Title of Exposure Draft: **PROPOSED REVISION OF ACTUARIAL STANDARD OF PRACTICE No. 29**

Comment Deadline: [May 31, 2022]

I. Identification:

Name of Commentator / Company
Robert Miccolis, FCAS, MAAA, FCA, Miccolis Consulting LLC

II. ASB Questions (If Any). Responses to any transmittal memorandum questions should be entered below.

Question No.	Commentator Response

III. Specific Recommendations:

Section # (e.g. 3.2.a)	Commentator Recommendation (Please provide recommended wording for any suggested changes)	Commentator Rationale (Support for the recommendation)
2.2 Expense Provision	Define the term “provision” explicitly with respect to how the actuary may or should use the term. The standard should explain the difference in meaning between referring to a “future cost estimate” versus a “provision.” Add a definition or recommended practice (section 3.2) to define or explain the use of the term “provision,” particularly if the intent is to distinguish a “provision” from a “future cost estimate”. Recommend additional wording: See below and comments under section 3.2 “When using the term provision, the actuary should distinguish between when the provision is based on a direct cost estimate versus an indirect method, such as setting an allowance, loading, load, margin, anticipated payments, or other approach which the actuary considers appropriate for the intended use of the provision. The term provision should not be used when a direct cost estimate is made by the actuary. The actuary’s basis and reasoning for using an indirect approach, or for the selection of an assumption or other judgment, should be disclosed. For example, the actuary might determine a provision based on broad historical	It can be quite important for the actuary to distinguish between providing a direct cost estimate and providing a “provision” which may represent an allowance, loading, load, anticipated payments, or other indirect approach which the actuary considers appropriate. A provision may also be an assumption or may be based on one or more assumptions. Use of the term “provision” tends to connote a situation where a “provision” is being made because a direct or expected cost estimate is difficult or inappropriate. Hence, a “provision” is selected by applying one or more indirect or judgmental approaches, a combination of direct or indirect methods, or simply by judgment based on facts and circumstances. Sometimes a provision is included in future costs based on broad or general considerations rather than using direct methods of estimating such costs, such as can be the case for large losses (see ASOP No. 53, section 3.13, Treatment of Infrequent Events), or in some cases there may be a loss “provision” for all losses, rather than an expected value or other intended measure. Other uses of the term “provisions” may relate to specific relationships which are known, can be approximated, or selected based on judgment. For example, commissions and

	average ratios or based on professional judgment. The actuary should disclose the extent to which other sources were relied upon in determining the provision." "The actuary should use a provision when a direct cost estimate is difficult, impractical, unnecessary, or inappropriate. The actuary may select a provision by applying a combination of one or more direct or indirect approaches, based on the actuary's professional judgment. The actuary's judgment should reflect the significant and relevant facts and circumstances known to the actuary, and the conditions the actuary anticipates will apply to the future period, as appropriate." "The actuary may determine a provision based on specific relationships which are known, anticipated, approximated, or selected based on assumptions or judgments. For example, commissions and brokerage cost are typically set as a percentage of premiums, although such percentage may represent an average of varying percentages across an insurer's business."	brokerage cost are typically set as a percentage of premiums, although such percentage may represent an average of varying percentages across an insurer's business. ASOP No. 53 does not refer to cost estimates as a "provision" in the scope of that ASOP with respect to "future costs", although other "provisions" are mentioned. Section 1.2 Scope of ASOP No. 53 refers to separate estimates of the cost of risk transfer and risk retention and provides examples in section 3.1 of ASOP No. 53 which include "loss adjustment expenses, operational and administrative expenses, the cost of reinsurance and the cost of capital." This reference in ASOP No. 53 is a particular source of confusion without some further clarification. There is a definite overlap between ASOP No. 29 and ASOP No. 53 with respect to expenses which are included in an estimate of future costs. In addition, there are inconsistencies in the guidance and in how similar phrases are used. ASOP No. 53 mentions in section 3.9 that ASOP No. 29 should be referred to with respect to types of expenses which may require different treatment. However, the ED does not seem to discuss such different treatment for certain expenses. ASOP No. 53 does mention that a "provisions for large losses" may be required, but it does not define the meaning of a "provision" versus a cost estimate. ASOP No. 53 does mention "provisions" in references to ASOP No. 20 and ASOP No. 30, but the ASOP No. 53 does not define or explain the use of the term.
2.2 Expense Provision	Change ED wording which begins "other than …" to something clearer, such as "expense provisions should exclude direct future cost estimates and provisions associated with losses, underwriting profit, contingencies, cost of capital, investment expenses or income taxes."	There is too much potential for confusion in this ED wording with the list of exclusions, particularly where such wording is long and lacks explaining the rationale. ASOP No. 53 refers to other ASOPs with respect to underwriting profit, contingencies, and cost of capital, but does not address investment expenses or income taxes. This results in

