

Comment #6 – 6/12/09 – 2:23 p.m.

Section 1. Purpose, Scope, Cross Reference, and Effective Date

1.2 Scope

This paragraph indicates that the ASOP applies in circumstances where the actuary represents that the written statement of actuarial opinion is in compliance with the ASOP. However, the paragraph does not provide guidance on when the actuary should represent an opinion as being in compliance with the standard. For example, an opinion on GAAP reserves provided to the Board of Directors of an insurance company seems to rise to a level where compliance should not be optional.

As an editorial comment, we suggest removing the reference to the NAIC opinion in sub-paragraph a. As such opinions are required by law, the circumstance covered by sub-paragraph b.

Perhaps these concerns can be addressed by changing paragraphs 1.2 a, b and c to: a) the statement of actuarial opinion is prescribed by law or regulation; b) the statement of actuarial opinion is intended to be a stand-alone document without inclusion of supporting material other than by reference; or c) the statement of actuarial opinion is represented by the actuary as being in compliance with the standard.

Furthermore, 1.2 references discounted reserves and ASOP No.20. There are other current (and possible future) standards affecting reserves, and singling out ASOP 20 in this area could create confusion. For example, ASOP 38 and 43 arguably impact liability analyses and reserve opinions more frequently than ASOP 20. These other ASOPs are not mentioned in paragraph 1.2. Rather than have a partial list of potentially relevant topics and ASOPs, we recommend that specific references to other ASOPs should not be made unless absolutely necessary to provide the proper guidance within this ASOP.

1.4 Effective Date

This paragraph could be made clearer if restated “This standard is effective for all statements of actuarial opinion regarding loss and loss adjustment expense reserves rendered after DATE” where DATE would be four months after the adoption by the Actuarial Standards Board.

Section 2. Definitions

2.4 Loss and 2.5 Loss Adjustment Expense

When the opinion is on a balance sheet item, both Loss and Loss Adjustment Expense are defined by accounting standards. The definitions would be improved by adding “... or as defined by the relevant accounting standard.”

2.7 Reserves

The phrase “as of a specified date” is ambiguous – is it the date of the provision or the date of the obligations? Also, the word “obligations” without modification is vague. We suggest “a provision as of a specified date to satisfy obligations related to covered events.”

Section 3. Analysis of Issues and Recommended Practices

3.1 Legal and Regulatory Requirements

This paragraph suggests that the actuary “...make a reasonable effort to consider the relevant generally distributed interpretations of governing regulatory authorities.” This section is vague and impractical. There are many types of non-binding interpretations other than those issues by “governing regulatory authorities” (e.g., the Academy Practice Note). To single out one source of guidance and exclude the others is not appropriate. As it would not be practical to list all of them, this sentence should be deleted. In addition, this requirement may place the heavy burden on the actuary to document the level of consideration given to all current and future such non-binding interpretations. At a minimum, the word “binding” should be added.

Finally, the Code of Conduct’s “skill and care” requirement already implies that the actuary should be familiar with requirements, interpretations and common practices relative to the subject matter of the actuarial workproduct. This reference in the proposed ASOP is redundant.

3.4 Description of the Reserves Being Opined Upon

Item 3.4.a requires disclosure of the intended measure as per ASOP No. 43. The intended measure is a very technical actuarial concept that will detract from rather than add to a reader’s understanding of the statement of actuarial opinion. Further, the intended measure is implicit in context of the financial statements containing the reserves that are the subject of the opinion. We believe that this requirement should be deleted.

A related but more general point is that the vast majority of opinions are on full balance sheet reserves (as opposed to portions of those reserves). As such they are defined by the relevant accounting requirements. We believe that the actuary should be able to assume that the reader has a general familiarity with those requirements and therefore some of the disclosures listed in paragraph 3.4 are duplicative.

In addition, the disclosure at the proposed level of detail may be burdensome (e.g. would item 3.4.e be interpreted to require the statement of actuarial opinion to include a list all lines of business, all years, all states, individually, by market segment, third party/first party? Further, what is the definition of “type of loss?”) Balance sheets and the accompanying notes already indicate which items are gross or net and which recoverables are included (reinsurance, salvage, subrogation, etc.) and provision for uncollectible amounts (if any). Opinions on balance sheet items

should reference the particular item(s), and that should be sufficient. We believe that disclosures such as 3.4.e should be required only when the opinion does not relate to an entire balance sheet amount.

