and Policy Surcharges

35-1 The asset recorded under paragraph 405-30-25-8 for premium tax offsets and policy surcharges shall be subject to a valuation allowance to reflect any portion of the asset that is no

longer probable of realization. Considering expected future premiums other than on in-force policies in evaluating the recoverability of premium tax offsets or policy surcharges is not appropriate.

405-30-50 Disclosure

50-1 Sections 275-10-50 and 450-20-55 address disclosures related to loss contingencies. That guidance is applicable to assessments covered by this Subtopic. Additionally, if amounts have been discounted, the entity shall disclose in the financial statements the undiscounted amounts of the liability and any related asset for premium tax offsets or policy surcharges as well as the discount rate used. If amounts have not been discounted, the entity shall disclose in the financial statements the amounts of the liability, any related asset for premium tax offsets or policy surcharges, the periods over which the assessments are expected to be paid, and the period over which the recorded premium tax offsets or policy surcharges are expected to be realized.

405-30-55 Implementation Guidance and Illustrations

Illustrations

Example 1: Prospective-Premium-Based Assessment

55-1 This Example illustrates application of the recognition and measurement guidance in this Subtopic to a prospective-premium-based assessment. This kind of assessment is considered prospective because the assessment relates to premium written after the insolvency. As a result of insolvencies in prior years, ABC Property & Liability Insurance Company (ABC) expects to be assessed in the future by the guaranty fund in a state where it writes premiums. Any such assessments will be limited to 2 percent of premium writings in the prior year and are recoverable through premium tax offsets on a ratable basis over the 5-year period following the year of each assessment.

55-2 Although it does not expect to do so, ABC is free to cease writing the lines of business that are subject to the guaranty-fund assessments.

55-3 As of December 31, 19X0, ABC has neither paid nor received a notice of an assessment related to the insolvencies. Based on communications from the state guaranty association, ABC expects to receive an assessment in 19X1, which is allocated among entities based on 19X0 market share, for at least 1 percent of 19X0 premiums that are subject to the assessment. A best estimate cannot be determined, and no amount within the range of estimates (meaning, from 1 to 2 percent of 19X0 premiums) is a better estimate than any other amount, therefore the minimum amount in the range shall be accrued.

55-4 As of December 31, 19X0, ABC should recognize a liability equal to 1 percent of the premiums written in 19X0 that are subject to the assessment. No additional liability should be recognized, and no asset related to the premium tax offset should be recognized. Disclosure of the loss contingency of up to an additional 1 percent of the subject premiums should be considered.

55-5 ABC would recognize a liability only for those future assessments it is obligated to pay as a result of the premiums written. Because ABC is not obligated to write any future premiums, its liability is limited to that related to premiums written in 19X0. Because no amount within the range of estimates is a better estimate than any other amount, the minimum amount in the range is accrued. Further, because the premium tax offset is realizable only on business that will be written in the future (that is, 19X2 and subsequent years), no asset or receivable is recognized as of December 31, 19X0.

Example 2: Retrospective-Premium-Based Assessment

55-6 This Example illustrates application of the recognition and measurement guidance in this Subtopic to a retrospective-premium-based assessment. As a result of an insolvency that occurred during 19X0, DEF Life and Health Insurance Company (DEF) expects to be assessed in the future by the guaranty fund in a state where it has written business. Any such assessment will

be based on DEF's average market share, determined based on premiums that are subject to the assessment for the three years before the insolvency, and limited to 2 percent of the average annual subject premiums for the three years before the insolvency. Further, such assessments are recoverable through premium tax offsets over the five-year period following the year of payment for each assessment.

55-7 As of December 31, 19X0, DEF has not paid or received a notice of an assessment related to the insolvency. Based on initial input from the National Organization of Life and Health Insurance Guaranty Associations and experience with other insolvencies, DEF assumes that the first assessment will not be made until 19X3 and that it will take three to five annual assessments for the guaranty fund to be able to meet its obligations. Based on the estimated nationwide cost of the insolvency and the distribution of the insolvent entity's business, DEF estimates that its assessment will be at least 1 percent of the average annual premiums that are subject to the assessment. No amount within the range of estimates (meaning, from 1 to 2 percent of the average annual premiums for 3 to 5 years) is a better estimate than any other amount, therefore the minimum amount in the range shall be accrued.

55-8 As of December 31, 19X0, DEF should recognize a liability for 3 years of assessments at 1 percent of the average annual premiums that are subject to the assessment (that is, the assessments expected in 19X3, 19X4, and 19X5). Disclosure of the loss contingency for additional assessments (meaning, in 19X6 and 19X7) or assessment of greater than 1 percent of the average annual premiums that are subject to the assessment should be considered. An asset related to premium tax offsets that are available on accrued assessments would be recorded provided there were sufficient premium taxes based on business in force at December 31, 19X0 (with assumed levels of policy retention), to allow realization of the asset.

55-9 The resulting recognized liability and asset are as follows (shown on both a discounted and undiscounted basis, based on paragraphs 405-30-30-9 through 30-12, discounting is optional), assuming average annual subject premiums of \$100,000 for the 3 years before the insolvency.

	Recorded at	Cash Payments									
Assessments	12/31/19X0	19X1	19X2	19X3	19X4	19X5	19X6	19X7	19X8	19X9	20X0
19X3 Assessment				1,000							
19X4 Assessment					1,000						
19X5 Assessment						1,000					
Total	3,000			1,000	1,000	1,000					
Premium tax offset											
19X3 Assessment ^(a)					200	200	200	200	200		
19X4 Assessment ^(a)						200	200	200	200	200	
19X5 Assessment ^(a)							200	200	200	200	200
Total	3,000				200	400	600	600	600	400	200
Present value of assessments											
At 12/31/19X0 ^(b)	2,470										
Present value of premium											
Tax offset at 12/31/19X0 ^(b)	2,139										

(a) Assumed that, based upon anticipated levels of policy retention from the business in force at December 31, 19X0, there will be sufficient premium to realize the premium tax offset.

(b) Discounted at 5 percent, assuming all assessments are paid and offsets realized at the end of each year.

55-10 DEF would record a liability for all future assessments related to the insolvency. Because no amount within the range of estimates (meaning, from 1 to 2 percent of the average annual premiums for 3 to 5 years) is a better estimate than any other amount, the minimum amount in the range (meaning, 1 percent per year for 3 years of assessments) is accrued.