		guidance that is incomplete. A refence to ASOP No. 30, where investment income is defined and investment expenses are referred to, might be appropriate.
2.3 General Administrative Expenses	Change ED wording in the parentheses, "other than …" to "excluding".	There is too much potential confusion from the ED wording. Current ED wording is not worded as clearly and consistently it could be.
2.4 Loss Adjustment Expenses	Change ED wording "even if it is ultimately determined that the claim is invalid" to something more general, such as "as required by the insurance policies or other agreements, for example, expenses related to claims administrative, cost containment, and loss adjustment."	The ED wording is too limiting and focuses only on whether claims are valid. Insurance policy terms and conditions can vary quite a bit with respect to how loss adjustment expenses are covered and how they are covered.
2.6 Policyholder Dividends	Change ED section title to "**Provision for Policyholder Dividends**" This item of expense should not be referred to as a return of premiums or distribution of surplus. This item of expense should be referred to as a provision, i.e., an allowance, loading, or other basis which the actuary considers appropriate given the anticipated future payouts and the appropriate relationship to the intended purpose of the future cost estimates (provisions).	Policyholder dividends can take many different forms, such as an overall distribution of underwriting profits, investment returns, operating profits, surplus, or some combination of these amounts or other considerations. Some policyholder dividends are made according to policy formulas applied to certain individual policies, groups of policyholders, other basis, or according to historical practices. This ED definition uses wording which is too limiting and potentially misleading. Return of premiums or distribution of surplus can be an incorrect description, and therefore can be misleading.
2.7 Residual Market Provision	Revise the definition in the ED to: "A provision for the entity's anticipated costs related to its obligations to pay its share of the operating losses associated with residual market mechanisms or similar voluntary or involuntary system imposed upon the entity."	The suggested edits clarify that such anticipated costs may or may not be the result of a direct actuarial estimation or recommendation.
2.8 Risk Retention	Delete ED wording "and certain types of single parent captives" and insert "deductibles or other forms of self-insured retentions"	The ED's use of the phrase "single parent captive" is imprecise and is potentially misleading. The difference between risk transfer and risk retention has been disputed in U.S. tax court and continues to be under litigation over several years. The term "certain types" seems to infer that there are specific types of captives which should be considered as risk retention arrangements. This is not factual

		in many cases, and this ED should not use this wording since there is no clear and unambiguous authority to support the reference. This wording also appears in ASOP No. 53, and this issue of using a potentially misleading phrase should be resolved in that standard as well.
2.10 Statutory Assessment Provision	Revise the ED definition to: "A provision for the entity's anticipated costs related to its obligations to pay mandated assessments imposed upon the entity."	There needs to be clarification that such anticipated costs may or may not be the result of a direct actuarial estimation or recommendation. Rather, this is a "provision" based on anticipated costs.
2.11 Taxes, Licenses, and Fees	Add the word "anticipated" in the beginning of the definition.	There needs to be clarification that such anticipated costs may or may not be the result of a direct actuarial estimation or recommendation. Rather, this is a "provision" based on anticipated costs.
3.1 Categorizing Expenses	Change ED wording "categorizing **the expense provision**s" to "categorizing the entity's expenses by type of expense." Change ED wording to eliminate "include but are not limited to" as follows: "Common types of expenses may include"	Use of the term "**expense provision**" should be according to the guidance in the standard, rather than being a catch-all phrase.
3.2 Developing Expense Provisions	End first sentence of the ED as follows: " … the period for which the future cost estimates are needed." The remainder of the first paragraph should be replaced with: "Expense provisions should reflect the conditions anticipated during the time period applicable to the estimated future expenses. The actuary should include those **expense provisions** which are associated with **risk transfer** or **risk retention** and are within the scope of the actuary's services. Unless explicitly required, the actuary's **expense provision** should exclude the following other provisions or estimated costs associated with **risk transfer** or **risk retention:** losses, loss adjustment expenses, investment expenses, profit and contingencies,	ASOP No. 53 includes appropriate guidance with respect to the intended measure. If ASOP No. 29 is not repealed, the standard should also have a section for the intended measure. A section on intended measure could be an appropriate place for the guidance suggested on this form concerning the distinctions needed when using the term "provision". In section 2.2, the ED defines the expense provision to exclude expenses associated with investment expenses, profit and contingencies, and federal or foreign income taxes, but does not mention the exclusion of the cost of capital. The ED definition does not appear to allow for situations where the actuary's expense provision might include elements of investment expenses, profit and contingencies, cost of

