



AMERICAN ACADEMY *of* ACTUARIES

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Jake Garn
Chair
Blanks (E) Working Group
National Association of Insurance Commissioners

July 24, 2019

Dear Mr. Garn:

I am submitting the following comments on the exposed draft [2019-20BWG](#) to the Blanks (E) Working Group on behalf of the American Academy of Actuaries¹.

As you may be aware, the National Association of Insurance Commissioners (NAIC) has been devoting significant time and resources to reviewing drafts of instructions and requirements for actuaries who issue Property and Casualty statements of actuarial opinion (SAOs). The NAIC groups working on this matter have been doing so for several years. The primarily involved groups have been the Casualty Actuarial and Statistical Task Force (CASTF) and a three-member Ad Hoc Executive Committee (EX) leadership group that has handed down certain decisions to CASTF. These groups have most recently been debating whether to reference American Academy of Actuaries membership as a requirement for a qualified actuary to issue a Property and Casualty SAO, as is the long-standing, tested, and effective requirement in the Life and Health statements of actuarial opinion definitions of how an actuary demonstrates being a “qualified actuary.” We believe that Academy membership should similarly be a prerequisite for an actuary to issue Property and Casualty SAOs.

As this issue has now been referred to the Blanks Working Group, I wanted to ensure that you had an opportunity to see our concerns, as laid out in the enclosed comment letter. It is our understanding that at its June meeting the EX Committee referred the question of whether to require Academy membership to the Blanks Working Group and that there were significant objections in the EX Committee from several commissioners to the current exposed proposal. Those who objected were told that the Blanks Working Group would decide whether to include Academy membership as a prerequisite. I urge you to consider our points and to mirror the long-standing, easily understood, and well accepted and proven definitions of a qualified actuary that are contained in the Life and Health opinion definitions. As noted in our accompanying comments to the EX Committee which we submitted in June:

- The Academy has demonstrated its value and contributions to the state-based system of insurance regulation by developing basic education curriculum as well as examinations for Life and Health regarding nation-specific content when that was needed when it was eliminated and not available from the basic education societies that are global educators.

¹ The American Academy of Actuaries is a 19,500-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 Academy has ensured quality and qualifications in the U.S. actuarial profession. It is the sole actuarial body in the U.S. that was created to and has established and preserved a robust and independent compliance advice and monitoring system for the U.S. actuarial profession. These functionalities did not exist before the Academy. They will not exist without it.
- There has been no demonstration of public harm and instead a significant history of public good over the decades of the Academy's existence and the existing references established in the Life and Health definitions requiring Academy membership to demonstrate qualification of actuaries signing statutorily required opinions.

As the sole national actuarial professional association in the U.S., we appreciate your consideration of our comments. We have urged the NAIC to draw on the Academy's experience and knowledge to ensure actuaries are held to the time-tested standards that are in place today. We believe membership in the American Academy of Actuaries is the most significant and meaningful requirement for U.S. actuaries to demonstrate qualification of actuaries. We also have noted before, and do so again here, that the Academy is the only actuarial association that requires familiarity with U.S. laws and practice as a requirement for membership. This is particularly important when the NAIC is choosing to use a reference to a "Recognized Actuarial Designation" as a benchmark of basic education instead of membership and a credential from an organization that requires its members to be knowledgeable of U.S. law and practice. We are concerned that the exposed definition will encourage and allow non-U.S. actuaries who do not have familiarity with U.S. laws and practice but hold one of the two "Recognized Actuarial Designations" to meet the proposed definition.

In addition, it is important to note that the exposed draft are not instructions effective for 2019, or 2020, but define what is a "qualified actuary" only for someone after 2021. There should be a definition for 2019, and 2020. We also attach some specific comments prepared by the Academy's Committee on Property and Liability Financial Reporting (COPLFR) that identifies additional elements of confusion and complexity in the exposure draft.

I am, of course, happy to answer any questions you may have about this.

Yours sincerely,



Shawna Ackerman
President, American Academy of Actuaries

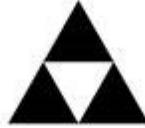
cc:

Mary Caswell, Senior Manager—Data Quality
Calvin Ferguson, Senior Insurance Reporting Analyst
Julie Gann, Assistant Director—Solvency Policy
Linda Hunsucker, Senior Insurance Reporting Analyst

Attachments: June 2019 Academy comments to EX, COPFLR comments

ATTACHMENT

5/30 Academy letter



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Shawna S. Ackerman, MAAA, FCAS, *President*

Comments of American Academy of Actuaries regarding the proposed P/C Statement of Actuarial Opinion Instructions Exposed for public comment on May 1, 2019

The American Academy of Actuaries (the Academy) appreciates the opportunity to offer comments on the May 1, 2019, exposure draft of the P/C Statement of Actuarial Opinion Instructions.

