AMERICAN ACADEMY *of* ACTUARIES

June 20, 2014

Dale Bruggeman
Chair, Statutory Accounting Principles Working Group
Financial Condition (E) Committee
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Mr. Bruggeman,

On behalf of the American Academy of Actuaries'[1] Health Practice Financial Reporting Committee, I would like to provide the following comments regarding the National Association of Insurance Commissioners (NAIC) Statutory Accounting Principles Working Group's (SAPWG) proposed new accounting proposal for the risk-sharing provisions in the Affordable Care Act (ACA).

The committee suggests that the treatment of the risk-adjustment and risk-corridor assets would fall under the normal scope of the Health Actuarial Opinion (commonly referred to as the "orange blank") and that they meet the definition of "health insurance asset" in Actuarial Standard of Practice (ASOP) No. 28, *Statements of Actuarial Opinion Regarding Health Insurance Liabilities and Assets*. The actuarial opinion requirements for health organizations are clear that the scope of the opinion is the total amount of the gross assets and not just admitted assets.

In the individual market, the treatment of the reinsurance contribution is such that the benefits a participant receives from this program will be disproportionate to the amount that is recorded on an insurer's balance sheet as a reinsurance premium. This reinsurance contribution amount will be different from the amount that the insurer would need to pay a private reinsurer to obtain comparable coverage. Given the non-market nature of this transaction, the committee questions whether this should be accounted for as reinsurance. The committee also notes that this accounting is different than what occurs for the medical loss ratio (MLR) reporting under the ACA for which contributions would be considered fees and MLR calculations are performed prior to reinsurance.

[1] The American Academy of Actuaries is an 18,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists 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.

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In the sections of the proposal on risk-adjustment and risk corridors, we suggest focusing on the ACA programs (individual and small group markets) versus a broader definition that would include Medicare Advantage and some state Medicaid programs.

With regard to risk adjustment, the committee would like to highlight the following points:

- The ability to accurately estimate the receivable for risk adjustment will increase significantly for 2015 and 2016. By 2016, much of the uncertainty around risk adjustment settlement estimations should be resolved. As such, it may be appropriate to either sunset the non-admission or provide specific criteria for when it should non-admit (e.g., if a carrier has less than two years' experience with a risk-adjustment program);

- The lack of accuracy in estimating the risk adjustment for 2014 is not significantly greater than that which exists in developing the unpaid claim liability for a new line of business; and

- The proposal to record a risk-adjustment payable and not admit a receivable disadvantages companies that have enrolled less healthy individuals.

With respect to risk corridors, the committee notes the following:

- Non-admission of receivables: The question of estimation accuracy for risk corridors is not the same for risk adjustment, so the non-admission requirement may not be the best way to address the estimation uncertainty. The ability to estimate the risk-corridor asset (absent estimates on risk adjustment and reinsurance receivables) is going to be no greater than several other items, such as provider receivables based on risk-sharing provisions (which can be admitted subject to certain constraints as listed in SSAP 84) and retrospective premium receivables (which can be admitted under SSAP 66);

- The effect of risk-adjustment payables and transitional reinsurance receivables on the risk corridor may be offset. For example, if the risk-adjustment payable is less than expected or the transitional reinsurance receivable is greater than expected, then the risk corridor changes in the opposite direction but not one-for-one. Therefore, the effect of the uncertainty of the estimate is more than offset;

- Given that a risk-corridor receivable will occur only in situations in which a plan is experiencing a loss, non-admission of that receivable will aggravate the level of a company's capital depletion related to the loss; and

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- 90-day rule of non-admission of receivables: Given that the Centers for Medicare and Medicaid Services (CMS) has stated that risk-corridor payments will be made in 2015 for 2014 only to the extent that risk-corridor income is received[2], it may not be appropriate to non-admit those receivables from December 2015 (90 days after companies are notified they will receive a risk-corridor settlement) until September 2016 when they are paid. The committee suggests applying the same rule as other receivables from governmental entities and waiving the 90-day rule. It seems the calendar year 2014 receivables should be valid regardless of whether they are paid in 2015.

Thank you for the opportunity to provide comments. Should you have any questions, please contact Tim Mahony, the Academy's state health analyst at 202.223.8196, or Mahony@actuary.org.

Sincerely,

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[2] See CMS Bulletin, "Question and Answer on Budget Neutrality for the Risk Corridors" (April 11, 2014): http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/faq-risk-corridors-04-11-2014.pdf

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