



AMERICAN ACADEMY of ACTUARIES

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July 14, 2017

Gordon Hay, Chairperson  
Title Insurance Financial Reporting Working Group  
National Association of Insurance Commissioners  
1100 Walnut St.  
Kansas City, MO 64016

Sent via email to Aaron Brandenburg

Re: Title Insurance Financial Reporting Working Group (TIFRWG) Statement of Actuarial Opinion Proposal

Dear Mr. Hay:

On behalf of the Committee on Property and Liability Financial Reporting (COPLFR) of the American Academy of Actuaries,<sup>1</sup> I appreciate the opportunity to provide comments on the TIFRWG's proposed changes to the Title Statement of Actuarial Opinion.

The TIFRWG has proposed that the Appointed Actuary opine on the adequacy of the known claims reserve (KCR). COPLFR believes that the costs of implementing such a requirement outweigh the potential benefits for the reasons discussed below:

- 1. The proposal is unlikely to benefit regulators in assessing title insurer solvency.*

The balance sheet for a title insurer currently includes liabilities for the “known claims reserve” and the “statutory premium reserve.”

There currently is a test of the adequacy of these amounts, in that if the actuarially determined liability (shown in Schedule P) is greater than the sum of these amounts then an additional liability (called a Supplemental Reserve) must be created equal to that difference.<sup>2</sup> Hence any inadequacy in the KCR component of the balance sheet that results in an overall deficiency is already addressed by existing accounting rules. There is

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<sup>1</sup> The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

<sup>2</sup> SSAP No. 57, paragraph 10.

no solvency need to ensure that each component of the balance sheet is adequate as long as total stated liabilities are sufficiently adequate.

An appendix to this letter describes current tools available to regulators and other interested parties to monitor the adequacy of title insurance reserves.

*2. The proposal does not reflect currently existing ambiguity in Statement of Statutory Accounting Principle (SSAP) No. 57—Title Insurance.*

SSAP No. 57 (*Title Insurance*) paragraph 8 says, “The known claims reserve should be the estimated costs to settle reported claims based upon the most current information available to the company as of the balance sheet date. This amount cannot be less than the aggregate of the individual case reserves.”

The implication is that there can be a provision in addition to the individual case reserves in the “known claims reserve.” That provision is referred to as a bulk reserve, with that term used in the Title Insurance Schedule P. SSAP No. 57 paragraph 11 also says, “The actuarially determined liability for the sum of known claims reserve required in paragraph 8 and the IBNR claims and loss adjustment expenses required in paragraph 10 of this statement shall be determined consistently with the guidance detailed in SSAP No. 55—Unpaid Claims, Losses and Loss Adjustment Expenses and consistent with paragraph 13 of this statement.”

SSAP No. 55 paragraph 6b says “Incurred But Not Reported Losses (IBNR): Expected payments for losses relating to insured events that have occurred but have not been reported to the reporting entity as of the statement date. As a practical matter, IBNR may include losses that have been reported to the reporting entity but have not yet been entered to the claims system or bulk provisions. Bulk provisions are reserves included with other IBNR reserves to reflect deficiencies in known case reserves.”

The proposal presumes that the bulk reserve is included in the KCR, yet that contradicts the SSAP No. 55 guidance referred to by SSAP No. 57. Hence the proposal could negatively impact title insurers that include the bulk reserve within IBNR and not the KCR, in compliance with the SSAP No. 55 guidance referred to in SSAP No. 57.

*3. The proposal is likely to cause disruption to the title industry financial results and users of the title insurer statutory financial statements in its implementation.*

COPLFR expects that the result of the proposal would be for title insurers to shift bulk reserves from IBNR to KCR in the future. So doing could impact the income statement and reduce statutory surplus for title insurers, and create redundancy to the extent that supplemental reserves were not currently needed. It is not clear why this is needed or desirable.

To illustrate the potential impact of the proposed change on title industry policyholder surplus (PHS), COPLFR notes that the 2016 one-year and two-year development of Incurred Loss and ALAE on Known Claims and Bulk Reserves of Known Claims for the

title industry in the aggregate are approximately \$441 million and \$590 million, respectively.<sup>3</sup> The pretax reduction to PHS as a result of implementing the proposed change, therefore, appears to have the potential to be \$500 million or higher for the title industry as a whole.<sup>4</sup>

COPLFR does not believe such a reduction in policyholder surplus is reflective of title insurer reserve strength. The 2016 one-year and two-year development of Incurred Loss and ALAE Including Known Claims and IBNR on Unreported Claims was favorable by approximately (\$103 million) and (\$2 million), respectively.<sup>5</sup>

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Thank you for this opportunity to provide our views on the TIFRWG's proposal. If you have any questions or would like to discuss this letter in more detail, please contact Marc Rosenberg, the Academy's senior casualty policy analyst, at [rosenberg@actuary.org](mailto:rosenberg@actuary.org) or 202-785-7865.

Sincerely,

Lisa Slotznick, MAAA, FCAS  
Chairperson, COPLFR  
American Academy of Actuaries

Appendix attached

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<sup>3</sup> American Land Title Association 2016 Industry Annual Statement, Schedule P, Part 3.

<sup>4</sup> First American Title Insurance Company ("FATICO") recorded bulk reserves within its KCR as of Dec. 31, 2016. FATICO's 2016 Notes to the Financial Statement include a statement that the impact on unassigned funds was a decrease of approximately \$111 million, net of tax. This is not reflected in the commentary on the potential reduction to PHS noted above.

<sup>5</sup> American Land Title Association 2016 Industry Annual Statement, Schedule P, Part 2.

## **APPENDIX—Current Tools for Title Insurance Reserve Adequacy Monitoring**

The title insurance annual statement includes a Schedule P Part 2, which is in the same format as the property/casualty annual statement Schedule P Part 2. This runoff schedule allows the reader of the annual statement to monitor the adequacy of title company reserves on a combined known claim reserve plus IBNR basis. This monitoring tool has been in place for many years.

The NAIC's Insurance Regulatory Information System (IRIS) ratios are an additional reserve monitoring tool for regulators of property/casualty companies. IRIS ratios 11-13 focus on reserve adequacy for property/casualty companies. There are no IRIS ratios for title insurance companies, but effective as of year-end 2012, the instructions for the statement of actuarial opinion (SAO) for title insurance companies changed. Actuaries were then required to calculate ratios similar to the property/casualty IRIS ratios 11 and 12—and comment if reserve development was greater than +20%.

Effective with the 2016 year-end, there was another change in the instructions for the title insurance SAO. Not only did the opining actuary need to comment on IRIS ratios for Schedule P Part 2 (which tracks development on known case plus IBNR), but the actuary now also needs to calculate IRIS ratios 11 and 12 for Schedule P Part 3 (which tracks development on known claim reserves only)—and comment if development was greater than +20%.

In summary, there are currently a number of tools for monitoring title insurance company loss reserves. The IRIS-like tools have been implemented relatively recently, but the traditional Schedule P Part 2 has been in place for many years. COPLFR believes these currently available tools are sufficient to monitor the reserve adequacy of title insurance companies.