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AMERICAN ACADEMY *of* ACTUARIES

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June 30, 2016

Mr. Mike Boerner  
Chair, Life Actuarial (A) Task Force  
National Association of Insurance Commissioners

Dear Mr. Boerner,

The Life Actuarial (A) Task Force (LATF) has requested comments on “whether the qualified actuaries assisting or advising the company regarding its responsibility to establish principle-based reserves represent the interest of the company or the interest of the commissioner.” The American Academy of Actuaries<sup>1</sup> Life Practice Council is pleased to submit the following comments.

LATF did not define what was meant by “the interest of the company or the interest of the commissioner” and so our comments below do not attempt to address the “interests” of either party.

The professional responsibilities of life insurance actuaries with respect to both their principals (employers or client insurers) and their principals’ regulatory authorities are the same as they were before the introduction of principle-based reserves (PBR). Companies hire qualified actuaries to perform valuation work in order to be assured that a professional job is done, which includes complying with applicable laws and regulation, the Code of Professional Conduct (the Code), the U.S. Qualification Standards (USQS) and the actuarial standards of practice (ASOPs). Likewise, the commissioner has certain roles and authorities in enforcing laws and regulations, with which the qualified actuary must comply.

The Standard Valuation Law (SVL) and Valuation Manual (VM) state that a qualified actuary is “an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards [USQS] for actuaries signing such statements and who meets the requirements specified in the Valuation Manual.” The USQS states that a statement of actuarial opinion is “an opinion expressed by an actuary in the course of performing actuarial services and intended by that actuary to be relied upon by the person or organization to which the opinion is addressed.” The USQS applies to all members of one of the five U.S-based actuarial organizations, because all of them have adopted

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<sup>1</sup> The American Academy of Actuaries is an 18,500+ 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.

the Code of Professional Conduct which requires, in Precept 2, that their members must perform services only when they satisfy applicable qualification standards. The professional responsibilities of the qualified actuary with respect to both the company and the commissioner have not changed under PBR. We believe that both the company and the commissioner should be able to rely on the work of the qualified actuary, as each has long done. The applicable qualification standards are detailed in the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States (the “USQS”), which became effective in 2008. Both the General and Specific Qualification Standards require an actuary to “be knowledgeable, through examination or documented professional development of the Law applicable to the Statement of Actuarial Opinion” (USQS Sec. 2.1 and 3.1). The Specific Qualification Standards have additional requirements for signing statutory (formerly “prescribed”) statements of opinion.

In addition, in several places in the SVL and VM, there are requirements to reinforce the existing obligation for an actuary to follow the ASOPs applicable to regulatory work. ASOPs that would be of particular importance to regulators with the introduction of PBR are the PBR ASOP, which is still being finalized, ASOP 21, *Responding to or Assisting Auditors or Examiners in Connection with Financial Statements for All Practice Areas*, and ASOP 41, *Actuarial Communications*.

ASOP 41 is an example of an ASOP that may serve the interests of any intended user. Section 2.7 of ASOP 41 defines an *Intended User* as “Any person who the actuary identifies as able to rely on the actuarial findings.” When an actuary is assigned by his or her principal to act as the qualified actuary for a group of policies or contracts, *the principal’s commissioner is an intended user* of the PBR Actuarial Report, and should be able to rely on the actuarial findings in the report. This is true even if the assumptions are set by the principal. Section 3.4.4 of ASOP 41 requires “if a material assumption or method is set by another party, the actuary has three choices for disclosing a professional assessment of the reasonableness of the assumptions or method:

1. If the assumption or method does not conflict significantly with what, in the actuary’s professional judgment, would be reasonable for the purpose of the assignment, the actuary has no disclosure obligation;
2. If the assumption or method significantly conflicts with what, in the actuary’s professional judgment, would be reasonable for the purpose of the assignment, the actuary must disclose that fact and the additional information specified in section 4.3; and
3. If the actuary has been unable to judge the reasonableness of the assumption or method without performing a substantial amount of additional work beyond the scope of the assignment, or if the actuary was not qualified to judge the reasonableness of the assumption, the actuary should disclose that fact as specified in section 4.3.”

## **Compliance With the Code of Conduct**

As noted above, the actuary’s actions must be in compliance with the Code, which has been adopted by all five U.S.-based actuarial organizations. The Code is the foundation in which the obligation to comply with the USQS and the ASOPs is established. While generally principled in

the language of its Precepts, it has clear applicability and identifies professional requirements that both the company and the commissioner may rely upon, such as:

- The Introduction, “Laws may also impose obligations upon an Actuary. Where requirements of Law conflict with the Code, the requirements of Law shall take precedence.”
- Precept 1 of the Code of Professional Conduct states, “An Actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession’s responsibility to the public and to uphold the reputation of the actuarial profession.”
  - Furthermore, Annotation 1-2 of Precept 1 states, “An Actuary shall not provide Actuarial Services for any Principal if the Actuary has reason to believe that such services may be used to violate or evade the Law or in a manner that would be detrimental to the reputation of the actuarial profession.”
- Precept 3 states, “An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.”
- Precept 4 states, “An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.” In this case the interests of the regulatory authority and the company may be served differently, as appropriate.

Thank you for the opportunity to comment, and we would be happy to discuss further.

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If you have any questions or would like further dialogue on the above topics, please contact Amanda Darlington, life policy analyst, at [darlington@actuary.org](mailto:darlington@actuary.org).

Sincerely,

Jeff Johnson, MAAA, FSA  
Vice President  
Life Practice Council  
American Academy of Actuaries