55-11 Since it is assumed that based on the anticipated levels of policy retention from the business in force at December 31, 19X0, there will be sufficient premium to realize the premium tax offset, the premium tax offset is recorded.

Example 3: Loss-Based Assessment

55-12 This Example illustrates application of the recognition and measurement guidance in this Subtopic to a loss-based assessment. GHI Industrial Company (GHI) is self-insured for workers' compensation and therefore participates in the second injury fund in the state where it conducts operations. GHI is entitled to recover from the fund some or all of the indemnity claims for previously injured workers. GHI is also subject to annual assessments (maximum of 1 percent per year) on indemnity claims paid each year.

55-13 Assessment rates have been climbing steadily, from 0.6 percent 5 years previous to 0.75 percent in 19X0.

55-14 As of December 31, 19X0, GHI should have an assessment liability recognized for 0.75 percent of its liability for the payment of future indemnity claims, unless there was information to support the assessment rate being reduced or the assessments being eliminated in the future. Disclosure of the loss contingency of up to an additional 0.25 percent of the liability for the payment of future indemnity claims should be considered.

55-15 GHI would recognize a liability based on the current assessment rate, unless there was clear evidence that the rate would change. The liability would be based on the entire liability base that was subject to the assessment.

RELEVANT LITERATURE**Statutory Accounting**

- SSAP No. 5—*Liabilities, Contingencies and Impairments of Assets*
- SSAP No. 35—*Guaranty Fund and Other Assessments*
- Issue Paper No. 5—*Definition of Liabilities, Loss Contingencies and Impairments of Assets*
- Issue Paper No. 35—*Accounting for Guaranty Fund and Other Assessments*

Generally Accepted Accounting Principles

- *Accounting Standards Codification 405-30, Insurance-Related Assessments*
- *SOP 97-3, Accounting by Insurance and Other Enterprises for Insurance-Related Assessments*

State Regulations

- No additional guidance obtained from state statutes or regulations.

EXHIBIT A – ILLUSTRATION OF 2010 REVISIONS TO SSAP NO. 35R

The following depicts the amendments from this issue paper as “marked changes” (new text underlined):

Guaranty Fund and Other Assessments**SCOPE OF STATEMENT**

1. This statement establishes statutory accounting principles for guaranty fund and other assessments.
2. Guaranty fund assessments represent a funding mechanism employed by states to provide funds to cover policyholder obligations of insolvent reporting entities. Most states have enacted legislation establishing guaranty funds for both life and health insurance and for property and casualty insurance to provide for covered claims or to meet other insurance obligations of insolvent reporting entities in the state. ~~Guaranty funds generally make assessments after an insolvency based upon retrospective premium writings.~~
3. This statement addresses other assessments including but not limited to workers' compensation second injury funds and for funds that pay operating costs of an insurance department, a state guaranty fund, and/or the workers' compensation board. This statement also addresses health related assessments including but not limited to state health insurance high-risk pools, health insurance small group and individual reinsurance pools, state health demographic or risk adjustment assessments.

SUMMARY CONCLUSION

4. This statement adopts with modification guidance from *Accounting Standard Codification 405-30, Insurance-Related Assessments* (ASC 405-30) as reflected within this SSAP. Consistent with ASC 405-30-25-1, entities subject to assessments shall recognize liabilities for insurance-related assessments when all of the following conditions are met (paragraph 13 provides guidance on applying the recognition criteria): applies SSAP No. 5—*Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5) to guaranty fund and other assessments. SSAP No. 5 requires accrual of a liability when both of the following conditions are met:
 - a. An assessment has been imposed or information available prior to issuance of the statutory financial statements indicates that it is probable that an assessment will be imposed. an asset has been impaired or a liability has been incurred at the date of the statutory financial statements. It is implicit in this condition that it is probable that one or more future events will occur confirming the fact of the loss or incurrence of a liability; and
 - b. The event obligating an entity to pay an imposed or probable assessment has occurred on or before the date of the financial statements.
 - b.c. The amount of loss the assessment can be reasonably estimated.

~~For the purposes of subparagraph 4 b., loss generally means assessment or assessment rate. Guaranty fund and other assessments shall be charged to expense (Taxes, Licenses and Fees) and a liability shall be accrued when the above criteria are met except for certain health related assessments which shall be reported as a part of claims. Health related assessments that are reported as a part of claims instead of taxes, licenses and fees are those assessments that are designed for the purpose of spreading the risk of severe claims or adverse enrollment selection among all participating entities, and where the funds collected via the assessment are re-distributed back to the participating entities based upon the cost of specific claims, enrollment demographics, or other criteria affecting health care expenses. This standard does not permit liabilities for guaranty funds or other assessments to be discounted.~~

5. For refunded guaranty or other fund assessments and assessments used to fund state operating expenses, reporting entities shall credit the refund or charge the assessment to expense when notification of the refund or assessment is made.

6. For premium-based guaranty fund assessments, except those that are prefunded, subparagraph 4a. is met when the insolvency has occurred, ~~regardless of whether the assessments are based on premiums written before or after the insolvency.~~ For purposes of applying this guidance, the insolvency shall be considered to have occurred when a reporting entity meets a state's (ordinarily the state of domicile of the insolvent reporting entity) statutory definition of an insolvent reporting entity. In most states, the reporting entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation. Prefunded guaranty-fund assessments and premium-based administrative type assessment are presumed probable when the premiums on which the assessments are expected to be based are written. Loss-based administrative-type and second injury fund assessments are presumed probable when the losses on which the assessments are expected to be based are incurred.

7. Subparagraph 4b requires that the event obligating an entity to pay an imposed or probable assessment has occurred on or before the date of the financial statements. Based on the fundamental differences in how assessment mechanisms operate, the event that makes an assessment probable (for example, an insolvency) may not be the event that obligates an entity. The following defines the event that obligates an entity to pay an assessment:

- a. For premium-based assessments, the event that obligates the entity is generally writing the premiums or becoming obligated to write or renew (such as multiple-year, noncancelable policies) the premiums on which the assessments are expected to be based. Some states, through law or regulatory practice, provide that an insurance entity cannot avoid paying a particular assessment even if that insurance entity reduces its premium writing in the future. In such circumstances, the event that obligates the entity is a formal determination of insolvency or similar triggering event. For example, in certain states, an insurance entity may remain liable for assessments even though the insurance entity discontinues the writing of premiums. In this circumstance, the underlying cause of the liability is not the writing of the premium, but the insolvency. Regulatory practice would be determined based on the stated intentions or prior history of the insurance regulators.
- b. For loss-based assessments, the event that obligates an entity is an entity's incurring the losses on which the assessments are expected to be based.