	cost of capital, and federal or foreign income taxes." The ED should be changed to use the intended measure for expenses, rather than expected costs. The intended measure might be different for different expense categories, rather than referring to "all expenses expected to be incurred." The ED should have a section similar to the wording in ASOP No. 53, section 3.5 regarding Methods, Models and Assumptions, to replace the ED reference in section 3.2, 2nd paragraph. The ED should reference ASOP No. 38 regarding the actuary relying on the use of experts.	capital, and federal or foreign income taxes. This is quite restrictive and may require the actuary to deviate from the standard. This can leave a significant gap in the scope of the actuary's work to estimate future costs in the ED. ASOP No. 53 also has this issue.
3.5 Policyholder Dividends	Change ED section title to Provision for Policyholder Dividends Change wording from "reasonably expected expense" to "reasonably anticipated" Change "expected amount" to "anticipated amount" Add "investment results", after "loss experience" Change "the capitalization of the company" to "the capital and surplus of the company"	There needs to be clarification that such anticipated costs may or may not be the result of a direct actuarial estimation or recommendation. Rather, this is a "provision" based on anticipated costs or profits or based on anticipated accumulated surplus. There are situations where investment income is a key part of policyholder dividends or may be the only source of such dividends. Capitalization typically refers to activities unrelated to policyholder dividends, such as initial capital contributed to the company, raising additional capital, or to capital contributed in a restructuring, merger, acquisition, or divestiture. The wording should be changed.
3.6 Residual Market and Statutory Assessment Provisions	Change "a provision to recover any previously unassessed costs or to account for any prior excess collections" to "a provision to include the anticipated assessments or other adjustments associated with imposed costs from residual market programs or for other costs or adjustments imposed by statute."	This section seems like a catchall which can vary in its application based on local practice or regulation. The use of the term "expected" is potentially misleading when "future costs" is are difficult to estimate, so the term "anticipated" would seem to be more appropriate and would be consistent with the term "provision".
3.7 Provision for the Cost of Reinsurance	Change "expected reinsurance recoveries" to "the potential for a significant impact from reinsurance recoveries"	The term "expected" can mean the expected value. This standard should avoid use of "expected" and instead provide guidance in line

	Change "other relevant information related to cost" to "other relevant information related to the potential of a significant impact from loss sensitive features included in the entity's reinsurance programs"	with reference to an intended measure, as used in ASOP No. 53. The ED oversimplifies the cost of reinsurance which can be quite complex in practice. The standard should alert the actuary to considering whether the impact of the reinsurance is significant to the intended purpose.
3.10 Reliance on Another Actuary	Change "The actuary should disclose the extent of any such reliance." to "The actuary should disclose material reliance on the work of another actuary."	The phrase "any such reliance" is too broad. The standard should require disclosure when the extent of reliance is significant or material to the actuary's work or recommendations.
3.11 Conflict with Applicable Law	Delete "and disclose any material difference from the actuarially determined expense provisions." Add "The actuary should disclose the impact, if material, between the expense provisions computed in accordance with the law and what the expense provisions would be absent the requirements of the law."	The term "actuarially determined expense provisions" is circular – it does not distinguish what "actuarially determined" means. The suggested wording is much more specific to the issue.
4.1 Required Disclosures	Reword to replace "any" in all the listed items which use they word. Replacement should refer to disclosure of those items which are significant or material to the intended purpose of the expense provisions. 4.1 (d) replace "trending" with "expense trending" 4.1 (g) change to "reinsurance costs" 4.1.(j) change to "reliance on another actuary or on an expert" and change to appropriate 3.x sections 4.1 (k) change "the actuarially determined expense provision" to "what the expense provision would be absent the requirements of the law"	Use of the word "any" needs to be qualified, as in other standards, to apply when the impact is known or is possibly something significant or material to the actuary's work or recommendations.
4.2 (b)	Change "material assumption or method selected" to "material assumption or method chosen or used"	This disclosure may be needed even if the assumption or method was not "selected" because selected in this context may be confused with selected based on professional judgment.