Introduction:

The Academy was incorporated in 1965 for the express purpose of assuring the public that those representing themselves to be qualified actuaries have the skills, education, and experience to competently perform the activities of the profession. For over half a century of service, the Academy has succeeded in its objective by establishing and maintaining rigorous actuarial standards of conduct, practice, and qualification—the essential infrastructure for the actuarial profession—including by doing the following:

1. Creation of the Actuarial Standards Board;
2. Promulgation of the Code of Professional Conduct (Code);
3. Establishment of actuarial standards of practice (ASOP) in all practice areas as developed by the Academy's Actuarial Standards Board (ASB);
4. Establishment of the profession's disciplinary infrastructure through the Academy's Actuarial Board for Counseling and Discipline (ABCD); and
5. Promulgation of qualification standards (USQS), particularly for actuaries signing statutory or "prescribed" statements of actuarial opinion.

The Academy has delivered, through the internal requirements for achieving and maintaining Academy membership, a level of public protection which has been uniquely unifying for the actuarial profession in the United States. The profession's creation of the Academy in 1965 has long served to obviate the need for state or federal licensure requirements for life, health, and property and casualty statutorily required opinions. The Academy was created and continues to serve as the accrediting organization for actuaries practicing in the U.S.

The present system of referencing Academy membership assures accountability and credibility for the actuarial profession, the public, and regulators.

Throughout the CASTF and Ad Hoc EX group debate on whether to reference Academy membership as a requirement for a qualified actuary, no recognition or weight has been given to the long-standing and

exceptionally straightforward reference to Academy membership in the Life & Health definitions. There has been no demonstration of public harm and a significant history of public good over the decades of the Academy's existence and the existing references established in the Life & Health definitions requiring Academy membership to demonstrate qualification. The Academy has demonstrated its value by developing basic education curriculum as well as examinations for Life and Health regarding nation-specific content when that was needed under the USQS and not available from the basic education society. Further, the Academy has publicized and emphasized the availability and importance of interpretive advice from the Committee on Qualifications for the USQS, and from the ABCD on the USQS, ASOPs, and the Code. The Academy has ensured quality and qualifications in the actuarial profession. The Academy is the body that has established and preserved a robust and independent compliance advice and monitoring system. These functionalities did not exist before the Academy. They will not exist without it.

The proposed changes raise questions and may lower standards for actuaries.

The proposed changes invite unintended consequences and invoke the wisdom of the old line quoted frequently in every legislature in the country, "if it ain't broke, don't fix it." Most importantly, the proposal seeks to "unbundle" the specific professionalism structures established by and in the Academy that have made actuaries a recognized profession in the U.S. (i.e., standards of conduct, practice, qualification, and disciplinary procedures). The proposal separates these structures as if they are mere commodities available anywhere. They are not. The Academy is more than the sum of any one aspect of the professional requirements developed to self-govern the U.S. actuarial profession. It is the Academy that has responded to repeated concerns over decades whenever regulators have had concerns about aspects of the professional standards. The Academy has painstakingly worked to develop these standards that draw on its unique position and membership with American actuaries. Although we applaud the proposal's recognition of attaining a rigorous and relevant basic education, basic education alone does not satisfy the Academy's standards, either for membership or qualification to issue statements of actuarial opinion (SAOs). Unbundling Academy-specific functions will create confusion and dilute the existing understanding and recognition of the actuarial qualification requirements. Specific issues with the current proposal are as follows.

Comment 1: Dates in the proposal do not align for 2020 and 2021.

The CASTF proposal establishes new detailed requirements to qualify as an "NAIC-Accepted Actuarial Designation." The proposal specifies the requirements which must be met for meeting the NAIC minimum standards as of 2021, with grandfather provisions for compliance before that date. Instructions for 2019 and 2020 will reference NAIC requirements not yet in existence, creating unnecessary confusion as to regulatory requirements applicable in these years.

Comment 2: The proposed changes would mandate that one must stay a member of the organization from which they receive their basic education.

Section 1A. (ii) of the proposal defines a Qualified Actuary as one who "has obtained and *maintains* (emphasis added) an NAIC-Accepted Actuarial Designation." The proposed requirement to "maintain" an NAIC-Accepted Actuarial Designation is a requirement that would mandate continuing payment

and yearly membership renewal in the organizations identified as providing an “NAIC-Accepted Actuarial Designation.”