7-8. Subparagraph 4 b.c. requires that the amounts can be reasonably estimated. For retrospective-premium-based guaranty fund assessments, a reporting entity's estimate of the liability shall reflect an estimate of its share of the ultimate loss expected from the insolvency. The reporting entity shall also estimate any applicable premium tax credits and policy surcharges. An entity need not be able to compute the exact amounts of the assessments or be formally notified of such assessments by a guaranty fund to make a reasonable estimate of its liability. Entities subject to assessments may have to make assumptions about future events, such as when the fund making the assessment will incur costs and pay claims to determine the amounts and the timing of assessments. The best available information about market share or premiums by state and premiums by line of business generally should be used to estimate the amount of future assessments. Estimates of loss-based assessments should be consistent with estimates of the underlying incurred losses and should be developed based upon enacted laws or regulations and expected assessment rates. Premium tax credits or policy surcharges may only be considered in the estimate if it is probable they will be realized. Because of the uncertainties surrounding some insurance-related assessments, the range of assessment liability may have to be re-evaluated regularly during the assessment process. Changes in the amount of the liability (or asset) as information becomes available over time a result of the passage of time and revisions to estimates in the amount or timing of the payments shall be recorded in taxes, licenses and fees.

8.9. In accordance with SSAP No. 5, when the reasonable estimate of the loss is a range, the amount in the range that is considered the best estimate shall be accrued. When, in management's opinion, no amount within management's estimate of the range is a better estimate than any other amount, however, the midpoint (mean) of management's estimate in the range shall be accrued. For purposes of this statement, it is assumed that management can quantify the high end of the range. If management determines that the high end of the range cannot be quantified, then a range does not exist, and management's best estimate shall be accrued.

Reporting Assets for Premium Tax Offsets and Policy Surcharges

10. The liability for accrued assessments shall be established gross of any probable and estimable recoveries from premium tax credits and premium surcharges. When it is probable that a paid or accrued assessment will result in an amount that is recoverable from premium tax offsets or policy surcharges, an asset shall be recognized for that recovery in an amount that is determined based on current laws, projections of future premium collections or policy surcharges from in-force policies, and as permitted in accordance with subparagraphs 10a, 10b and 10c. Any recognized asset from premium tax credits or policy surcharges shall be re-evaluated regularly to ensure recoverability. Upon expiration, tax credits no longer meet the definition of an asset and shall be written off.

- a. ~~For Because assessments are generally paid before premium tax credits are realized or policy surcharges are collected, an asset may results, which represents a receivable for premium tax credits that will be taken and policy surcharges which will be collected in the future. These amounts receivables, to the extent it is probable they will be realized, meet the definition of assets, as specified in SSAP No. 4—Assets and Nonadmitted Assets and are admitted assets to the extent they conform to the requirements of this statement. The asset shall be established and reported independent from the liability (not reported net).~~
- a.b. Assets recognized from accrued liability assessments shall be determined in accordance with the type of guaranty fund assessment as detailed in the following subparagraphs. Assets recognized from accrued liability assessments meet the definition of an asset under SSAP No. 4, and are admitted assets to the extent they conform to the requirements of this statement.
 - i. For retrospective-premium-based and loss-based assessments, to the extent that it is probable that accrued liability assessments will result in a recoverable amount in a future period from business currently in-force considering appropriate persistency rates for long-duration contracts, an asset shall be recognized at the time the liability is recorded. (In-force policies do not include expected renewals of short-term contracts.
 - ii. For prospective-premium-based assessments, the recognition of assets from accrued liability assessments is limited to the amount of premium an entity has written or is obligated to write and to the amounts recoverable over the life of the in-force policies. This SSAP requires reporting entities to recognize prospective-based-premium assessments as the premium is written or obligated to be written by the reporting entity. Accordingly, the expected premium tax offset or policy surcharge asset related to the accrual of prospective-premium-based assessments shall be based on and limited to the amount recoverable as a result of premiums the insurer has written or is obligated to write.
- c. An asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.

11. An evaluation of assets recognized under paragraph 10 shall be made in accordance with SSAP No. 5—Liabilities, Contingencies and Impairments of Assets (SSAP No. 5) to determine if there is any impairment. If, in accordance with SSAP No. 5, it is probable that the asset is no longer realizable, the asset shall be written off to the extent it is not realizable and charged to income in the period the determination is made. Considering expected future premiums other than on in-force policies in evaluating recoverability of premium tax offsets or policy surcharges is not permitted.

Acting as an Agent for Collection and Remittance of Fees and Assessments

40.12. In certain circumstances, a reporting entity acts as an agent for certain state or federal agencies in the collection and remittance of fees or assessments. In these circumstances, the liability for the fees and assessments rests with the policyholder rather than with the reporting entity. The reporting entity's obligation is to collect and subsequently remit the fee or assessment. When both the following conditions are met, an assessment shall not be reported in the statement of operations of a reporting entity:

- a. The assessment is reflected as a separately identifiable item on the billing to the policyholder; and
- b. Remittance of the assessment by the reporting entity to the state or federal agency is contingent upon collection from the insured.

Applying the Recognition Criteria

13. Application of the recognition criteria in paragraph 4:

- a. *Retrospective-premium-based guaranty-fund assessments* - An assessment is probable of being imposed when a formal determination of insolvency occurs¹. At that time, the premium that obligates the entity for the assessment liability has already been written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability for the entire amount of future assessments related to a particular insolvency when a formal determination of insolvency is rendered.
- b. *Prospective-premium-based guaranty-fund assessments* - The event that obligates the entity for the assessment liability generally is the writing of, or becoming obligated to write or renew, the premiums on which the expected future assessments are to be based (for example, multiple-year contracts under which an insurance entity has no discretion to avoid writing future premiums). Therefore, the event that obligates the entity generally will not have occurred at the time of the insolvency. Law or regulatory practice affects the event that obligates the entity in either of the following ways:
 - i. In states that, through law or regulatory practice, provide that an entity cannot avoid paying a particular assessment in the future (even if the entity reduces premium writings in the future), the event that obligates the entity is a formal determination of insolvency or a similar event. An entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability for the entire amount of future assessments that cannot be avoided related to a particular insolvency when a formal determination of insolvency occurs.