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IV. General Recommendations (If Any):

Commentator Recommendation (Identify relevant sections when possible)	Commentator Rationale (Support for the recommendation)
REPEAL ASOP No. 29 and consolidate with ASOP No. 53 If REPEAL ASOP No. 29 is not possible, recommend that ASOP No. 53 be changed to avoid overlap and confusion with ASOP No. 29 and ASOP No. 30, particularly with respect to loss provisions. Also, some or all loss adjustment expenses sometimes may be treated on a combined basis with losses versus treated separately. Differences in practices need to be clear in both standards.	ASOP No. 29 dates back to 1997 which was 20 years before ASOP No. 53 was approved in 2017. The existing ASOP No. 29 is now largely redundant with ASOP No. 53. ASOP No. 53 covers future cost estimates which can include estimates of expenses, i.e, the same expense types included in the ED. Having both ASOP No. 29 and ASOP No. 53 is likely to create confusion for the actuary and for those relying on actuarial services. The scope and content of ASOP No. 53 clearly includes estimation of the same expenses as are included in the current ASOP No. 29 and in the ED for ASOP No. 29. ASOP No. 53's scope (section 1.2) clearly states: "… estimates are often made for separate elements of the cost of risk transfer and risk retention (for example, **loss and loss adjustment expenses, operational and administrative expenses, the cost of reinsurance, and the cost of capital) and subsequently summed to a total cost estimate, this standard applies to the separate elements as well as the total**." Consequently, there is a problem in scope overlaps and gaps between ASOP No. 29 and ASOP No. 53.
Any wording changes needed specifically with respect to expenses should be included in a revised ASOP No. 53, rather than perpetuating a separate standard for expenses.	It should not be acceptable for the ASB to have multiple approved ASOPs which have apparent overlapping scopes or potentially conflicting wording. ASOP No. 53 already encompasses most, if not all, of the recommendations in the current or the exposure draft to revise ASOP No. 29. To the extent that this ED contains needed improvements to the wording in the current ASOP No. 53, then ASOP No. 53 should be revised through the normal process.
Change, clearly define, or provide a recommended practice for use of the term "provision." Alternatively, when the actuary determines, estimates, or uses a future expense or cost as a "provision," the actuary should define how the term is being used or the	It can be quite important for the actuary to distinguish between providing a direct cost estimate and providing a "provision" which may represent an allowance, loading, or other indirect approach which the actuary considers appropriate.

basis for the provision, for example, the estimated ratio of expenses to premiums from historical experience data.	Use of the term "provision" tends to connote a situation where such provision is being made to recognize when a direct cost estimate is difficult or inappropriate. Hence, a "provision" tends to be set by applying one or more indirect approaches. Sometimes a provision is included in future costs based on broad or general considerations of costs rather than more direct methods of estimating costs, such as for losses. Other uses of the term "provisions" may relate to specific relationships which are known or can be separately estimated. For example, commissions and brokerage are typically set as a percentage of premiums, although the percentage may vary across an insurer's business.
Add definitions Loss Cost and Loss Cost Multiplier. Also add a recommended practice section to address the use of Loss Cost Multiplier for expenses.	Loss Cost is not defined in any standard but is a very common term used by actuaries in ratemaking and in risk transfer estimates. Loss Cost Multiplier is a very common term used for actuarial ratemaking and pricing. The ED should address this element and its use for completeness and to align with actual actuarial practices.
Include a section on Intended Measure	The intended measure is a critical element for this standard. This element is included in ASOP No. 53 and should also be included in this standard.
Include a section on Risk Load, Risk Charge, Risk Margin, Risk Adjustment, or a Provision for Risk which includes the definition and reasons the actuary needs to take into account such amounts or provisions as part of the expenses being included in the future expenses.	This ED and ASOP No. 53 do not mention any of these suggested terms. These considerations may be implicit in the estimate of losses, other expense estimates or provisions, or may be implicit in the rate, premium, or cost estimate. The risk load (or similar term) is a critical element for this standard. This element is also not mentioned in ASOP No. 53 and should be included in both standards. The intended measure (referred to in ASOP No. 53, but not in other related ASOPs) may include the risk load as part of the basis for the estimated cost of expenses. This should be explained explicitly in the guidance provided in this standard and in ASOP No. 53. In addition, ASOP No. 30 refers to a Contingency Provision due to persistent differences between the estimated and actual costs over time. This contingency provision specifically excludes any measure which includes variability of results and explains that such a measure of variability is not expected to be earned as profit. This rationale is very limiting to the

