DEC 2014

Actuarial UPDATE
THE NEWSMONTHLY OF THE AMERICAN ACADEMY OF ACTUARIES

# Former SOA President Files Lawsuit Against U.S. Profession's Counseling and Discipline Structure

ON DECEMBER 15, former SOA President Mark Freedman served the Academy with a lawsuit seeking to halt the Actuarial Board for Counseling and Discipline (ABCD) from considering two disciplinary complaints filed against him. The lawsuit refers to two disciplinary complaints filed with the ABCD in response to a blast email solicitation from the Society of Actuaries (SOA), which advised thousands of actuaries that "SOA membership provides – ease of movement from one area of practice to another without replacing credentials."

Freedman, the signatory of the blast email, seeks to have the court prevent the ABCD's consideration of the disciplinary complaints. Mr. Freedman's lawsuit challenges the fundamental integrity and operation of the ABCD. The ABCD resides within, but operates indepen-

SEE **LAWSUIT,** PAGE 8

# Academy Testifies Before Senate on Social Security

WHILE THE 113TH CONGRESS finished up last-minute items on its agenda before recessing this month, the Academy testified before the Senate Finance Committee on whether the Social Security program is working for women.

Academy member Janet Barr was one of four experts called to explain to the panel why the social insurance program, with its gender-neutral rules, can affect women and men very differently.

Barr is the former chairperson of the Academy's Social Security Committee. She was invited to submit written testimony and appear before the committee to answer questions.

Barr used slides to illustrate how the program affects women differently than men. Social Security benefits, she explained, are based on average indexed earnings in a worker's 35 highest-paid years. However, she said, "some of Social Security's rules have a different impact on women because the average woman's work history is not the same as that of the average man."

Social Security benefits are affected, Barr said, by gender-specific factors: Women are more likely than men to have breaks in employment, to have taken time out of the workforce to care for family members, and to have earned lower average income for similar work. Other gender-specific elements include women's longer life spans, and the fact that women are more likely than men to be single, widowed, or divorced in retirement.

Former Social Security Committee Chairperson Janet Barr testifies before the U.S. Senate Finance Committee

Barr urged lawmakers to consider legislative reform options in the context of the Social Security program's competing principles of social adequacy and individual equity. She noted that, while "the current Social Security law is gender-neutral … it contains spousal and subsidized benefit provisions that mitigate, but do not eliminate, the impact of gender-related factors that produce lower benefits for women."

Reform options mentioned by the panelists included proposals for earnings sharing in which half of each spouse's income goes on each spouse's record, adjusting survivor benefits, allowing credits for child care, and modifying minimums and coverage amounts for low earners with long careers.

## JANUARY

**6** Webinar: Exploring the New Era of ORSA

**27-28** Academy Board of Directors Meeting, Washington

## FEBRUARY

**27-March 1** NCOIL Spring Meeting, Charleston, S.C.

## MARCH

**25** Academy Executive Committee Meeting, Washington

**28-31** NAIC Spring Meeting, Phoenix

## APRIL

**12-15** Enrolled Actuaries Meeting, Washington

**28** Academy Executive Committee Meeting, Washington

**28-29** Academy Board of Directors Meeting, Washington

## NOVEMBER

**12-13** Academy Annual Meeting and Public Policy Forum, Washington

To continue receiving the *Update* and other Academy publications on time, remember to make sure the Academy has your correct contact information. Academy members can update their member profile at the member log-in page on the Academy website.

# Academy NEWS Briefs

## Annual Meeting Highlights Available

**THE ACADEMY'S RECENT ANNUAL MEETING** and Public Policy Forum in Washington was a great success. The Academy website now features highlights, including video of remarks by former Secretary of Health and Human Services Kathleen Sebelius; photos from the two-day event; and full transcripts of Academy President Mary D. Miller's inaugural remarks, Academy Past President Tom Terry's farewell address, and keynote speeches by Sebelius and Ben Nelson, former U.S. senator and current CEO of the NAIC.

All Academy members can expect to receive a special Annual Meeting supplement early in the new year, offering more details.