¹ As detailed within paragraph 6 for premium-based guaranty-fund assessments, an insolvency shall be considered to have occurred when a reporting entity meets a state's (ordinarily the state of domicile of the insolvent reporting entity) statutory definition of an insolvent reporting entity. In most states, the reporting entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation.

- ii. In states without such a law or regulatory practice, the event that obligates the entity is the writing of, or becoming obligated to write, the premiums on which the expected future assessments are to be based. An entity that has the ability to reasonably estimate the amount of the assessments shall recognize a liability when the related premiums are written or when the entity becomes obligated to write the premiums.
- c. *Prefunded-premium-based guaranty-fund assessments* - A liability for an assessment arises when premiums are written. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability as the related premiums are written.
- d. *Other premium-based assessments* - Other premium-based assessments shall be accounted for in the same manner as prefunded premium-based guaranty-fund assessments.
- e. *Loss-based assessments* - An assessment is probable of being asserted when the loss occurs. The obligating event of the assessment also has occurred when the loss occurs. Accordingly, an entity that has the ability to reasonably estimate the amount of the assessment shall recognize a liability as the related loss is incurred.
- f. *Administrative-type assessments* – As this assessment is typically an annual amount per entity assessed to fund operations of the guaranty association, regardless of the existence of an insolvency, such assessments are generally expensed in the period assessed.

Disclosures

14.14. A reporting entity shall disclose the following:

- a. Describe the nature of any assessments that could have a material financial effect, by type of assessment, and state the estimate of the liability, identifying whether the corresponding liability has been recognized under paragraph 4, a liability has not been recognized as the obligating event has not yet occurred, or that an estimate cannot be made.
- b. For ~~To the extent~~ assessments with liabilities recognized under paragraph 4, ~~have been accrued~~ disclose the amounts of the recognized liabilities, any related asset for premium tax credits or policy surcharges, the periods over which the assessments are expected to be paid, and the period over which the recorded premium tax offsets or policy surcharges are expected to be realized.
- c. Disclose assets recognized from paid and accrued premium tax offsets or policy surcharges, and include a reconciliation of assets recognized within the previous year's Annual Statement to the assets recognized in the current year's Annual Statement. The reconciliation shall reflect, in aggregate, each component of the increase and decrease in paid and accrued premium tax offsets and policy surcharges, including the amount charged off.
- d. Disclosures shall be made in accordance with paragraph 14 of SSAP No. 5 when there is at least a reasonable possibility that the impairment of an asset from premium tax offsets or policy surcharges may have been incurred.

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

Relevant Literature

16. This statement ~~rejects~~ adopts GAAP guidance for recording guaranty fund and other assessments, which is contained in *Accounting Standards Codification 405-30, Insurance Related Assessments* (ASC 405-30) to the extent reflected in this SSAP. ~~AICPA Statement of Position 97-3, Accounting by Insurance and Other Enterprises for Insurance-Related Assessments.~~ Statutory accounting modifications from ASC 405-30 are as follows:

- a. The option to discount accrued liabilities (and reflect the time value of money in anticipated recoverables) is rejected for statutory accounting. Liabilities for guaranty funds or other assessments shall not be discounted.
- b. The use of a valuation allowance for premium tax offsets and policy surcharges no longer probable for realization has been rejected for statutory accounting. Evaluation of assets shall be made in accordance with SSAP No. 5, and if it is probable that the asset is no longer realizable, the asset shall be written off and charged to income in the period the determination is made.
- c. Guidance within ASC 405-30 pertaining to noninsurance entities has been rejected as not applicable for statutory accounting.

Effective Date and Transition

17. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*. Substantive revisions to paragraphs 4, 6, 7, 8, 10, 11, 13 and 14 are initially effective for the reporting period beginning January 1, 2011. The result of applying this revised Statement shall be considered a change in accounting principle in accordance with SSAP No. 3. Pursuant to SSAP No. 3, the cumulative effect of changes in accounting principles shall be reported as an adjustment to unassigned funds (surplus) in the period of the change in accounting principle. The cumulative effect recognized through surplus from initial application of this Statement shall reflect the removal of liabilities established under SSAP No. 35, and the re-establishment of liabilities required under SSAP No. 35R. If there is no change in the liabilities recognized (for example, retrospective-premium based assessments), no cumulative effect adjustment shall occur. With regards to assets, the entity shall complete an assessment of the SSAP No. 35 asset reported as of the transition date. If it is determined that the reported asset exceeds what is allowed under SSAP No. 35R, then the excess asset shall be written-off, through unassigned funds, so the ultimate asset reflected corresponds with what is permitted under SSAP No. 35R. Although it is possible that the excess asset will be reinstated once the liability assessment is recognized (prospective-premium based assessments), it is inappropriate to continue to reflect an asset for assessments that are not reflected within the financial statements.

RELEVANT ISSUE PAPERS

- Issue Paper No. 35—*Accounting for Guaranty Fund and Other Assessments*
- Issue Paper No. 143—*Prospective-Based Guaranty Fund Assessments*

Exhibit A – Primary Methods of Guaranty Fund Assessments:

