



May 19, 2020

Honorable Scott A. White, Chair
Financial Condition (E) Committee
National Association of Insurance
Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Honorable Eric Cioppa, Vice Chair
Financial Condition (E) Committee
National Association of Insurance
Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Request for Extension of Modification Period under March 27, 2020 RBC Guidance

Dear Commissioner White and Superintendent Cioppa:

The undersigned organizations respectfully request that of the Financial Condition (E) Committee of the National Association of Insurance Commissioners (NAIC) extend the modification period under the risk-based capital guidance issued on March 27, 2020, to conform it to a related NAIC accounting interpretation issued April 15, 2020 and to section 4013 of the CARES Act.

The undersigned appreciate the time and effort that you, the Committee, Statutory Accounting Principles (E) Working Group (SAPWG), NAIC staff, and others have already devoted to the accounting and risk-based capital issues that have arisen as a result of the COVID-19 pandemic, and we appreciate the guidance issued to date. Nevertheless, we need to request that you take this additional action now.

Background

On March 27, 2020, the Financial Condition (E) Committee released Guidance for Troubled Debt Restructurings for March 31-June 30 Statutory Financial Statements and Related Interim Risk-Based Capital Filings (where required) (“RBC Guidance”). The modification period under the RBC Guidance ends June 30, 2020.¹

The CARES Act was enacted later that same day.² Section 4013 of the CARES Act provided optional relief from generally accepted accounting principles (GAAP) for loan modifications related to the coronavirus disease 2019 (COVID-19) pandemic that would otherwise be categorized as a troubled debt restructuring (TDR). That option applies to loan modifications during the period beginning on March 1, 2020 and ending on the earlier of December 31, 2020, or the date that is 60 days after the date on which the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.

On April 15, 2020, The Statutory Accounting Principles (E) Working Group (SAPWG) adopted two COVID-19-related interpretations.

INT 20-03: Troubled Debt Restructuring Due to COVID-19. INT 20-03 adopts the modification period specified in section 4013 the CARES Act (i.e., it applies to the term of modifications that occur during the period from March 1, 2020 until the earlier of 60 days after the national declaration of emergency is terminated or December 31, 2020.³

INT 20-04: Mortgage Loan Impairment Assessment Due to COVID-19. INT 20-04 applies to reporting for March 31 and June 30, 2020.⁴ However, NAIC staff has interpreted INT 20-04 as applying to modifications that occur through September 29, 2020.⁵

On March 30, April 13, and April 22, 2020, NAIC staff posted Questions and Answers on the RBC Guidance.⁶

Request for Extension of Modification Period

We are requesting an extension of the modification period covered by the RBC Guidance now because a modification period ending June 30, 2020 does not provide time for insurers and borrowers to fully assess the COVID-19 impacts and determine appropriate modifications or other accommodations in many cases. Modification decisions insurers make in May or June will need to be informed by

¹ Available at: <https://content.naic.org/sites/default/files/inline-files/Guidance%20for%20Insurers%20from%20Financial%20Condition%20%28E%29%20Committee.pdf>

² Available at: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

³ Available at: <https://content.naic.org/sites/default/files/inline-files/INT%2020-03%20%20-%20TDR%20for%20COVID-19.pdf>

⁴ Available at: <https://content.naic.org/sites/default/files/inline-files/INT%2020-04%20%20-%20Impairment%20for%20Covid-19.pdf>

⁵ See NAIC staff interpretation, SAPWG April 15, 2020 Hearing Agenda, at p. 15 (“In response to the OneAmerica comments and interested parties comments on the application of the effective date, NAIC staff agree that loan modifications up till Sept. 29, 2020 are permitted under the exposed INT.”).

⁶ Available at: https://content.naic.org/sites/default/files/inline-files/QA%20on%20Guidance%20for%20Insurers%20from%20Financial%20Condition%20%28E%29%20Committee_2.pdf

knowledge of whether there is available runway to further tailor modifications before the modification window closes.

Widespread business closures and social distancing began in late March 2020, and various jurisdictions across the nation are easing restrictions to varying degrees and on different timelines. The \$2 trillion CARES Act was enacted March 27, 2020, and additional funding for the Paycheck Protection Program was appropriated on April 24, 2020. The economic impact of those enormous legislative efforts will be realized over a period of months ahead as assistance is distributed and as the recipients, in turn, deploy it. In the meantime, businesses are adjusting operations and preparing to ramp up as restrictions ease, and consumer confidence changes, and additional governmental efforts are sure to follow.

It will take until after June 30 for these facts to unfold and for insurers to determine many borrowers' short-term and longer-term prospects. As a result, it may be most prudent for insurers to employ a measured multi-stage modification processes (e.g., an initial 90- interest-only (IO) period followed by a reassessment and a subsequent temporary IO period or other modification based on that later assessment).

To accommodate such a measured multi-step approach, we request that the Committee adopt the modification period specified in section 4013 of the CARES Act and adopted in INT 20-03: the modification period ending on the earlier of 60 days after the national declaration of emergency is terminated, or December 31, 2020, and that the Committee issue that extension as soon as possible. Alternatively, the Committee could extend the modification period under the RBC Guidance to September 30, 2020, with a decision on an extension beyond September 30, 2020, no later than the NAIC National Meeting in August.

* * *

Thank you for considering this request. If you have any questions, please do not hesitate to contact Mike Monahan, Senior Director of Accounting Policy, ACLI (MikeMonahan@acll.com) or Bruce Oliver, Associate Vice President, CMF Policy, MBA (boliver@mba.org).

Sincerely,

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cc: Members of NAIC Financial Condition (E) Committee
Mr. Philip Barlow, Chair, Life Risk-Based Capital Working Group
Mr. Dan Daveline, Director, NAIC Financial Regulatory Services