

October 29, 2020

Committee on Qualifications
American Academy of Actuaries
1850 M Street, NW, Suite 300
Washington, DC 20036

RE: Comments on the Exposed USQS Revisions

Dear Committee members:

Thank you for the opportunity to provide comments on the September 2020 Exposure Draft (ED) of the proposed revisions to the *Qualification Standards (including Continuing Education Requirements) for Actuaries Issuing Statements of Actuarial Opinion in the United States (USQS)*.

Summary

The proposed revisions to the Qualification Standards are described as clarifications, not changes, and the transmittal letter indicates the changes would not disqualify actuaries who were previously qualified. We believe the revisions do represent meaningful changes, not merely clarifications, and we believe the draft could be construed to disqualify actuaries who meet the current Qualification Standards. Because of the way the ED was framed when it was released, we believe some actuaries have been misled that the proposed changes are merely cosmetic, and thus did not review the ED. Therefore, we believe no changes should be adopted without first issuing a second exposure draft that accurately describes the proposed changes, with appropriate rationale, and further revises the proposed language to address the specific issues identified within this letter.

In addition to the specific issues described below, we fully support the position of the Society of Actuaries (described in the comment letter submitted by Andrew Rallis) regarding the incorporation of diversity, equity and inclusion into professional education.

Specific comments

Retroactive Disqualification

We note the transmittal letter of the ED states “This language is not intended to disqualify actuaries who were previously qualified”, and Section 2.1.2 provides “An actuary need only satisfy the basic education and experience requirement in an area of practice once.” Please confirm there is no intent to retroactively disqualify anyone who currently qualifies under the current USQS in effect.

The Committee should confirm in a second exposure draft the intent of Section 2.1(a) is to require current membership in one of the listed organizations. Our subsequent comments assume that is the case.

Associates of SOA or CAS

We note the proposed standard has significant implications for career SOA and CAS Associates, and their employers. The retirement actuarial practice of the Principal Financial Group provides actuarial services to hundreds of pension plans with many credentialed actuaries, but a relatively small number of FSA's. Similarly, in a small company with few actuaries, there may be Associates, but no Fellows, so there may not be actuaries who meet the Qualification Standards who can serve as the actuary who is qualified to supervise the more junior actuary under Sections 2.1(d)(2) or 2.1(d)(3). This represents a substantial change from the current Qualification Standards given that the career Associate must already meet Sections 2.1(b) and (c) ("Be knowledgeable, through examination or documented professional development, of the U.S. Law applicable to the Statement of Actuarial Opinion. "Law" is defined in the *Code of Professional Conduct* as statutes, regulations, judicial decisions, and other statements having legally binding authority."). Under the current Qualification Standards, the supervising actuary must meet the Qualification Standards, which is entirely appropriate, but career ASA/ACAS are also able to meet the Qualification Standard.

Enrolled Actuaries

In the current Qualification Standards, Section 2.1.1 simply provides "Enrolled Actuaries are deemed to meet the basic education and experience requirement of the General Qualification Standard in the pension practice area." Based on the heading, the "basic education and experience requirement" is all of Section 2.1. Given that EAs are subject to rigorous examinations and experience requirements by the Joint Board for the Enrollment of Actuaries (JBEA), and continuing education (CE) and ethics/professionalism requirements under the JBEA regulations, we believe the current standard is appropriate.

The proposed revisions would now require the EA to satisfy Sections 2.1(c) and (d) for non-"mandated" pension related work. While that is a change and should be described as such, we have no objection to an EA being subject to Section 2.1(c).

However, under the proposed revisions, an EA without an FSA/FCAS credential would also need to satisfy the "three-year supervision" requirement of Section 2.1(d)(3). This appears to be a material change and not a clarification. This should be presented clearly with explained rationale in a second exposure draft. We believe it would be helpful if a second exposure draft included clarification of the terms "actuary who was qualified to issue the SAO at the time" and "area of actuarial practice relevant to the subject".

Further, we believe this FSA/FCAS supervision requirement could create a hardship for organizations with few FSA's relative to the size of their practice.

SAOs that ERISA Mandates an EA to Issue

We recognize the ED indicates an EA is deemed to satisfy Sections 2.1(a) through (d) for "Statements of Actuarial Opinion that ERISA mandates an Enrolled Actuary to issue". In practice, we believe this is too limiting and should be broadly changed to encompass any SAO related to ERISA pension plan compliance. There are very few things ERISA actually

mandates be done by an EA (primarily the Schedule MB or SB certifying the funding calculations, and compliance thereof, the certification of liabilities for Pension Benefit Guaranty Corporation (PBGC) variable rate premium purposes, and certain funded status certifications). Despite this, EAs commonly perform many other types of ERISA-related services with respect to pension plans.

Activities ERISA does not require be performed by an EA, and yet are virtually always performed by EAs, include (but are not limited to) the following:

- Calculating the assets that go to each plan in a plan spinoff
- Determining benefit protections for the different groups in plan mergers
- Determining of multiemployer plan withdrawal liability
- Determining whether plan amendments can take effect, benefits can continue to accrue, or plant closing benefits (and other special termination benefits) can be paid for underfunded plans
- Performing nondiscrimination testing
- Performing testing related to IRC Section 415 limits
- Performing top-heavy testing
- Performing accrual rule testing
- Designing plans that comply with ERISA qualification requirements

CE on each these topics counts toward the core credit CE requirements under the JBEA regulations.¹ These topics are also on the JBEA exam syllabus and tested on the enrollment exams, and EAs are qualified to represent clients before IRS on these matters.

Application to Pension Plan Accounting

Another significant function performed by EAs involves the preparation of pension accounting disclosures in accordance with GAAP, GASB, SSAP, and similar international accounting standards. As noted above, EAs are currently deemed to meet the basic education and experience requirement of the General Qualification Standard in the pension practice area. The proposed standard would require EAs to satisfy Sections 2.1(c) and (d) in order to issue accounting-related SAOs.

We would like to acknowledge and thank the Conference of Consulting Actuaries for their work in analyzing this Exposure Draft and raising many of the issues discussed here.

We are available to answer questions, or provide clarification as needed.

Sincerely,

Barry L. Freiman, FSA, EA, MAAA

Principal Financial Group, Retirement Actuarial practice

¹ 20 CFR 901.11(f)(1)(i) defines core subject matter as “program content and knowledge that is integral and necessary to the satisfactory performance of pension actuarial services and actuarial certifications under ERISA and the Internal Revenue Code.”