- a. Retrospective-premium-based assessments - Guaranty funds covering benefit payments of insolvent life, annuity, and health insurance entities typically assess entities based on premiums written or received in one or more years before the year of insolvency. Assessments in any year are generally limited to an established percentage of an entity's average premiums for the three years preceding the insolvency. Assessments for a given insolvency may take place over several years.
- b. Prospective-premium-based assessments - Guaranty funds covering claims of insolvent property and casualty insurance entities typically assess entities based on premiums written in one or more years after the insolvency. Assessments in any year are generally limited to an established percentage of an entity's premiums written or received for the year preceding the assessment. Assessments for a given insolvency may take place over several years.
- c. Prefunded-premium-based assessments - This kind of assessment is intended to prefund the costs of future insolvencies. Assessments are imposed before any particular insolvency and are based on the current level of written premiums. Rates to be applied to future premiums are adjusted as necessary.
- d. Administrative-type assessments - These assessments are typically a flat (annual) amount per entity to fund operations of the guaranty association, regardless of the existence of an insolvency.
- d. Other premium-based assessments - Entities are subject to a variety of other insurance-related assessments. Many states and a number of local governmental units have established other funds supported by assessments. The most prevalent uses for such assessments are (a) to fund operating expenses of state insurance regulatory bodies (for example, the state insurance department or workers' compensation board) and (b) to fund second-injury funds.
 - i. Premium-based - The assessing organization imposes the assessment based on the entity's written premiums. The base year of premiums is generally either the current year or the year preceding the assessment.
 - ii. Loss-based - The assessing organization imposes the assessment based on the entity's incurred losses or paid losses in relation to that amount for all entities subject to that assessment in the particular jurisdiction.

EXHIBIT B – ILLUSTRATION OF 2016 REVISIONS TO SSAP NO. 35R

December 10, 2016, adopted language from agenda item 2016-38 regarding long-term care asset parity:

Reporting Assets for Premium Tax Offsets and Policy Surcharges

10. The liability for accrued assessments shall be established gross of any probable and estimable recoveries from premium tax credits and premium surcharges. When it is probable that a paid or accrued assessment will result in an amount that is recoverable from premium tax offsets or policy surcharges, an asset shall be recognized for that recovery in an amount that is determined based on current laws, projections of future premium collections or policy surcharges from in-force policies, and as permitted in accordance with subparagraphs 10.a., 10.b. and 10.c. Any recognized asset from premium tax credits or policy surcharges shall be re-evaluated regularly to ensure recoverability. Upon expiration, tax credits no longer meet the definition of an asset and shall be written off.

- a. For assessments paid before premium tax credits are realized or policy surcharges are collected, an asset results, which represents a receivable for premium tax credits that will be taken and policy surcharges which will be collected in the future. These receivables, to the extent it is probable they will be realized, meet the definition of assets, as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement. The asset shall be established and reported independent from the liability (not reported net).
- b. Assets recognized from accrued liability assessments shall be determined in accordance with the type of guaranty fund assessment as detailed in the following subparagraphs. Assets recognized from accrued liability assessments meet the definition of an asset under SSAP No. 4, and are admitted assets to the extent they conform to the requirements of this statement.
 - i. For retrospective-premium-based and loss-based assessments, to the extent that it is probable that accrued liability assessments will result in a recoverable amount in a future period from business currently in-force considering appropriate persistency rates for long-duration contracts, an asset shall be recognized at the time the liability is recorded. In-force policies do not include expected renewals of short-term contracts except in cases when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts. In which case, to the extent that it is probable that accrued liability assessments will result in a recoverable amount in a future period from business currently in-force, appropriate renewal rates of short-term health contracts shall be taken into consideration when recognizing the asset.
 - ii. For prospective-premium-based assessments, the recognition of assets from accrued liability assessments is limited to the amount of premium an entity has written or is obligated to write and to the amounts recoverable over the life of the in-force policies. This SSAP requires reporting entities to recognize prospective-based-premium assessments as the premium is written or obligated to be written by the reporting entity. Accordingly, the expected premium tax offset or policy surcharge asset related to the accrual of prospective-premium-based assessments shall be based on and limited to the amount recoverable as a result of premiums the insurer has written or is obligated to write.
- c. An asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.

11. An evaluation of assets recognized under paragraph 10 shall be made in accordance with SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets (SSAP No. 5R) to determine if there is any impairment. If, in accordance with SSAP No. 5R, it is probable that the asset is no longer realizable, the asset shall be written off to the extent it is not realizable and charged to income in the period the determination is made. Considering expected future premiums other than on in-force policies for long-duration contracts in evaluating recoverability of premium tax offsets or policy surcharges is not permitted. For short-term health contracts subject to long-term care assessments, appropriate renewal rates may be considered in evaluating recoverability of premium tax offsets or policy surcharges.

Relevant Literature

17. This statement adopts GAAP guidance for recording guaranty fund and other assessments, which is contained in Accounting Standards Codification 405-30, Insurance Related Assessments (ASC 405-30) to the extent reflected in this SSAP. Statutory accounting modifications from ASC 405-30 are as follows:

- a. The option to discount accrued liabilities (and reflect the time value of money in anticipated recoverables) is rejected for statutory accounting. Liabilities for guaranty funds or other assessments shall not be discounted.
- b. The use of a valuation allowance for premium tax offsets and policy surcharges no longer probable for realization has been rejected for statutory accounting. Evaluation of assets shall be made in accordance with SSAP No. 5R, and if it is probable that the asset is no longer realizable, the asset shall be written off and charged to income in the period the determination is made.
- c. Guidance within ASC 405-30 pertaining to noninsurance entities has been rejected as not applicable for statutory accounting.
- d. Guidance within ASC 405-30 pertaining to accrual of an asset based on future renewals of premium is modified to allow accrual of the asset based on in-force short-term health contract renewals in instances when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts

18. This statement also adopts with modification *Emerging Issues Task Force No. 06-3: How Taxes Collected from Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement (That is, Gross versus Net Presentation)* (EITF 06-3), now included in *Accounting Standards Codification 605-45, Revenue Recognition, Principal Agent Considerations* to the extent reflected in paragraph 13 of this statement.