	wide range of actuarial practice, particularly where risk loads make up a large portion of the future costs underlying premiums or funding estimates.
Include Cost of Capital in the list of excluded expenses	Cost of Capital is excluded from ASOP No. 53, but it is not excluded in this ED. The apparent requirement to exclude certain undefined items in the standard is awkward and potentially confusing for the actuary and for the users of the actuary's estimates. Also, the Cost of Capital is seldom a consideration for **risk transfer** estimates.
Define excluded items – losses (loss costs or loss provision), investment expenses, profit (profit provision or loading), contingencies (contingency provision), cost of capital, federal or foreign income taxes.	The scope of the ED excludes costs associated with **risk transfer** or **risk retention,** namely losses, investment expenses, profit and contingencies, cost of capital, and federal or foreign income taxes. These items are not defined in the ED nor in ASOP No. 53. ASOP No. 53 includes a reference to ASOP No. 30 Treatment of Profit and Contingencies and the Cost of Capital, but this ED does not. Investment Expenses and Federal and Foreign Income Taxes are not defined or mentioned in ASOP No. 53. ASOP No. 30 provides additional definitions which are relevant to ASOP No. 29, ASOP No. 53 and ASOP No. 12. However, ASOP No. 30 does include the concept of intended measure and may have some areas of inconsistent wording when compared to the other standards.
Expand the Background section to explain that the rescinded CAS Statement of Principles on P&C Ratemaking was rescinded, but then reinstated for purposes of US regulation. Additionally, the background should explain that CAS document is not a standard of practice and that the ASB has endeavored over several years to develop a standard which would replace the need or concerns that there would be insufficient actuarial guidance to replace the rescission of the CAS ratemaking principles document. Include in the background section reference to ASOP No. 30 which does defines "rate" and provides other relevant guidance which is relevant to the application of ASOP No. 29 and ASOP No. 53 to ratemaking. However, it should be noted that ASOP No. 30, section 2.11 defines "rate" in a way that limits it's use to "expected value of future	There are still significant areas of confusion and potentially overlapping and conflicting guidance among the CAS Principles, ASOP No. 53, ASOP No. 30, ASOP No. 29, ASOP No. 12 and state laws and regulations. ASOP No. 30 provides additional definitions which are relevant to ASOP No. 29, ASOP No. 53 and ASOP No. 12. However, ASOP No. 30 does include the concept of intended measure and may have some areas of inconsistent wording when compared to the other standards. Past efforts to resolve many of these issues by developing a standard on P&C ratemaking faced several challenges and the ASB seems to have been abandoned that effort. The ASB issued EDs on P&C Ratemaking in 2014 and

costs," which ignores the "intended measure" concept in ASOP No. 53.	2016, but then neither additional ED's nor a standard were issued. The ASB has received additional input and concerns that an actuarial standard on ratemaking from the Academy CPC and other commentators explaining that such a standard could cause insurers to move away from involving actuaries in ratemaking functions because the actuary would have to follow a specific standard. Many US laws and regulations do not require insurance companies to rely on actuaries for rate filings. Hence the concern by some actuaries that an actuarial standard would not be in the best interest of the profession.
Reword the 3rd paragraph, second sentence of the background section as follows: Replace: "Also included are discussions about the inappropriateness …" With: "Also included are discussions which question the appropriateness …"	This ED wording connotes some consensus about inappropriateness, which seems going beyond what is necessary. A more simple reference to "questions about the appropriateness" would be an improvement.

V. Signature:

Commentator Signature	Date
______________________	5/31/2022