However, continued membership in the basic-education-offering organizations is not dependent on any requirement other than having received the basic education designation. Therefore, the requirements of the U.S. Qualification Standards are not assured simply by having, or maintaining, membership in the credentialing organization. Mandating continuing membership in the organization that granted an associateship or fellowship based on examinations is not an objective measure for meeting either the experience or continuing education requirements of the U.S. Qualification Standards which, as the NAIC has recognized, exist and are established independently of the basic education credentialing societies.

Regulators cannot derive any significant additional information about an Appointed Actuary’s qualifications, experience, or knowledge from mandating continued membership in the organizations that will offer the new NAIC-Accepted Actuarial Designations for acceptable basic education. The basic education credentialing societies’ Continuing Education (CE or CPD) requirements are not requirements necessary to maintain membership in those societies. The CE requirements of the Society of Actuaries, for example, has stated that its CE requirements can be met by meeting the CE requirements of the USQS. However, the reverse is not true. An actuary who indicates “compliance” with those CE requirements is not deemed to be “qualified” under the USQS to issue SAOs. It is superficially plausible but actually wrong to use “compliant” indicators from an organization’s directory as demonstrating qualifications or as having met the USQS CE requirements.

The Academy has long taken a different approach than checking boxes to demonstrate eligibility for membership or qualifications to issue SAOs. While a basic education credential is required to become an Academy member, the Academy does not force anyone to retain membership in another organization after demonstrating they have met this requirement. By tying the NAIC-Accepted Actuarial Designation to continuing membership in the organization that granted that Designation, the NAIC will be mandating membership in private organizations, a concern Ad Hoc Committee members have expressed about the referencing Academy membership. If an actuary who has earned a basic education credential from an organization chooses not to continue membership in the initial credentialing organization for whatever reason, that abstention does not compromise the qualifications of that actuary provided the actuary is a member of the Academy, or any other actuarial organization that has adopted the Code of Professional Conduct promulgated by the Academy. All persons subject to the Code of Professional Conduct are therefore subject to the USQS when practicing in the U.S.

The proposal seeks to unbundle functions performed and established by the Academy while still requiring them on all actuaries signing opinions. However, the proposal adds a new requirement that anyone with an associate or fellowship could never “unbundle” themselves from the initial designation-granting society no matter their desires or reasons to do so, despite the fact that continued membership in that society provides no significant additional information about an appointed actuary’s qualifications, experience, or knowledge. Basic education is not enough to be qualified under the USQS. It is one of three essential elements.

Comment 3. The text regarding application of the Actuarial Board for Counseling and Discipline (ABCD) inaccurately refers to the application of this Academy-hosted function.

The proposed text reads as follows: (iii) is a member of a professional actuarial organization that participates in the Actuarial Board for Counseling and Discipline [ABCD] when practicing in the U.S.” The ABCD is authorized to carry out its purposes “Upon delegation of appropriate authority from a participating actuarial organization and acceptance of that delegation by the ABCD” (Article X, 1. A of the Academy Bylaws.) For accuracy and clarity, we request that the proposed language be changed from “participates in” to an “organization that has delegated appropriate authority to the ABCD, and acceptance of that delegation by the ABCD, to authorize the ABCD to act.”

Comment 4. The exception to the Casualty Practice Council processes is not accurately stated.

The text after 1A. (iii), identifying “An exception” references the Academy’s Casualty Practice Council’s long-standing process. This process is only available to Academy members, as you know. In any event, to be accurate and avoid confusion among those who may want to seek this evaluation, we ask that the next paragraph be revised to state: “A member of the Academy who is missing one or more elements (i) or (ii) may be evaluated by the Academy’s Casualty Practice Council and determined to be a Qualified Actuary for particular companies or lines of business.”

Comment 5. The grandfathering definition is confusing. The proposal provides that an actuary who was qualified prior to 1/1/21 remains qualified.

The language following the definition would be more clear and accurate if it read as follows: “Note that this grandfathering clause applies in satisfying the basic education component of the Qualified Actuary definition, and Appointed Actuaries must still meet the U.S. Qualification Standards, supplementing basic education with continuing education and experience as required.”

Conclusion:

As the national actuarial professional association in the U.S., we appreciate your consideration of our comments. We urge the NAIC to draw on the Academy’s experience and knowledge to ensure actuaries are held to the time-tested standards that are in place today.

Signed: /s/ Shawna Ackerman

ATTACHEMENT

Committee on Property and Liability Financial Reporting

1. Based on reading of the revised Instructions, it appears that there are two exceptions to the definition of a Qualified Actuary for purposes of serving in the role of Appointed Actuary:
 - a. Approval by the domiciliary commissioner
 - b. Approval by the Academy's Casualty Practice Council (CPC) through the CPC's determination that the actuary is a Qualified Actuary for particular lines of business and business activities.