Effective Date and Transition

19. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*. Substantive revisions to paragraphs 4, 6, 7, 8, 10, 11, 14 and 15 as documented in Issue Paper No. 143 are initially effective for the reporting period beginning January 1, 2011. The result of applying this revised Statement shall be considered a change in accounting principle in accordance with SSAP No. 3. Pursuant to SSAP No. 3, the cumulative effect of changes in accounting principles shall be reported as an adjustment to unassigned funds (surplus) in the period of the change in accounting

principle. The cumulative effect recognized through surplus from initial application of this Statement shall reflect the removal of liabilities established under SSAP No. 35, and the re-establishment of liabilities required under SSAP No. 35R. If there is no change in the liabilities recognized (for example, retrospective-premium based assessments), no cumulative effect adjustment shall occur. With regards to assets, the entity shall complete an assessment of the SSAP No. 35 asset reported as of the transition date. If it is determined that the reported asset exceeds what is allowed under SSAP No. 35R, then the excess asset shall be written-off, through unassigned funds, so the ultimate asset reflected corresponds with what is permitted under SSAP No. 35R. Although it is possible that the excess asset will be reinstated once the liability assessment is recognized (prospective-premium based assessments), it is inappropriate to continue to reflect an asset for assessments that are not reflected within the financial statements. The guidance in paragraph 13 adopted with modification Emerging Issues Task Force No. 06-3: How Taxes Collected from Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement (That is, Gross versus Net Presentation) and was incorporated from INT 07-03 and effective September 29, 2007. The Section 9010 ACA fee has specific guidance (adopted December 2013) that was effective for annual reporting periods beginning January 1, 2014, and was moved to SSAP No. 106 in June 2014. As documented in Issue Paper No. 143R, modification of the adoption of ASC 405-30 to allow accrual of the asset based on in-force short-term health contract renewals in instances when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts as described in paragraphs 10.b.i, 11 and 17.d. are initially effective for reporting periods beginning on or after January 1, 2017.

EXHIBIT C – ILLUSTRATION OF 2017 REVISIONS TO SSAP NO. 35R

March 16, 2017, adopted language from agenda item 2017-01 regarding discounting of long-term care assessments:

SUMMARY CONCLUSION

4. This statement adopts with modification guidance from Accounting Standard Codification 405-30, Insurance-Related Assessments (ASC 405-30) as reflected within this SSAP. Consistent with ASC 405-30-25-1, entities subject to assessments shall recognize liabilities for insurance-related assessments when all of the following conditions are met (paragraph 1744 provides guidance on applying the recognition criteria):

- a. An assessment has been imposed or information available prior to issuance of the statutory financial statements indicates that it is probable that an assessment will be imposed.
- b. The event obligating an entity to pay an imposed or probable assessment has occurred on or before the date of the financial statements.
- c. The amount of the assessment can be reasonably estimated.

Guaranty fund and other assessments shall be charged to expense (Taxes, Licenses and Fees) and a liability shall be accrued when the above criteria are met except for certain health related assessments which shall be reported as a part of claims. Health related assessments that are reported as a part of claims instead of taxes, licenses and fees are those assessments that are designed for the purpose of spreading the risk of severe claims or adverse enrollment selection among all participating entities, and where the funds collected via the assessment are re-distributed back to the participating entities based upon the cost of specific claims, enrollment demographics, or other criteria affecting health care expenses. This standard does not permit liabilities for guaranty funds or other assessments to be discounted except for liabilities for guaranty funds and the related assets recognized from accrued and paid liability assessments from insolvencies of entities that wrote long-term care contracts (see paragraphs 12-14).

5. For refunded guaranty or other fund assessments and assessments used to fund state operating expenses, reporting entities shall credit the refund or charge the assessment to expense when notification of the refund or assessment is made.

6. For premium-based guaranty fund assessments, except those that are prefunded, paragraph 4.a. is met when the insolvency has occurred. For purposes of applying this guidance, the insolvency shall be considered to have occurred when a reporting entity meets a state's (ordinarily the state of domicile of the insolvent reporting entity) statutory definition of an insolvent reporting entity. In most states, the reporting entity must be declared to be financially insolvent by a court of competent jurisdiction. In some states, there must also be a final order of liquidation. Prefunded guaranty-fund assessments and premium-based administrative type assessment are presumed probable when the premiums on which the assessments are expected to be based are written. Loss-based administrative-type and second injury fund assessments are presumed probable when the losses on which the assessments are expected to be based are incurred.

7. Paragraph 4.b. requires that the event obligating an entity to pay an imposed or probable assessment has occurred on or before the date of the financial statements. Based on the fundamental differences in how assessment mechanisms operate, the event that makes an assessment probable (for example, an insolvency) may not be the

event that obligates an entity. The following defines the event that obligates an entity to pay an assessment:

- a. For premium-based assessments, the event that obligates the entity is generally writing the premiums or becoming obligated to write or renew (such as multiple-year, noncancelable policies) the premiums on which the assessments are expected to be based. Some states, through law or regulatory practice, provide that an insurance entity cannot avoid paying a particular assessment even if that insurance entity reduces its premium writing in the future. In such circumstances, the event that obligates the entity is a formal determination of insolvency or similar triggering event. For example, in certain states, an insurance entity may remain liable for assessments even though the insurance entity discontinues the writing of premiums. In this circumstance, the underlying cause of the liability is not the writing of the premium, but the insolvency. Regulatory practice would be determined based on the stated intentions or prior history of the insurance regulators.
- b. For loss-based assessments, the event that obligates an entity is an entity's incurring the losses on which the assessments are expected to be based.

8. Paragraph 4.c. requires that the amounts can be reasonably estimated. For retrospective-premium-based guaranty fund assessments, a reporting entity's estimate of the liability shall reflect an estimate of its share of the ultimate loss expected from the insolvency. The reporting entity shall also estimate any applicable premium tax credits and policy surcharges. An entity need not be able to compute the exact amounts of the assessments or be formally notified of such assessments by a guaranty fund to make a reasonable estimate of its liability. Entities subject to assessments may have to make assumptions about future events, such as when the fund making the assessment will incur costs and pay claims to determine the amounts and the timing of assessments. The best available information about market share or premiums by state and premiums by line of business generally should be used to estimate the amount of future assessments. Estimates of loss-based assessments should be consistent with estimates of the underlying incurred losses and should be developed based upon enacted laws or regulations and expected assessment rates. Premium tax credits or policy surcharges may only be considered in the estimate if it is probable they will be realized. Because of the uncertainties surrounding some insurance-related assessments, the range of assessment liability may have to be re-evaluated regularly during the assessment process. Changes in the amount of the liability (or asset) as information becomes available over time and revisions to estimates in the amount or timing of the payments shall be recorded in taxes, licenses and fees.

