



AMERICAN ACADEMY *of* ACTUARIES

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May 5, 2020

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

c/o

Ms. Mary Caswell
Senior Manager – Data Quality
National Association of Insurance Commissioners
1100 Walnut Street
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Mr. Calvin Ferguson
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Re: 2020-12BWG – Certification of Continuing Education by “Appointed Actuaries”

Dear Mr. Garn:

We hope you are well.

On behalf of the American Academy of Actuaries (the “Academy”), we write concerning the January 28 Blanks (E) Working Group proposal regarding certification of continuing education (“CE”) compliance by “Appointed Actuaries” who sign statements of actuarial opinion for property and casualty insurers. As we read the proposal, such “Appointed Actuaries” would certify compliance with CE requirements through either the Casualty Actuary Society (“CAS”) or the Society of Actuaries (“SOA”). We believe that this proposal needlessly compounds the complexity the 2019 revisions of the statutory statement instructions created. The Academy,

which promulgates the specific CE requirements included in the U.S. Qualification Standards (“USQS”) for actuaries practicing in the United States and is the sole organization dedicated only to the U.S. profession, has an essential perspective for the Working Group to consider.

Our views fall into two different categories. *First*, the Blanks proposal presents a fundamental question of efficacy. We do not believe that the proposal will achieve National Association of Insurance Commissioners’ (“NAIC’s”) aims as we understand them. *Second*, notwithstanding its inability to meet NAIC’s goals, should NAIC nonetheless adopt the Blanks proposal, the Academy is far more suited to serve as the organization collecting CE certifications than either CAS or SOA. We address each separately.

The Ability of the Blanks Proposal to Meet NAIC’s Aims

At the outset, the Blanks proposal is unnecessary. “Appointed Actuaries” for property and casualty insurers already effectively certify their compliance with CE requirements under NAIC’s existing instructions for statements of opinion. Under those instructions, an actuary may be an “Appointed Actuary” only if he or she is a “Qualified Actuary.” An actuary is a “Qualified Actuary” only if he or she satisfies the USQS, which necessarily means fulfilling the CE requirement. Indeed, the existing instructions for annual statements for property and casualty insurers require the “Appointed Actuary” to specify how he or she qualifies under the USQS. The 2019 Regulatory Guidance could hardly be clearer. It directs that “Appointed Actuar[ies] should provide” the following statement:

I meet the basic education, experience and *continuing education requirements* of the Specific Qualification Standards for Statements of Actuarial Opinion, NAIC Property and Casualty Annual Statement, as set forth in the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States (U.S. Qualification Standards), promulgated by the American Academy of Actuaries (Academy). (emphasis added).

That statement is to be followed by a description of how the “Appointed Actuary,” among other things, actually meets his or her CE obligations. Thus, the Blanks proposal is redundant.

That flaw aside, as we understand NAIC’s aims, CE certification is intended to be a proxy either for continuing competence or a substitute for “recertification” of basic education. CE, certified or not, is neither and is not intended to be.

The USQS set forth general and specific qualification standards for actuaries signing statements of opinion. While both the general and specific qualification standards contain basic education and continuing education requirements, the latter is not a repeat of the basic education. “Basic education” is just what it says – the foundational educational attainments that the profession has long treated as necessary for actuarial practice. Under the USQS, basic education serves essentially the same function as a degree in other learned professions, such as law and medicine. No profession asks of its practitioners that they periodically “recertify” their basic educational attainment. Some have attempted to implement “recertification” programs with *advanced* professional credentials. For example, certain medical boards that certify doctors in various

specialties have instituted “recertification” procedures. These efforts have had mixed results at best and have spawned a great deal of antitrust litigation. We doubt that is the model that best serves NAIC’s intent.

