

Comments on the Exposure Draft of Revisions of the Qualification Standards (including Continuing Education Requirements) for Actuaries Issuing Statements of Actuarial Opinion in the United States

October 29, 2020

The American Society of Enrolled Actuaries (ASEA) appreciates this opportunity to comment on the exposure draft of Revisions of the Qualification Standards (including Continuing Education Requirements) for Actuaries Issuing Statements of Actuarial Opinion in the United States. Our comments are specific to the area of pension practice. The transmittal memorandum states that the changes to section 2.1 are “not intended to disqualify actuaries who were previously qualified”. Further, a specific question at the end of the transmittal memorandum states that the goal surrounding the updated language related to the basic and continuing education for Enrolled Actuaries (in section 2.2) was to “add clarity but not to change the requirements”. We believe the changes involving Enrolled Actuaries are significant and go beyond merely adding clarity.

ASEA has reviewed the proposed changes in the exposure draft and has the following comments:

1. In Section 2.1.1, the term “Enrolled Actuary” is defined as “an individual who has met the requirements of Title III, Section C of the Employee Retirement Income Security Act of 1974 (ERISA)”. Then, in section 2.1.1 (a), the exposure draft provides that “solely for purposes of Statements of Actuarial Opinion that ERISA mandates an Enrolled Actuary to issue (funding calculations and Schedule SB filings attached to the annual government filing of Form 5500, for example), an Enrolled Actuary is deemed to satisfy section 2.1 (a) through (d).” We believe these two statements are internally inconsistent, specifically with respect to the term “mandates”.

An Enrolled Actuary who has met the requirements of Title III, Section C has met an extremely broad body of knowledge that goes well beyond the “mandated” issuances under ERISA such as funding calculations and Schedule SB filings.¹ For instance, nondiscrimination testing is not “mandated” by ERISA, nor are ASOP 51 risk disclosures. However, both are clearly within the purview of an Enrolled Actuary’s area of practice. In recognition of the broad pension knowledge of an Enrolled Actuary, Treasury Circular 230 authorizes an Enrolled Actuary to represent taxpayers and pension plans before the Treasury Department and IRS on a wide range of pension items under the Internal Revenue Code. The qualification standards should similarly recognize that Enrolled Actuaries are qualified to issue Statement of Actuarial Opinions (SAO’s) on a broad range of pension matters and should be aligned with Treasury Circular 230. We note that an FSA who is not an Enrolled Actuary cannot represent taxpayers or pension plans even though he or she may have issued an SAO upon a pension matter that is pending before the IRS.

¹ The JBEA and SOA syllabus for the Enrolled Actuary examinations contain an extensive body of material. See <https://www.soa.org/globalassets/assets/files/edu/2020/fall/2020-fall-booklet.pdf>

ASEA recommends no changes from the 2008 U.S. Qualification Standards in section 2.1. In the alternative, *ASEA recommends* the words “Statements of Actuarial Opinions that ERISA mandates an Enrolled Actuary to issue” in section 2.1.1 (a) and 2.1.1 (b) be changed to “Statements of Actuarial Opinions that an Enrolled Actuary may issue under ERISA or Treasury Circular 230”.

2. Appendix 1 of the exposure draft does not define which of the SAO’s are covered or “mandated” by ERISA. *ASEA recommends* that Appendix 1 be conformed to section 2.1.1 (a) and (b) for consistency (this was not an issue in the 2008 USQS document). A simple way to do this is to add the term “ERISA”, for instance, to:
 - a. SAO #4 (Form 5500 Schedule SB/MB Certification);
 - b. SAO #21 (Expert testimony);
 - c. SAO #30 (merger/spinoff opinions)—which are covered under IRC section 414(l);
 - d. SAO #37 (maximum deductible contributions under IRC section 404);
 - e. SAO #38 (pension plan nondiscrimination testing under IRC section 401(a)(4));
 - f. SAO #39 (Adjusted Funding Target Attainment Percentage (AFTAP) certification under IRC section 436);
 - g. SAO #52 (draft of actuarial report); and
 - h. SAO #53 (Certification of Pension Benefit Calculation).

We recommend in the Appendix 1 column entitled “Area of Actuarial Practice” that the “P” be changed to “P (ERISA)” for the above listed SAO’s.

3. Sections 2.1 (d)(1) and (d)(2) of the Exposure Draft have deleted references to ASPPA, CCA, and the IAA. ASEA has a rigorous fellowship designation (FSEA²) which is satisfied through an examination track or an equivalent experience track. This fellowship track for an Enrolled Actuary provides at least as much education and experience related to pension matters as a Fellow in the Casualty Actuarial Society or the Society of Actuaries who is not an Enrolled Actuary, or a Fellow in any non-U.S. actuarial organization. *ASEA recommends* either retaining the FSEA fellowship designation in section 2.1 (d)(1) and (d)(2), or reverting to the original language which includes ASPPA, CCA, and the IAA.
4. Members of ASEA often work on non-ERISA plans such as church plans or governmental plans. In fact, church plans can elect to be covered under ERISA. Enrolled Actuaries should not be subject to different standards in the case of two otherwise identical church plans, one of which has elected to be covered by ERISA and the other of which is a non-ERISA plan. Furthermore, as noted above, an Enrolled Actuary can represent a non-

² FSEA is the standard designations for fellows in ASEA, but FSPA (the prior designation used before ACOPA was changed to ASEA) is still grandfathered for some members.

ERISA plan before the IRS while an otherwise qualified FSA (who is not an Enrolled Actuary) cannot. Must the Enrolled Actuary working on the non-ERISA church plan satisfy section 2.1 (c) and (d) whereas the Enrolled Actuary working on an otherwise identical ERISA church plan is deemed to satisfy section 2.1 (a) through (d)? *ASEA recommends* clarification of the experience requirement when plan sponsors voluntarily elect ERISA coverage, completely outside the actuary's involvement, and that an Enrolled Actuary is qualified to work on non-ERISA plans.

5. We have also reviewed the comment letter submitted by Mr. Steven Armstrong on behalf of the Casualty Actuarial Society. *ASEA encourages* consideration of those recommendations on diversity, equity, and inclusion for the betterment of the actuarial profession.

If you have any questions on these comments, please contact Martin Pippins, Executive Director of ASEA, at (703) 516-9300 ext. 146.

Thank you for your consideration of these comments.

Sincerely,

/s/

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/s/

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