9. In accordance with SSAP No. 5R, when the reasonable estimate of the loss is a range, the amount in the range that is considered the best estimate shall be accrued. When, in management's opinion, no amount within management's estimate of the range is a better estimate than any other amount, however, the midpoint (mean) of management's estimate in the range shall be accrued. For purposes of this statement, it is assumed that management can quantify the high end of the range. If management determines that the high end of the range cannot be quantified, then a range does not exist, and management's best estimate shall be accrued.

Reporting Assets for Premium Tax Offsets and Policy Surcharges

10. The liability for accrued assessments shall be established gross of any probable and estimable recoveries from premium tax credits and premium surcharges. When it is probable that a paid or accrued assessment will result in an amount that is recoverable from premium tax offsets or policy surcharges, an asset shall be recognized for that

recovery in an amount that is determined based on current laws, projections of future premium collections or policy surcharges from in-force policies, and as permitted in accordance with subparagraphs 10.a., 10.b. and 10.c. Assets recognized from paid and accrued guaranty fund (or other) liability assessments from insolvencies of entities that primarily wrote long-term care are also subject to the discounting requirements in paragraphs 12-14. Any recognized asset from premium tax credits or policy surcharges shall be re-evaluated regularly to ensure recoverability. Upon expiration, tax credits no longer meet the definition of an asset and shall be written off.

- a. For assessments paid before premium tax credits are realized or policy surcharges are collected, an asset results, which represents a receivable for premium tax credits that will be taken and policy surcharges which will be collected in the future. These receivables, to the extent it is probable they will be realized, meet the definition of assets, as specified in *SSAP No. 4—Assets and Nonadmitted Assets* and are admitted assets to the extent they conform to the requirements of this statement. The asset shall be established and reported independent from the liability (not reported net).
- b. Assets recognized from accrued liability assessments shall be determined in accordance with the type of guaranty fund assessment as detailed in the following subparagraphs. Assets recognized from accrued liability assessments meet the definition of an asset under *SSAP No. 4*, and are admitted assets to the extent they conform to the requirements of this statement.
 - i. For retrospective-premium-based and loss-based assessments, to the extent that it is probable that accrued liability assessments will result in a recoverable amount in a future period from business currently in-force considering appropriate persistency rates for long-duration contracts, an asset shall be recognized at the time the liability is recorded. In-force policies do not include expected renewals of short-term contracts except in cases when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts. In which case, to the extent that it is probable that premium tax credits from accrued liability assessments will result in a recoverable amount in a future period from business currently in-force, appropriate renewal rates of short-term health contracts shall be taken into consideration when recognizing the asset.
 - ii. For prospective-premium-based assessments, the recognition of assets from accrued liability assessments is limited to the amount of premium an entity has written or is obligated to write and to the amounts recoverable over the life of the in-force policies. This *SSAP* requires reporting entities to recognize prospective-based-premium assessments as the premium is written or obligated to be written by the reporting entity. Accordingly, the expected premium tax offset or policy surcharge asset related to the accrual of prospective-premium-based assessments shall be based on and limited to the amount recoverable as a result of premiums the insurer has written or is obligated to write.
- c. An asset shall not be established for paid or accrued assessments that are recoverable through future premium rate structures.

11. An evaluation of assets recognized under paragraph 10 shall be made in accordance with SSAP No. 5R—*Liabilities, Contingencies and Impairments of Assets* (SSAP No. 5R) to determine if there is any impairment. If, in accordance with SSAP No. 5R, it is probable that the asset is no longer realizable, the asset shall be written off to the extent it is not realizable and charged to income in the period the determination is made. Considering expected future premiums other than on in-force policies for long-duration contracts in evaluating recoverability of premium tax offsets or policy surcharges is not permitted. For short-term health contracts subject to long-term care assessments, appropriate renewal rates may be considered in evaluating recoverability of premium tax offsets or policy surcharges.

Discounting of Liability and Assets Related to Long-Term Care Assessments

12. Liabilities – Liabilities from guaranty funds or other assessments from the insolvencies of entities that wrote long-term care contracts that extend in excess of one year to payment shall be discounted as prescribed in paragraph 14. If the liability amount is prefunded in full in the year of the insolvency it is not to be discounted. Because requirements for payments vary by jurisdiction, the discount period, based on the expected dates for payment, shall be determined on the basis of jurisdiction.

13. Assets – Discounting of premium tax credit assets recognized from accrued and paid long-term care assessments is required for assets as prescribed in paragraph 14 when the time to forecasted recoverability is in excess of one year. Discounting premium tax credit assets is required if recoverability exceeds one year even in instances when the related liability is not discounted. Because of variations in the recoverability of tax credits, determination of the time to recoverability for application of the discount period shall be on the basis of jurisdiction.

14. Discount Rate – The following discount rate shall be applied to the assets and liabilities that are to be discounted pursuant to paragraphs 12 and 13:

- a. The discount rate to be applied is the maximum valuation interest rate for whole life policies that is detailed in Appendix A-820, paragraphs 7.a., 8.a. and 9.a. This discount rate is the rate referenced by Appendix A-010, Exhibit I, paragraph 3 as the maximum allowed interest rate for contract reserves.
- b. Appendix A-820 applies a rate that is determined at the date of policy issuance. For purposes of discounting the long-term care guaranty fund assessments and related assets, the discount rate applied to balances expected to be settled in excess of one year (paid or recovered), shall be the maximum valuation interest rate for whole life policies (specified in Appendix A-820) in effect for the reporting date. With this guidance, the discount rate is updated annually as the specified whole-life discount rate is updated and the same rate is applied to all discounted insolvencies.

Disclosures

4518. A reporting entity shall disclose the following:

- a. Describe the nature of any assessments that could have a material financial effect, by type of assessment, and state the estimate of the liability, identifying whether the corresponding liability has been recognized under paragraph 4, a liability has not been recognized as the obligating event has not yet occurred, or that an estimate cannot be made.