## Living Abroad

**THE INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS** has asked the Academy to let its members know it has four vacancies in Basel, Switzerland:

- Macroprudential and Economic Advisor
- (Senior) Policy Advisor – capital standards development
- (Senior) Policy Advisor – field testing data analysis
- Senior Policy Advisor – external and internal communications

Applicants should possess relevant experience plus professional or academic qualifications in relevant fields, including insurance, economics, accounting and/or actuarial science, computer science, data engineering, and communications. The deadline for applications is Jan. 23, 2015.

## Member Reflects on Speech to China Association of Actuaries Meeting

**RADE MUSULIN**

**THE CHINA ASSOCIATION OF ACTUARIES** (CAA) annual meeting was held on Sept. 28 and 29, 2014, in Guangzhou. I had the honor of representing the Casualty Actuarial Society (CAS) at the meeting in my role of CAS ambassador to Asia Pacific.

During the meeting the CAS hosted a dinner for members attending the conference and held a number of meetings with officials of the CAA. The purpose of this activity was to strengthen ties between the U.S. and Chinese professions. One such meeting (pictured) was with Chen Dongsheng, president of the CAA.

Also, I have been working with the Academy to have a recent article I placed in the September-October edition of *Contingencies*, "Demographics, Development, and Disasters—the Role of Insurance in Planning for the Future," translated into Mandarin. It was distributed to members of the Chinese actuarial community in December.

Academy member Rade Musulin with China Association of Actuaries President Chen Dongsheng

China has a rapidly growing actuarial community that is hungry for knowledge and welcomes partnership with other actuarial organizations.

**Rade Musulin is a member of the Academy living in Sydney, Australia.**

**IN THE NEWS**

Academy Senior Life Fellow Nancy Bennett provided background on life actuaries' use of data to *Tampa Bay Times*/PunditFact for a story on proposed changes to the U.S. Census Bureau's American Community Survey. She noted that life insurance companies typically rely on assumptions based on experience, or studies specifically related to the lives that they cover, and not on general census data.

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# *Answers to Your Questions on the U.S. Qualification Standards*

VIRGINIA HULME

The Academy previewed a revised, greatly expanded Frequently Asked Questions on the U.S. Qualification Standards, during a Dec. 11 professionalism webinar, published to assist actuaries in understanding some of the more nuanced questions they have raised over the years about qualifications under the U.S. Qualification Standards (USQS).

Precept 2 of the Code of Professional Conduct requires actuaries to perform actuarial services only when qualified to do so and only when satisfying the applicable Qualification Standards, which in the U.S. are the USQS. The USQS apply to all actuaries credentialed by any of the five U.S.-based actuarial organizations who provide statements of actuarial opinions in the United States, regardless of whether or not they are members of the Academy. The Academy's Committee on Qualifications (COQ) is charged with promulgating and interpreting the USQS, and responding to questions about qualifications in the United States. Since the USQS were last revised in 2008, the COQ has received and responded to hundreds of questions.

The revised FAQs contain nearly 50 questions about various aspects of qualifications, including basic and continuing education, and experience under the USQS. Questions range from the fairly basic—"How much continuing education is required under the USQS?"—to the more complex—"To what extent do the U.S. Qualification Standards cover non-actuarial services performed by actuaries?"

Attended by more than 5,100 participants, the webinar covered many of these questions and the thoughtful responses formulated by the COQ. Attendees also asked questions of panelists Keith Passwater and John Gleba, chairperson and member, respectively, of the COQ, and Sheila Kalkunte, Academy assistant general counsel and Academy liaison to the COQ.

Committee on Qualifications Chairperson Keith Passwater and member John Gleba answer member questions during the webinar

Responding to a question about whom the USQS apply to, Passwater explained, "They apply to actuaries who are members of the five U.S.-based actuarial organizations. ... It's not necessary to be a member of the Academy for the standards to apply to you. It's necessary to be a member of one or more of the five U.S.-based organizations."

Attendees also asked how to determine what constitutes relevant continuing education (CE), particularly when an actuary is the presenter at an event. "It's up to each individual actuary to decide whether the CE they're getting is something that they're learning, intending to learn, or helping them expand into a new practice area," Gleba explained. "If you are preparing for a lecture or to give a webinar or a session at an actuarial event—if you're taking time and learning material to prepare for that—that time can count as CE. But at some point, if you're presenting on the same topic over and over again, it will stop being CE because you won't actually be learning anymore."