To the extent that the Blanks Working Group or NAIC more generally views CE as a proxy for continuing competence, that view misapprehends its purpose. While continuing education is valuable and important in determining who is qualified to carry out an actuarial assignment, its aim is to assist the actuary in maintaining “current knowledge of applicable standards and principles in the area of actuarial practice of the Statement of Actuarial Opinion.” USQS § 3.3. CE can help give an actuary tools to carry out assignments, but treating it as a proxy for competence on any particular assignment puts a burden upon it that it simply cannot bear. In other words, a CE certification requirement cannot do what the Blanks Working Group apparently thinks it can do.

The best reassurances for regulators are services that the Academy already provides. First is the Code of Professional Conduct (the “Code”), which requires actuaries subject to it to meet the requirements of the USQS. The Academy believes that virtually all actuaries adhere to the Code and practice with great skill and integrity. That belief is borne out by the relatively few complaints about actuarial work and conduct that the Actuarial Board for Counseling and Discipline (“ABCD”) receives each year. As of 2018, the Bureau of Labor Statistics estimated that there were roughly 25,000 actuarial positions in the United States. Fewer than 1/10 of one percent of those actuaries will be subject to a complaint warranting the ABCD’s investigation in any particular year.

Second is the Academy’s disciplinary process, which investigates claims of violations of the Code. Actuaries are self-regulating. The Academy has taken the lead not only to promulgate the Code but to establish a mechanism for its enforcement. That process has been remarkably successful in addressing Code violations and taking appropriate action against actuaries who fail to carry out their professional responsibilities. Serious violations are made public by the Academy, and the reputational effects of being found to have violated the Code serve as a significant deterrent to bad practices.

Finally, for truly egregious conduct and personal injury redress, the law of each state itself provides remedies to those harmed by actuarial misfeasance or malfeasance, which adds yet another substantial layer of deterrence to incompetent actuarial practice.

In sum, the CE certification requirement in the Blanks proposal is likely an empty gesture. It cannot achieve its aims and is far less efficacious than existing tools that the Academy already has in place to protect the public. We believe that NAIC would be better served by working with the Academy to address its concerns and to look to the Academy to implement procedures that are far more suited to its goals. We would be happy to discuss those with you.

The Organization Receiving Certification of Continuing Education Compliance

Notwithstanding what we believe are serious conceptual flaws, should NAIC proceed with the Blanks proposal, the Academy is far more suited to collect certifications from “Appointed

Actuaries.” As the Academy’s Committee on Property and Liability Financial Reporting (“COPLFR”) noted in its March 10 letter to the Casualty Actuarial and Statistical Task Force commenting on the continuing education template (a copy of that letter is attached), we already provide a robust on-line tool for actuaries in all practice areas, whether Academy members or not, to report their continuing education. In 2018, the tool had 1,586 users who added 23,151 records; in 2019, there were 1,437 users who added 25,386 records. Thus, at best, the Blanks proposal reinvents the wheel. We will not repeat COPLFR’s March 10 comments on the CE reporting template, which expose significant difficulties with that document. Rather, we limit these comments solely to the Blanks proposal directing “Appointed Actuaries” to certify continuing education compliance to either CAS or the SOA.

At the threshold, this certification requirement makes sense only as a means of tracking whether “Appointed Actuaries” meet one of three vital aspects of the USQS. In fact, the CE requirement exists only because of the USQS. The Academy, through its Committee on Qualifications, develops the USQS, which take effect only upon approval by the Academy’s Board of Directors. The USQS, in turn, apply to actuaries practicing in the United States through the Code, which the Academy also develops and promulgates. While other actuarial organizations may adopt the Code, they rely on the Academy, which is the only national organization of the U.S. actuarial profession and the only organization focused on the needs of the American public, to maintain the Code and make any changes if necessary. In other words, the Academy has long been the leader in this area.