- b. For assessments with liabilities recognized under paragraph 4, disclose the amount of the recognized liabilities, any related asset for premium tax credits or policy surcharges, the periods over which the assessments are expected to be paid, and the period over which the recorded premium tax offsets or policy surcharges are expected to be realized.
- c. Disclose assets recognized from paid and accrued premium tax offsets or policy surcharges, and include a reconciliation of assets recognized within the previous year's annual statement to the assets recognized in the current year's annual statement. The reconciliation shall reflect, in aggregate, each component of the increase and decrease in paid and accrued premium tax offsets and policy surcharges, including the amount charged off.
- d. Disclosures shall be made in accordance with paragraph 27 of SSAP No. 5R when there is at least a reasonable possibility that the impairment of an asset from premium tax offsets or policy surcharges may have been incurred.
- e. The financial statements shall disclose the following related to guaranty fund liabilities and assets related to assessments from insolvencies of entities that wrote long-term care contracts. The disclosures shall be by insolvency except for paragraph 18.e.ii., which is the same rate for all discounted insolvencies:
 - i. The undiscounted and discounted amount of the guaranty fund assessments and related assets;
 - ii. The discount rate applied as of the current reporting date (determined in accordance with paragraphs 12-14);
 - iii. The number of jurisdictions for which the long-term care guaranty fund assessments payables were discounted and the number of jurisdictions for which asset recoverables were discounted;
 - iv. Identify the ranges of years used to discount the assets and the range of years used to discount the liabilities;
 - v. The weighted average numbers of years of the discounting time period for long-term care guaranty fund assessment liabilities; and
 - vi. The weighted average number of years of the discounting time period for the asset recoverables.

Illustration of paragraph 18.e.iii. through paragraph 18.e.vi. disclosures.

<u>Name of the Insolvency</u>	<u>Payables</u>			<u>Recoverables</u>		
	<u>Number of Jurisdictions</u>	<u>Range of Years</u>	<u>Weighted Average Number of Years</u>	<u>Number of Jurisdictions</u>	<u>Range of Years</u>	<u>Weighted Average Number of Years</u>
<u>ABC Estate</u>	<u>10</u>	<u>2-10</u>	<u>8</u>	<u>8</u>	<u>5-20</u>	<u>10</u>

1946. Refer to the preamble for further discussion regarding disclosure requirements.

Relevant Literature

4720. This statement adopts GAAP guidance for recording guaranty fund and other assessments, which is contained in *Accounting Standards Codification 405-30, Insurance Related Assessments* (ASC 405-30) to the extent reflected in this SSAP. Statutory accounting modifications from ASC 405-30 are as follows:

- a. The option to discount accrued liabilities (and reflect the time value of money in anticipated recoverables) is rejected for statutory accounting. Liabilities and assets related to assessments from insolvencies of entities that wrote long-term care contracts are required to be discounted as described in paragraphs 12-14, however, other liabilities for guaranty funds or other assessments shall not be discounted.
- b. The use of a valuation allowance for premium tax offsets and policy surcharges no longer probable for realization has been rejected for statutory accounting. Evaluation of assets shall be made in accordance with SSAP No. 5R, and if it is probable that the asset is no longer realizable, the asset shall be written off and charged to income in the period the determination is made.
- c. Guidance within ASC 405-30 pertaining to noninsurance entities has been rejected as not applicable for statutory accounting.
- d. Guidance within ASC 405-30 pertaining to accrual of an asset based on future renewals of premium is modified to allow accrual of the asset based on in-force short-term health contract renewals in instances when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts .

4821. This statement also adopts with modification *Emerging Issues Task Force No. 06-3: How Taxes Collected from Customers and Remitted to Governmental Authorities Should Be Presented in the Income Statement (That is, Gross versus Net Presentation)* (EITF 06-3), now included in *Accounting Standards Codification 605-45, Revenue Recognition, Principal Agent Considerations* to the extent reflected in paragraph 1643 of this statement.

Effective Date and Transition

4922. This statement is effective for years beginning January 1, 2001. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*. Substantive revisions to paragraphs 4, 6, 7, 8, 10, 11, 1744 and 1845 as documented in Issue Paper No. 143R are initially effective for the reporting period beginning January 1, 2011. The result of applying this revised statement shall be considered a change in accounting principle in accordance with SSAP No. 3. Pursuant to SSAP No. 3, the cumulative effect of changes in accounting principles shall be reported as an adjustment to unassigned funds (surplus) in the period of the change in accounting principle. The cumulative effect recognized through surplus from initial application of this statement shall reflect the removal of liabilities established under SSAP No. 35, and the re-establishment of liabilities required under SSAP No. 35R. If there is no change in the liabilities recognized (for example, retrospective-premium based assessments), no cumulative effect adjustment shall occur. With regards to assets, the entity shall complete an assessment of the SSAP No. 35 asset reported as of the transition date. If it is determined that the reported asset exceeds what is allowed under SSAP No. 35R, then the excess asset shall be written-off, through unassigned funds, so the ultimate asset reflected corresponds with what is permitted under SSAP No. 35R. Although it is possible that the excess asset will be reinstated once the liability assessment is recognized (prospective-premium based assessments), it is inappropriate to continue to reflect an asset for assessments that are not reflected within the financial statements. The guidance in paragraph 1643 adopted with modification *Emerging Issues Task Force No. 06-3: How Taxes Collected from Customers and Remitted to Governmental*

Authorities Should Be Presented in the Income Statement (That is, Gross versus Net Presentation) and was incorporated from INT 07-03 and effective September 29, 2007. The Section 9010 ACA fee has specific guidance (adopted December 2013) that was effective for annual reporting periods beginning January 1, 2014, and was moved to SSAP No. 106 in June 2014. As documented in Issue Paper No. 143R, Mmodification of the adoption of ASC 405-30 to allow accrual of the asset based on in-force short-term health contract renewals in instances when retrospective-premium-based assessments are imposed on short-term health contracts for the insolvencies of insurers that wrote long-term care contracts as described in paragraphs 10.b.i, 11 and ~~47~~20.d. are initially effective for reporting periods beginning on or after January 1, 2017. Although the ASC 405-30 option to discount liabilities is still rejected, effective for reporting periods after January 1, 2017, reporting entities are required to discount guaranty fund assessments, and related assets, resulting from the insolvencies of insurers that wrote long-term care contracts, in accordance with the provisions of paragraphs 12-14 of this statement, as documented in Issue Paper No. 143R.

REFERENCES

Relevant Issue Papers

- *Issue Paper No. 35—Accounting for Guaranty Fund and Other Assessments*
- *Issue Paper No. 143R—~~Prospective-Based~~ Guaranty Fund Assessments*
- *Issue Paper No. 148—Affordable Care Act Section 9010 Assessment*