Another tricky question can be determining what constitutes a Statement of Actuarial Opinion (SAO), which then triggers application of the USQS. Passwater explained that utilizing professional judgment is key to that determination. Pure data-gathering and reporting on it would likely not be an SAO, he said, but "as soon as [actuarial] judgment starts to be applied," a communication most likely becomes a Statement of Actuarial Opinion.

These and other questions are addressed in the revised FAQs. The COQ anticipates adding to these helpful FAQs as additional questions arise over time. The FAQs have been newly organized into the following sections for ease of reference:

- General
- Area of Practice
- Statement of Actuarial Opinion
- Specific Qualification Standards
- Continuing Education
  - General CE
  - Relevant CE
  - Organized CE
  - Professionalism CE
- Other

The Frequently Asked Questions on the U.S. Qualification Standards are available online and in an easily printable PDF format.

# Pension Actuaries: Have You Read the Revised ASOPs Applicable to Year-End Disclosures?

**Bob Rietz**

THE ACTUARIAL STANDARDS BOARD (ASB) has issued revisions to actuarial standards of practice (ASOPs) No. 4 and No. 27, effective for measurement dates on or after Dec. 31 and Sept. 30, 2014, respectively. The current ASOP No. 35 also has a significant impact on year-end measurements, and while a revised version is effective for measurement dates on or after June 30, 2015, it's not too early to review that guidance (and the ASB encourages earlier adoption of this standard).

While actuaries must comply with the entirety of each applicable ASOP, I'll highlight some of the more pertinent changes for year-end pension disclosures. Some significant topics would include prescribed assumptions, plan provisions that are difficult to measure, and improvements in longevity, and their associated disclosures. For brevity, I'll closely paraphrase some pertinent sections of an ASOP, with the specific reference in parentheses.

## Prescribed Assumptions

"Prescribed assumptions set by another party" now include those set by a governmental entity if that entity directly or indirectly sponsors the plan (Section 2.20 of ASOP No. 4). The actuary must disclose the source of any prescribed assumption (Sections 3.17 and 4.2 of ASOP No. 4). If the source is not disclosed, the actuary is assumed to take responsibility for the assumptions, even if they are prescribed (Section 3.17 of ASOP No. 4, and Section 3.4.4 of ASOP No. 41). The actuary should evaluate any prescribed assumption for reasonableness (Section 3.17.1 of ASOP No. 4).

The actuary then has three choices: Disclose if a prescribed assumption significantly conflicts with the actuary's professional judgment as being reasonable (Section 4.2.a of ASOP No. 4); disclose if the actuary is unable to evaluate its reasonableness (Section 4.2.b of ASOP No. 4); or make neither disclosure, with the implication that the actuary has evaluated the assumption and believes it is reasonable. Note that Sections 4.2.a and 4.2.b of ASOP No. 27 use the same language for prescribed assumptions. Sections 4.2.a and 4.2.b of the current ASOP No. 35 address this situation for demographic assumptions and refer to Section 4.3.d of ASOP No. 41. The disclosure requirements for prescribed demographic assumptions are thus analogous to those for prescribed economic assumptions.

## Plan Provisions That Are Difficult to Value

ASOP No. 4 provides some examples of plan provisions that are difficult to value due to their asymmetric nature, such as gainsharing, a floor offset plan or a benefit linked to an external index (subject to a floor or ceiling). In these situations, the actuary should consider using alternative procedures to determine the effect of these provisions (Section 3.5.3 of ASOP No. 4). However, the actuary must disclose a description of the methods used to value these types of plan provisions (Section 4.1.i of ASOP No. 4). The method may adjust an economic assumption to reflect these plan provisions (Section 3.5.1 of ASOP No. 27). Note that Section 4.1.1 of ASOP No. 27 requires the actuary to disclose any explicit adjustment made to an economic assumption to reflect these types of plan provisions.

## Longevity Improvements

Improvements in longevity fall into two categories: improvements from the ending year of a mortality table (such as RP-2000) to the measurement date, and projected improvements after the measurement date. ASOP No. 35 treats these two types of improvements much differently. Section 3.5.3.i of ASOP 35 is quite explicit. The actuary should reflect improvements in mortality between the effective date of the mortality table up to the measurement date.