In addition, when an actuary violates the Code— actuaries who do not meet the USQS run afoul of Precept 2¹ – disciplinary proceedings begin with the ABCD, which is housed within the Academy. The ABCD investigates any alleged Code violations and, if the facts warrant, recommends discipline to each of the organizations of which the subject actuary is a member. The ABCD’s investigative and fact-finding roles in the actuarial disciplinary process are yet another reason that the Academy is the appropriate entity to receive CE certifications from “Appointed Actuaries.” In disciplinary proceedings in which an actuary’s qualifications are at issue, it is far easier for the ABCD to perform its function if the CE compliance information is already in the Academy’s possession, custody, and control. The Academy is prepared, should the NAIC adopt the certification requirement, to ensure that any compliance information that “Appointed Actuaries” send to it is available to the ABCD in any matter in which CE compliance is genuinely in issue.

The Academy also plays a central role in assessing whether certain actuaries meet the definition of “Qualified Actuary” in the NAIC’s Statement of Actuarial Opinion instructions. For those who do not obtain their basic education credentials through either CAS or SOA, the instructions create an exception for actuaries “evaluated by the Academy’s Casualty Practice Council and determined to be a Qualified Actuary for particular lines of business and business activities.”

Finally, the Blanks proposal apparently contemplates that certain “Appointed Actuaries” who are not members of the CAS or SOA will certify with one or the other organization. But, again, this

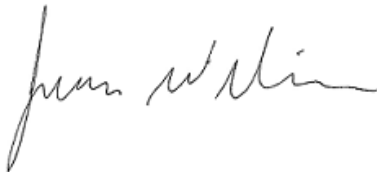
¹ Precept 2 reads: “An Actuary shall perform Actuarial Services only when the Actuary is qualified to do so on the basis of basic and continuing education and experience, and only when the Actuary satisfies applicable qualification standards.”

is a function that the Academy should perform. “Appointed Actuaries” who are neither CAS nor SOA members are far more likely to have a relationship with the Academy than any other U.S.-based organization, either (1) as an Academy member – a number of Enrolled Actuaries, for example, are Academy members even if they are not members of any other U.S.-based organization; or (2) as a foreign actuary practicing in the U.S. subject to the Code and the Academy’s disciplinary processes through a Cross-Border Discipline Agreement.

Actuarial qualification has long been a principal concern for the Academy. The NAIC has not only recognized the Academy’s role in that area but also assigned specific qualification evaluation and approval responsibilities to an Academy practice council. Accordingly, to the extent that the NAIC adopts any CE certification requirement for “Appointed Actuaries,” the Academy, not the CAS or SOA, should be the organization receiving the certification. We would perform this service subject to appropriate terms and conditions for “Appointed Actuaries” – for example, we would obtain consent to provide certifications to the NAIC. While we could make no representation or warranty about the competence of, or quality of work performed by, any “Appointed Actuary,” we would work with you to design the CE certification process to meet NAIC’s goals.

We appreciate your consideration and attention to this matter.

Yours truly,



D. Joeff Williams,
MAAA, FSA
President
American Academy of Actuaries



Thomas Campbell,
MAAA, FSA, CERA
President-Elect
American Academy of Actuaries



Shawna Ackerman,
MAAA, FCAS
Immediate Past President
American Academy of Actuaries

Attachment: COPFLR March 10, 2020 Letter

cc: Andrew Beal

March 10, 2020
COPFLR Letter



AMERICAN ACADEMY *of* ACTUARIES

March 10, 2020

Casualty Actuarial and Statistical (C) Task Force
c/o Kris DeFrain

CAS/SOA CE Task Force
c/o Ann Weber

Re: Appointed Actuary 2020 CE log

Sent via email to kdefrain@naic.org and aweber@soa.org

Dear Ms. DeFrain and Ms. Weber,

On behalf of the Committee on Property and Liability Financial Reporting (COPLFR) of the American Academy of Actuaries¹, I appreciate this opportunity to provide questions and comments on the draft *Appointed Actuary 2020 CE Log* (hereinafter referred to as “template” or “form”), issued by the National Association of Insurance Commissioners (NAIC) for public comment on February 7, 2020.