While likely applicable to a small number of candidates seeking approval, we have observations and questions around these exceptions:

- It is unclear as to when item a. would apply in practice. We recommend more clarity around when the actuary (or non-actuary) would seek approval from the domiciliary commissioner. Is it those situations where the person does not meet items (i) through (iii) under the definition of "Qualified Actuary" in the Instructions, or only meets a subset of those requirements, or the actuary decides not to take the option requiring approval by the Academy's CPC?

- We understand that the NAIC did not add the membership in the Academy as a requirement for review by the CPC, recognizing that the Academy creates its own requirements independent of the NAIC. However, it may be valuable to add wording like what has been stated in prior year Instructions, and as identified below in bold letters, to help distinguish between situations where the actuary could seek approval from the CPC versus the domiciliary commissioner.

"A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries."

- The exception in item a. implies that an actuary can disregard the CPC process that has been in place for many years and obtain approval from the domiciliary commissioner under a process that does not appear to be defined and therefore may differ by state. Understanding that each case will be different, we recommend that consideration be made to establish basic protocols around the domiciliary approval process.
- Further, while item b. is included within the definition of Qualified Actuary, item a. is not. Unlikely the intent, but a strict reading of the Instructions implies that an actuary obtaining approval from the domiciliary commissioner could be subject to less stringent requirements than those meeting the definition of Qualified Actuary. In particular, the Instructions state "The Appointed Actuary shall provide to the Board of Directors qualification documentation on occasion of their appointment, and on an annual basis thereafter, directly or through company management. The documentation should include brief biographical information and a description of how the definition of "Qualified Actuary" is met or expected to be met (in the case of continuing education) for that year. The documentation should describe the Appointed Actuary's responsible experience relevant to the subject of the Actuarial Opinion." In the case of item a., the definition of "Qualified Actuary" is not met. Therefore, it appears that the

- Appointed Actuary would only need to state that he/she was appointed by the domiciliary commissioner and not need to provide documentation of how the definition of “Qualified Actuary” was met, since he/she does not meet the definition of a “Qualified Actuary.”
- The definition of Qualified Actuary requires obtaining and maintaining an NAIC-Accepted Designation or obtaining approval from the Academy’s CPC. We assume an actuary approved by the domiciliary commissioner may not have an NAIC-Accepted Designation. If so, is the intent that such an actuary would leave Exhibit B, Item 3, blank? Note that item “M” only encompasses those who have been approved by the Academy’s CPC.
2. The Instructions say “The Appointed Actuary shall provide to the Board of Directors qualification documentation on occasion of their appointment, and on an annual basis thereafter...” Please consider providing more clarity around this requirement. In particular:
 - a. With respect to the annual requirement after initial appointment, is the actuary free to provide the qualification documentation at any point in relation to signing the Opinion or the Report and presenting to the board, so long as the documentation is provided at least every 12 months? Or must the documentation be provided prior to signing the Opinion?
 - b. We also note that most actuaries signing 2019 opinions will have been appointed prior to the release of the final 2019 Instructions. Therefore, initial appointment is going to be in the past, whether by a few months or many years. What is the expectation around timing for providing the documentation in 2019?
 3. Within the table of exams and allowable substitutions, for CAS Exam 6 (US) it says:
 - “1. Any CAS version of a U.S. P/C statutory accounting and regulation exam administered prior to creation of the CAS Exam 6 (US) in 2011.
 2. An FCAS or ACAS earned prior to 2021 who did not pass CAS Exam 6 (US) or an allowable exam substitution, may substitute experience and/or continuing education for CAS Exam 6 (US) provided the Appointed Actuary explains in his/her qualification documentation how knowledge of U.S. financial reporting and regulation was obtained.”

Given some of the prior exam names, we recommend clarifying whether the requirements pertain to “statutory accounting” as in item #1 or “financial reporting” as in item #2, and using consistent terminology throughout. As currently stated, this could cause some confusion; in the 2000–2010 exam system, “insurance accounting” was on exam 6, but “financial reporting” was on exam 7.

4. The exam substitution rules for those with an ACAS are not feasible for many previously qualified under the current Qualified Actuary definition. The old CAS exam syllabus did not have an exam dealing with “advanced reserving.” Those becoming an ACAS prior to the inclusion of “advanced reserving” in the learning objectives of Fellowship exams would have many years if not decades of reserving experience, and were likely deemed qualified under the current rules, but would likely not meet the new requirements. This is counter to the stated intent of the proposed changes (“The desired impact is that the NAIC would not retroactively change requirements for Appointed Actuaries.”). We recommend that wording to solidify the desired impact in the actual Instructions to avoid ambiguities.