Under item 3.4 c, the use of the wording “reflect collectibility risk” is unclear, and may be understood to imply or require statistical analysis. If the Board’s intention is for the actuary to identify whether the reserve includes provisions for uncollectible recoverables, maybe the item could be reworded to “whether and to what extent the potential for uncollectible recoverables is reflected in the reserves”

The requirement in 3.4.f to identify other items needed to sufficiently describe the reserves appears to provide insufficient guidance. The level of detail needed to sufficiently describe the reserves will likely vary depending among other things on the intended user of the opinion. For example, a statement of opinion prepared for a state regulator (such as those issued to comply with NAIC Annual Statement Instructions for P/C companies) would likely require no additional explanations. Other audiences, such as members of a jury, would likely require extensive explanations.

3.5 Scope of the Analysis Underlying the Statement of Actuarial Opinion

Item 3.5.b requires disclosure of the review date. We suggest adding that if the opinion is dated, that date will be deemed the review date unless otherwise indicated.

3.7 Reserve Analysis and 3.8 Reliance on Others

The use of the word “opinion” in these paragraphs is ambiguous. Does the term refer to a written statement such as is described in the Scope section of this ASOP? Or an opinion in the broader (qualification standards) sense?

The use of the word “conclusions” in the last paragraph of 3.7.2 is ambiguous. The term could be interpreted narrowly as the type of opinion (e.g., redundant, reasonable), as to the existence or not of risk of material adverse deviation, or more broadly on any item of required disclosure under this ASOP. Others may interpret this requirement to include material differences in conclusions for segments of the analysis, which may not be material to the overall opinion on the reserves. We suggest that this term be defined within the ASOP.

The items on Opinion Based on Actuary’s Review of Existing Reserve Opinion (3.7.2) and Reliance on Others (3.8) and the associated disclosures (4.2.a) are unclear and will present implementation difficulties. There are two situations: a) the actuary’s assignment is to opine on existing opinion (e.g., as part of an NAIC financial examination); and b) the actuary relies on opinions prepared by others for some segments of his/her own opinion (e.g., workers compensation pools). 3.7.2 seems to relate to the first, but is written broadly enough to include the second. It could be narrowed by changing the first sentence to: “When an actuary’s work

involves opining on the opinion... rather than reviewing the opinion (which might be done as part of relying on the work for one's own opinion.)”

Item 3.8 should be clarified. Disclaiming responsibility seems to require a qualified opinion. Is that the intention of the Board? Also, is the intention of the Board that the actuary signing an opinion for a company participating in a widely held pool (e.g., residual market pools) specifically mention reliance on the pool actuary's opinion?

3.10 Adverse Deviation

This seems more appropriate as a definition in Section 2.

3.11 Reinsurance Ceded

Item 3.11.1 As included in the draft ASOP, collectibility could be read to require the actuary to quantify the uncollectible reinsurance on unpaid claims, and increase his or her net estimates by those amounts, even for reinsurance protection that has not been recognized by management as uncollectible. The requirement should be clarified.

It is not clear how to implement the requirement under 3.11.2 Risk Transfer Requirements. The second sentence implies that if the actuary does address risk transfer, and if the financial statement is incorrect in this regard, the actuary should ascertain if the correction is material to the actuary's reserve analysis. The section is silent on the effect on the opinion. Is it the intent that if the actuary views the incorrect balance sheet item as not materially different from the actuary's estimated result on a correct basis then a reasonable opinion can be rendered? There is a more general question of what the actuary should do if errors are discovered in the balance sheet. Should the actuary disclose any error, only material errors or only those situations where the incorrect stated reserve is not within a reasonable range of the actuary's estimate on a correct basis?

3.12 Types of Statements of Actuarial Opinion

Section 3.6.4 of the current ASOP #36 defines reasonable reserves as reserves within a range that can be produced by alternative methods and assumptions that the actuary considers reasonable. We have found that definition to be very useful. We strongly suggest it be re-instated. We note that paragraph 3.12 may not be the best place for such a definition. Perhaps a separate section of the revised ASOP would be more appropriate.