COPLFR appreciates the NAIC Casualty Actuarial Statistical Task Force (CASTF) efforts in providing guidance on what continuing education (CE) is needed to be a Qualified Actuary signing NAIC Property and Casualty (P&C) Statements of Actuarial Opinions (SAOs). However, we do not believe a prescriptive form is necessary nor is it the best or most effective way to determine whether or not an Appointed Actuary meets the CE requirements. In particular, Section 6.1 of the U.S. Qualification Standards (USQS) sets forth recommended recordkeeping of CE. Currently, the method of recordkeeping is ultimately up to the individual actuary. We note that members of the Academy have access to an on-line record keeping tool (TRACE™) which can be easily customized by each actuary and is also pre-populated with many of the CE and EA credit activities sponsored by the Academy, and other organizations that provide their information to TRACE, including ASPPA, CAS, CCA and SOA, facilitating recording of many usual actuarial organization- sponsored credit entries.

We also do not believe that the information provided in the template will be valuable as it will likely be compiled inconsistently and, even if consistently compiled, the results may not be actionable. We do not believe the form will indicate whether a change in CE requirements is needed, as CE

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. 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

requirements of each Appointed Actuary are likely to be different, based on the unique characteristics of the company or companies subject to the SAO.

We continue to express the concern that only P&C actuaries, and even then, only P&C Appointed Actuaries are required to complete this form. There is no similar requirement for life and health actuaries or P&C actuaries that do not sign SAOs. We do not think that this CE Log will demonstrate that a P&C actuary is, or is not, qualified to sign SAOs or can prove that an actuary has met the CE requirements of the USQS. All existing CE attestations are self-reported, just as being qualified under the USQS is always a look in the mirror test at the point in time that an actuary signs an actuarial opinion and is a matter of professional judgment and ethical responsibility under the Code of Professional Conduct.

Our members have also expressed concern with the timing of exposure of the form for comment since the actuaries impacted are at their busiest time of the year, with the NAIC SAO and Actuarial Opinion Summary deadlines on March 1 and March 15, respectively. In order to ensure that comprehensive feedback is received, the NAIC may want to consider extending the amount of time this template is available for public comment.

The following provides specific comments with respect to the information contained in the template:

1. The name of the individual's employer and employer's address do not seem necessary since the actuary is required to satisfy the CE requirements, not his or her employer. We also note that employment can change over the course of a CE year. Would the actuary record multiple employers in the template? Further, including the employer's name is duplicative with column H ("Is the sponsor your employer?").
2. The term "CPD" is not used in the USQS. We recommend using consistent terminology regarding "continuing education" or "CE" throughout the template.
3. Column D of the template tracks time in minutes. The instructions for this column say, "the spreadsheet will convert to 50-minute hours", however it does not appear that this conversion is being performed in the current format of the template.
4. We recommend that columns E ("Event Type"), F ("Description of Event Type (if 'Other')"), and I ("Organized/Other") be consolidated in accordance with the Section 2.2.7 of the USQS which states "Continuing education can be obtained through either "organized activities" that involve interaction with actuaries or other professionals working for different organizations or "other activities". Specifically, the required information could be contained in one or two columns that identified the activity as "organized activities" or "other activities".
5. In column E of the log, the difference between "meeting" and "seminar" is not clear. Similarly, there are many online meetings that could be considered webinars. Given the "organized" component is already captured separately, the value of the information captured in this column is not evident. We also reiterate that the wording used in this template should be in alignment with that in the USQS. In particular, section 2.2.7 states:

“Organized activities” include but are not limited to, conferences, seminars, webcasts, in-person or online courses, or committee work that is directly relevant to the area of practice of the subject of the Statement of Actuarial Opinion.”

Use of consistent terminology will avoid ambiguity between terms like “meeting” and “seminar”.