The only exception is if, in the actuary's professional judgment, the mortality table without projected mortality improvements to the measurement date reflects mortality rates as of the measurement date. Section 3.5.3.ii of ASOP No. 35 allows more flexibility for longevity improvements after the measurement date. The actuary is allowed to not reflect future mortality improvements if the actuary believes that assumption is reasonable. However, an actuary may not ignore potential future improvements in mortality merely because their occurrence and magnitude are uncertain (Section 3.5.3.ii of ASOP No. 35). The actuary must disclose both improvements in mortality between the effective date of the mortality table and the measurement date, and projected improvements after the measurement date (Section 4.1.1 of ASOP No. 35) even if the assumption is no future improvements after the measurement date.

The word "should" appears in all of the previous ASOP references, but that does not mean that an action or disclosure is optional. Section 2.1.a of ASOP No. 1 defines "should" as indicating what is normally the appropriate practice for an actuary to follow when rendering actuarial services. Section 2.1.a also states that failure to perform the course of action denoted by "should" constitutes a deviation from the guidance of the ASOP, and must be disclosed in accordance with Section 4.4 of ASOP No. 41.

## Summary

Revised actuarial standards of practice are in effect for the 2014 year-end measurements, and actuaries should change their standard disclosure templates to reflect the revised ASOPs. In some cases, additional work may be required as well as additional disclosures. Actuaries should review the applicable ASOPs in their entirety, including ASOP No. 41, to ensure their practice complies with those ASOPs. This article is not guidance, and reading this article is not a substitute for reviewing the guidance stated in the applicable ASOPs. Failure to satisfy the applicable ASOPs could be a material violation of Precepts 1, 3, and 4 of the Code of Professional Conduct.

**Bob Rietz is the immediate past chairperson of the Actuarial Board for Counseling and Discipline.**

# Congress Acts on Key Issues

IN A SINGLE BILL NEGOTIATED over several marathon sessions in mid-December, Congress funded most of the federal government through the next fiscal year and made a series of changes of interest to the actuarial profession.

Among the developments, Congress:

- Passed the Insurance Capital Standards Classification Act, which clarified that the Federal Reserve Board has the authority and the ability to differentiate between banks and insurers in terms of capital requirements. Earlier this month, the Risk Management and Financial Reporting Council's Solvency Committee sent a letter to all members of the U.S. House of Representatives and Senate urging the swift passage of the bill.
- Passed multiemployer pension reform that allows distressed plans projected to become insolvent in the next 15 to 20 years to cut the benefits they pay to both current and future retirees in order to prevent insolvency. The legislation prohibits monthly benefits from being reduced below 110 percent of the benefit guaranteed by the Pension Benefit Guaranty Corp., and prohibits benefit cuts for the disabled and those over 80 years old.
- Prohibited the Centers for Medicare and Medicaid Services from using appropriated or transferred funds to make Affordable Care Act risk corridor payments.

The implications of many of the changes are not yet clear, and it may take months for federal agencies to promulgate the regulations that will govern how the changes are carried out. Academy work groups plan detailed analyses of the changes over the coming year.

## PENSION BRIEFS

- **Timothy Leier**, actuary consultant at TRL Consulting LLC in St. Paul, Minn., is now chairperson of the Social Security Committee.

## LIFE BRIEFS

- **Martin Snow,** vice president and actuary at Prudential Financial in Newark, N.J., has joined the PBR Strategy Subgroup, and is now co-chairperson of the Stress Testing Work Group.

# Webinar Recap: The Revised ASOP No. 6

IN MAY, the Actuarial Standards Board (ASB) issued an update of actuarial standard of practice (ASOP) No. 6, *Measuring Retiree Group Benefits Obligations and Determining Retiree Group Benefits Program Periodic Costs or Actuarially Determined Contributions*, which included a number of changes that have significant practical implications for actuaries practicing in the area of retiree health.

In late November, the Academy's Council on Professionalism organized a webinar to update actuaries on the topic.

Jeffrey Petertil, chairperson of the Joint Committee on Retiree Health, moderated the session. He was joined by A. Donald Morgan, chairperson of the ASB's Retiree Group Benefits Subcommittee; Jim Whelpley of the Joint Committee on Retiree Health; and Joeff Williams, an Academy regular director and member of the Committee on Qualifications.