Item 3.12.a Determination of Reasonable Provision refers to 3.7.1 and 3.7.2. We believe that reference in 3.12.a to section 3.7 is not needed and is drafting that is inconsistent with other parts of the ASOP. In addition, the considerations apply equally to Redundant and Inadequate provisions. If it is included at all, which we do not support, reference to 3.7 should be included in the introductory paragraph to 3.12.

In addition, we suggest rewording 3.12.e to "... then the actuary **should** issue a statement of no opinion. " for consistency with items a through d.

Section 4. Communications and Disclosures

4.1 Actuarial Communication

Item 4.1.a requires the words "statement of actuarial opinion" to be used in the title of the written opinion. Because different laws and regulations may require different titles or labels, we suggest adding exception language to this item that would clarify that where required by law or regulation, different wording with similar meaning (e.g. "Loss reserve certification" or "Loss reserve opinion" may be used).

Including this or similar language will prevent many instances of trivial non-compliance with this standard that would otherwise need to be disclosed and explained, and could impose an unnecessary and undue burden on the practitioners and audiences.

4.2 Additional Disclosures

Under 4.2.a, the sentence "The actuary should also provide a description of the extent to which the actuary reviewed the other actuary's opinion and underlying analysis for reasonableness. " may be understood to imply that the standard requires some level of review, even though the actuary is clearly disclaiming responsibility for the opinion on that part of the reserves. In many cases, the actuary won't have the expertise to perform meaningful review (e.g., asbestos liabilities) or a review could be impractical (e.g., complex retrocessions from pools). We suggest the addition of the phrase "if any" to the end of the sentence, to allow for the reliance (and disclaimer) without review.

Item 4.2.b requires extensive disclosures ("actuary should disclose the nature of changes in assumptions, procedures or methods from those employed in the most recent prior opinion prepared ...") under certain circumstances.

The disclosures required by this item may be lengthy and involve issues and detail that of a proprietary nature and therefore not appropriate for a public document (many of the statements to which this ASOP applies are intended to be public documents.) Such disclosure may violate confidentiality obligations. While the issues underlying differences should be available to the actuary's principal, they should not be a document that can be more broadly distributed. We suggest that the item be re-written to require disclosure that such changes exist, and permit that the extended disclosure be made in a supporting actuarial report (in accordance with ASOP 43).

For item 4.2.c, the Board should clarify what is meant by "processing procedures". Depending on that definition, the same concern about length and appropriateness of extended disclosures in the opinion document itself that is described for 4.2. b applies to this item. Furthermore, the phrase "...have significantly affected the

consistency of the data used in the reserve analysis...” can be deleted. It is the effect on the results of the analysis, not the data that matter.

Item 4.2.i on discounting is not clear, as an opinion is expressed on the reserves as represented. We believe that the opinion should disclose the basis of the reserves if not implicit in the accounting (and perhaps this should be stated explicitly in the standard).

On a more general point, the standard should provide guidance on the level of consideration that should be given and the disclosures that should be made around the amount of discount. For example, if an actuary issues a “reasonable” opinion on a reserve stated on a discounted basis but does not believe that the amount of carried discount is reasonable, what level of disclosure is appropriate, given that both the discounted reserve and amount of discount (not being opined on) are shown on the opinion?

Among our comments, we would like to highlight two themes:

- The relationship of reserve opinions to accounting: the vast majority of opinions subject to this standard relate to balance sheet provisions. As such they are prescribed by accounting requirements. We believe that greater reference in this ASOP to the relevant accounting standards would make the guidance provided clearer.
- Definition of reasonable reserves: the current ASOP #36 has an implicit definition of reasonable reserves, which we have found to be very useful. It has been deleted and we strongly suggest it be re-instated.

We appreciate the efforts of the ASB and its committees in producing this exposure draft. We would be pleased to respond to any questions you may have.

Tom Ghezzi (tom.ghezzi@towersperrin.com)
Alejandra Nolibos (alejandra.nolibos@towersperrin.com)