6. There does not appear to be clear identification of “general” (in accordance with Section 2.3 of the USQS) or “specific” (in accordance with Section 3.3 of the USQS) CE.
7. The term “PRIMARY coverage area” is new and it is not clear how it aligns with the USQS since the items in the dropdown box in column K “Section 3.1.1.2 CPD Categorization (Primary)” do not align with the 5 topics identified in section 3.1.1.2. Per item 2 above, we recommend using wording that is consistent with the requirements in the USQS. Specifically, USQS identifies the following topics: (a) policy forms and coverages, underwriting, and marketing; (b) principles of ratemaking; (c) statutory insurance accounting and expense analysis; (d) premium, loss, and expense reserves; and (e) reinsurance.

Use of terminology that is inconsistent with the USQS has the result of confusing and/or possibly altering and potentially expanding the CE requirements beyond what is currently provided by the USQS. For example, the “Primary coverage area” includes business skills which is a significant expansion on what is allowed in USQS 3.1.1.2. It is unclear if the intent is for the NAIC to require a different qualification standard from the USQS. We expect that the use of a different standard would be of concern to the profession and should also be to any company board that is charged with approving appointed actuaries based on inconsistent or confusing requirements.

8. We further note that the wording in the template ignores the requirement for the CE to be “directly relevant to” the listed topics, rather than “in” those listed topics. The U.S. Qualification Standards requirement for CE in section 3.3 states as follows:

“At a minimum, an actuary must complete 15 credit hours per calendar year of continuing education that is directly relevant to the topics identified in Section 3.1.1. A minimum of 6 of the 15 hours must be obtained through experiences that involve interactions with outside actuaries or other professionals, such as seminars, in-person or online courses, or committee work that is directly relevant to the topics identified in Section 3.1.1.”

Note that section 3.3 does not require the CE to be “in” those topics. It requires that CE to be “directly relevant to” those topics. An example is international accounting requirements for insurance (IFRS 17). Understanding how the accounting standard will work is directly relevant to the understanding of the financial strength of a company’s reinsurer’s financial strength if that reinsurer is an IFRS 17 filer. In this case, the CE is not “in” the topic of item e. *reinsurance*, but rather “directly relevant to” the topic of item e. *reinsurance*. The proposed template seems to be ignoring this “directly relevant” wording. To align with the USQS, the template would have to capture those items that are “directly relevant to” the topics identified in section 3.1.1.2.

9. The term "SECONDARY coverage area" is new. We recommend that this be defined, and its purpose be explained. It is unclear how having a drop down with limited descriptions included in the worksheet improves the CE documentation. If the "Secondary coverage area" is retained, we have concerns about how it is used in the worksheet, namely:
 - a. The "secondary" column headings in M through P are not in alignment with topics (a) through (e) in section 3.1.1.2.
 - b. The dropdown boxes require choosing the most applicable choice in the list of categories. In many cases there will be multiple items applicable to a given CE session. This will lead to any analysis of the results to be unreliable. This is an issue both with regard to the primary category and the secondary category as currently stated.
 - c. Each of the secondary categorizations require better definition to be valuable. It is unclear what the difference is between "reserving analysis" and "reserving calculations". A session on estimating reserves for and populating Schedule F could "statutory accounting", "reserving calculations", or "reinsurance reserving".
 - d. It is unclear what the Appointed Actuary is to do if a session covers multiple topics. For example, if a 50-minute session touches on ASOPs for 15 minutes, NAIC Annual Statement Instructions for 10 minutes, and reinsurance reserving for 25 minutes, it would seem overly burdensome if the session needed to be entered as 3 separate line items.
 - e. "Company-specific" sits under "requirements & practice notes". It is unclear what this is meant to cover.

There are many more questions like this, but in general the feedback is that these need to be much more clearly defined or we should rely only on the primary classification.

10. We find it helpful when CE logs include summations to show (1) total CE, (2) organized CE, (3) specific CE, (4) professionalism CE, and (5) business skills CE vs. the requirements/limits for each of those categories.
11. On the second tab of the file, cell B4 is noted as being section 2.3 of the USQS, but it appears to quote section 2.2.2.

We appreciate your consideration of these questions and comments.

Sincerely,

Kathleen C. Odomirok, MAAA, FCAS

Chairperson, COPLFR
American Academy of Actuaries