"Since the last update of [ASOP No.] 6, plan designs have become more complex, Medicare has changed (including the addition of part D), models have grown more sophisticated, and changes in accounting standards have taken place," Petertil said, necessitating an update of the guidance.

The revised ASOP, he said, was intended to provide more guidance in those areas, add new disclosure requirements, and improve consistency with ASOP No. 4, *Measuring Pension Obligations and Determining Pension Plan Costs or Contributions*. It also supplements some guidance provided in ASOP No. 41, *Actuarial Communications*.

"In general, the standard is effective for measurement dates on or after March 31, 2015," Petertil explained. "However, if roll-forward techniques are used, it's not effective until three years after the last full measurement before" that date, though "the standard specifically provides that earlier adoption is permitted."

Williams discussed the relationship between ASOP No. 6 and Precept 2 of the Code of Professional Conduct: "With ASOP No. 6, there are situations where an actuary will find themselves needing pension experience as well as health experience."

The standard does allow a statement of actuarial opinion to be issued by more than one actuary. However, Williams cautioned, "while each actuary may concentrate on his or her area of expertise during the project, the actuary (or actuaries) issuing the actuarial opinion must take professional responsibility for the overall appropriateness of the analysis, assumptions, and results."

Whelpley walked attendees through relevant data that California's Public Employee Retirement System (CalPERS) has recently made available via its website, explaining how the data pertain to the new requirements in ASOP No. 6 for developing age-specific costs.

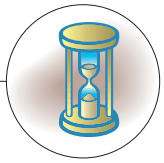
The panel then took questions from attendees. A recording and slides from the session are available on the Academy's website for Academy members.

## CASUALTY BRIEFS

- **Chester Szczepanski**, senior vice president and chief actuary at Donegal Insurance Group in Marietta, Pa., and **Robert Flannery**, an actuary in Jacksonville, Fla., have joined the Committee on Property and Liability Financial Reporting.
- **Angela Sparks**, vice president of operations at State Farm Mutual Auto Insurance Co. in Bloomington, Ill., has joined the Automobile Insurance Committee.

## PROFESSIONALISM BRIEFS

- **Cecil Bykerk**, past president of the Academy and president of CDBykerk Consulting LLC in Omaha, Neb., **Kurt Piper,** actuary at Piper Pension & Profit Sharing in Marina Del Rey, Calif., **Kathleen Riley**, senior vice president at The Segal Co. in Boston, and **James Verlautz**, principal at Mercer in Minneapolis, have joined the Council on Professionalism.



# Life Products Committee Comments on Proposed Pricing ASOP

THE LIFE PRODUCTS COMMITTEE has submitted comments to the Actuarial Standards Board regarding an exposed actuarial standard of practice (ASOP) on life insurance and annuity pricing.

The committee expressed that, "Although we believe that many of the practices employed by actuaries in the pricing of life insurance and annuity products are covered by other standards currently (or soon to be) in place, a standard that is specifically devoted to new product pricing would be valuable."

The letter went on to provide targeted feedback on a number of issues, highlighting areas not well covered by other current standards, and suggesting subjects on which any new standard should avoid being "too specific and prescriptive."

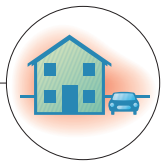
# Practice Council Comments on Proposed PBR ASOP

THE LIFE PRACTICE COUNCIL this month submitted comments to the Actuarial Standards Board (ASB) regarding an exposed actuarial standard of practice (ASOP), *Principle-Based Reserves for Life Products*.

The council wrote that "the changes from the first exposure draft represent considerable improvement" over earlier drafts, praising the new exposure for clarifying the distinction between the company's responsibility and the actuary's responsibility, and for clearly explaining VM-20.

The comments asked the ASB to consider clarifying several points, including the proposed ASOP's definition of a cash flow model and guidance on determining assumption margins.





# Casualty Practice Council Urges TRIA Reauthorization

BEFORE CONGRESS ADJOURNED without extending the Terrorism Risk Insurance Act (TRIA), the Casualty Practice Council sent a letter this month to both chambers of Congress urging that members act to reauthorize the program before the end of the year.

