AMERICAN ACADEMY of ACTUARIES

June 29, 2011

Ms. Carolyn Zimmerman
Chair
Joint Board for Enrollment of Actuaries
Internal Revenue Service
SE:OPR
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Patrick McDonough
Executive Director
Joint Board for Enrollment of Actuaries
Internal Revenue Service
SE:OPR
1111 Constitution Avenue, NW
Washington, DC 20224

Re: New Joint Board Regulations and Continuing Education Requirements

Dear Ms. Zimmerman and Mr. McDonough:

The American Academy of Actuaries[1] Pension Committee commends the Joint Board for the Enrollment of Actuaries for its work on issuing new final regulations on March 29, 2011. These regulations recognize the dramatic changes that have taken place in the delivery of continuing education during the past two decades, while maintaining high standards for the enrollment of actuaries. We also are pleased with the introduction of an ethics requirement, which will help ensure that enrolled actuaries maintain the highest professional standards in their work.

With respect to continuing education, however, the new regulations raise two concerns. We believe additional clarification is needed regarding the application of these rules for continuing education completed in 2011 before the issuance of these regulations. At the same time, we would appreciate your guidance on the common practice of large firms cosponsoring (for continuing education purposes) webinars that are being offered by national actuarial bodies.

Please note that this letter was drafted prior to the June 22, 2011, Conference of Consulting Actuaries' audiocast covering the Joint Board regulations and some of the issues we are raising in this letter were addressed during that session, albeit informally. We request that guidance on these issues be included in the Joint Board's planned "FAQ" release.

Formal Program Rule

These final regulations introduced for the first time a requirement that 12 out of the 36 hours of continuing education during an enrollment cycle be earned as part of a "formal program" (generally requiring three pension professionals physically attending together). Sponsors of continuing education programs, furthermore, must issue certificates of attendance to participants that indicate whether a program qualifies, with respect to that individual attendee, as a formal program. While the regulations technically are not effective until May 2, 2011, in practice this

[1] The American Academy of Actuaries is a 17,000-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.

requirement has retroactive applicability to Jan. 1, 2011. Because the current continuing education cycle runs from Jan.1, 2011, to Dec. 31, 2013, individuals need to know whether any continuing education programs that they attended on or after Jan. 1, 2011, qualify as formal programs. Certificates of attendance issued before promulgation of the regulations on March 29, 2011, would not so indicate, as the sponsor of the program would have had no knowledge of the requirement to track whether the program qualified as a formal program with respect to each attendee. In fact, in some instances the data to make that determination may not have been collected or no longer may exist.

The retroactive applicability raises several questions.

- Do sponsors need to reissue certificates from qualifying programs that took place in 2011 before the issuance of the regulations?
- If so, what should sponsors do in the circumstance that the data are not available to indicate whether a program qualified as a formal program for some or all of the participants?
- If sponsors are not required or are unable to make this determination for programs held early in 2011, is it permissible for each individual to determine whether a program qualified as a formal program based on his or her recollection of the attendance in the same location?

Definition of Program Sponsor

Over the past few years, electronic delivery of continuing education has progressed significantly. Many programs currently are provided by national actuarial bodies as webinars. In many instances, a large multi-location actuarial firm will sign up for the program and receive one dial-in code and, with permission from the national actuarial body, rebroadcast the webinar live to multiple locations within its own organization. All attendees have the ability to interact with the speakers as if they signed up directly with the actuarial organization.

Assume that the large actuarial firm is also a qualified sponsor of continuing education under the Joint Board regulations. The actuarial firm arranges the conference rooms, monitors attendance, collects the sign-in sheets and evaluation forms, and maintains copies of the outlines. The employer also issues the certificates of attendance to participants, as is common practice among virtually all the major firms, based on a national actuarial body's determination that the program is credit-worthy (for example, core vs. non-core, whether the program meets the ethics requirement, etc.). The employer, in effect, sponsors the program as a sublicensee of the national actuarial body. (Stating it another way, the employer sponsors the event as with any of its own internal programs, except it engages speakers via the national actuarial body.)

This model is advantageous to both the sponsoring actuarial organization and the employer. The actuarial body is relieved of the responsibility for verifying attendance, issuing certificates, and maintaining records for all the employer's attendees. The employer can offer quality continuing education to employees across the country at a reasonable price, and provide actuaries with the opportunity to interact with nationally recognized speakers with expertise likely far greater than that of local moderators.

We would like confirmation that this model is acceptable under the Joint Board regulations. If the model is problematic, we would appreciate the Joint Board explaining how it best may be rectified so that large employers can continue to offer high-quality continuing professional education in an efficient, cost-effective manner.

The Pension Committee appreciates your consideration of these comments and would be happy to discuss them with you at your convenience. Please contact Jessica M. Thomas, the Academy's senior pension policy analyst (202-785-7868; thomas@actuary.org) if you have any questions or would like to discuss these items further.

Sincerely,

John H. Moore, FSA, MAAA, EA, FCA
Chairperson, Pension Committee
American Academy of Actuaries