The council explained, "TRIA provides a needed backstop for extreme losses arising from acts of terrorism, a peril that is very difficult to fully insure in the private market, partly because of the extreme difficulty in predicting terrorism losses where terrorists adjust their methods to circumvent mitigation efforts. The program also assists insureds by providing an orderly claims settlement process and offers a recoupment mechanism by which the private sector reimburses the federal government for its outlays."

If the program were allowed to expire, the letter said, "massive uncertainties regarding the anticipated frequency and severity of potential terrorist attacks make it extremely likely that premiums for terrorism risk insurance will be high and volatile and many commercial lines insurers would be devastated. In addition, because workers' compensation insurance policies cannot exclude terrorism, employers could face increased workers' compensation costs."

# Paper Explains Appropriate Practices for Using Actuaries' Expertise

THE COMMITTEE on Property and Liability Financial Reporting has published an update of its 2007 paper on how members of audit committees and boards of directors can more effectively utilize the loss reserve expertise of their actuaries.

The paper, *Overview for P/C Insurers' Audit Committees: Effective Use of Actuarial Loss Reserves Expertise*, aims to give readers a more complete understanding of the information and assistance that actuarial professionals can provide as boards and committees perform their financial reporting oversight roles.

## CASUALTY BRIEFS

- **Stephen Lowe**, president-elect of the Casualty Actuarial Society and managing director at Towers Watson in Weatogue, Conn., has joined the Casualty Practice Council.
- **John Pedrick**, actuary at INS Consultants Inc. in Philadelphia, has joined the Workers' Compensation Committee.

# Council Encourages FSB to Tap Actuarial Expertise

THE RISK MANAGEMENT and Financial Reporting Council sent comments Dec. 15 to the Financial Stability Board (FSB) on the consultative document *Recovery and Resolution Planning for Systemically Important Insurers: Guidance on Identification of Critical Functions and Critical Shared Service*.

As the FSB works to establish a system for resolution of critical financial institutions, the council wrote, "it is imperative to identify resolution attributes of insurers that differ from other types of financial institutions, as the risks to which insurers are subject are unique to their structures and products. A definition of insolvency can be quite different for insurance organizations than for other financial institutions and would necessarily be reflected in their resolution plans."

The council recommended that the FSB "require entities to use specialized experts and technical resources, including actuaries," in any formal plans for recovery and resolution processes, and in particular, noted that actuarial expertise would prove particularly valuable to the crisis management groups the FSB proposes to create to develop recovery and resolution plans.

# Addressing Global Capital Standards

THE FINANCIAL REGULATORY TASK FORCE sent a letter to the Government Accountability Office (GAO) this month, commenting on the office's recent global capital standards report.

The comments share ideas on how the GAO should determine when a financial institution poses systemic risk to the financial system, and how any capital standards created by the International Association of Insurance Supervisors might impact U.S. insurers.

← CONTINUED FROM **PAGE 2**

Academy member Janet Barr's testimony before the U.S. Senate Committee on Finance hearing on the Social Security program's impact on women (see story, Page 1) was mentioned in Examiner.com, The Daily Caller, Benefits Link and The Motley Fool.

An *Inside Health Policy* story on Food and Drug Administration efforts to establish a standardized, faster approval pathway for promising drugs mentions the Medicaid Work Group's comments on risk-mitigation strategies for Breakthrough Therapy Designation.

# Disclosure Requirements for Short-Duration Contracts

IN LATE NOVEMBER, the Financial Reporting Committee submitted comments to the Financial Accounting Standards Board (FASB) on its disclosure requirements for short-duration contracts.

The committee explained that it "applauds the intention" behind the requirements, but asked the FASB to consider several changes, including the removal of claim counts and incurred but not reported reserves, and that preparers be required to provide an estimate of the expected payout return pattern.

# Committee Proposes Hybrid Group Capital Methodology

THE SOLVENCY COMMITTEE sent comments this month to the NAIC on its "U.S. Group Capital Methodology Concepts Discussion Paper."

"The risk-based capital 'plus' (RBC Plus) and cash flow stress testing (Cash Flow) methodologies explored in the paper each offer significant potential as a group capital measure," the letter explained. "As the paper acknowledges, though, both also present significant challenges."

The letter outlines the advantages and disadvantages of each, and discusses the possibility of a hybrid approach using aspects of both. "Significant work would be required to implement such a hybrid approach and achieving international comparability would be challenging. Nonetheless, we believe that a hybrid approach to group capital could serve to complement the current legal entity approach in the United States."

## RISK MANAGEMENT AND FINANCIAL REPORTING BRIEFS

- **Sandie Cagley**, senior financial analyst at State Farm Insurance Co. in Bloomington, Ill., and Joshua Liu, director at Jackson National Life Insurance Co. in Lansing, Mich., have joined the ERM Committee and ORSA Subgroup.
- **Franklin Clapper**, consulting actuary at Huggins Actuarial Services Inc. in Media, Pa., and **Dorothy Woodrum**, director at PricewaterhouseCoopers LLP in Atlanta, have joined the Reinsurance Committee.
- **Dale Porfilio**, chief actuary at Genworth Financial in Raleigh, N.C., has joined the Solvency Committee.

Actuarial Update

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**Lawsuit,** continued from Page 1

dently of the Academy in its investigation of complaints and any recommendations for counseling or discipline.

The Academy's President, Mary D. Miller said, "The Academy will vigorously defend the U.S. profession's longstanding disciplinary process against this meritless lawsuit. There are few issues of equal importance and value to our self-regulating profession than upholding the integrity of the profession's disciplinary functions." Miller indicated the Academy will formally respond to the suit and is confident that it will prevail.

Mr. Freedman's suit reveals the two pending disciplinary complaints against him; the complaints allege material violations of the Code of Professional Conduct, which has been adopted by all five U.S.-based actuarial organizations. These complaints had previously not been made public. The complaints allege that the email solicitation Mr. Freedman signed misrepresents the profession's qualification standards. Specifically, one of the disciplinary complaints claims that Mr. Freedman made "false and misleading claims" in the blast email, and that "he sought to portray a professional advantage the SOA credentials would bring, one that he knew does not exist." That complaint to the ABCD asserts:

> *"Mr. Freedman knowingly misrepresented in a material way – to literally thousands of U.S. actuaries – what it takes to change practice areas. He deliberately used his position as a highly visible leader of a prominent actuarial association to deceive these thousands of U.S. actuaries. The potential adverse impact on the profession is enormous, as the numbers indicate. And yet, even if only a single actuary is so deceived, the impact on the actuarial profession and the potential impact on the public is significant and, we believe, unacceptable. This intentional misrepresentation by Mr. Freedman hugely undermines the concerted efforts of the Committee on Qualifications and the Academy who are committed to this enormous education challenge."*

The same complaint asserts that Mr. Freedman made the alleged misrepresentations to further the commercial interests of the SOA and in violation of Precepts 1, 4, and 11 of the Code of Professional Conduct. The complaints were filed with the ABCD in September.

Mr. Freedman's lawsuit also reveals that the ABCD rejected his request to dismiss the complaints and instead decided to appoint an investigator to look into the facts. The ABCD has not reached any decision on the merits of the complaints and under its procedures will not do so until the investigation is complete and Mr. Freedman has an opportunity to respond to the investigator's report. The ABCD has no authority to impose discipline on any actuary. Rather, when it finds a material violation of the Code is apparent, it makes findings and recommendations for counseling or disciplinary action to actuarial organizations of which the actuary is a member.

The Academy views this lawsuit as an attempt to undermine the profession's disciplinary body. In what its leaders see as a direct attack on the ability of the U.S. profession to self-regulate, the lawsuit challenges a number of crucial aspects of the long-standing counseling and disciplinary process. Each of the five U.S.-based actuarial organizations amended their constitutions and/or bylaws many years ago to delegate responsibility to investigate complaints alleging possible violations of the Code by any of their members to the ABCD, an autonomous board established to provide a common process for investigation and recommendations of disciplinary measures.

The Academy believes that the U.S. profession's counseling and discipline process has served the profession and the public extremely well. This process plays an essential role in maintaining the confidence of the public in the U.S. actuarial profession's ability to regulate itself by encouraging maintenance of and adherence to high professional standards among practicing actuaries in the United States.