

COMMENT #6 – November 4, 2008

Comments on the ASOP #41 Exposure draft

Rather than answer the questions posed by the committee, I am merely going to draw attention to aspects of the proposed ASOP that are confusing or could potentially be confusing to users of the document, and to one or two that appear to conflict with existing practice.

The definition of “Actuarial Report” in section 2.3 states that an actuarial report “records and communicates the actuary’s methods, procedures, assumptions, and data”. Other portions of this standard use the verb “identifies” when “data” is one of the objects. I suggest 2.3 be revised to conform to the other language, lest we start seeing hundreds of pages of data stapled to reports by actuaries attempting to produce reports that answer to the description in this definition.

The definition of “principal” in section 2.6 appears to conflict with the definition in the American Academy of Actuaries’ *Code of Professional Conduct*, in that the *Code* explicitly allows for the case where there are multiple principals. (See Precept 5.) This is a highly undesirable conflict, as a consulting actuary who reads other precepts of the *Code* with the proposed ASOP 41 definition of “principal” in mind might fail to adhere to the *Code*, by, for example, not disclosing a conflict to a client before beginning work (Precept 7) if he is considering his employer the principal (which might in the circumstances be correct under the proposed ASOP 41 but not under the *Code*).

In section 3.1, there appears to be a conflict between the incorporation-by-reference language of 3.1.1, which allows prior actuarial communications to be incorporated into an actuarial communication (presumably including actuarial reports, just based on the language of 3.1.1), with the language of 3.1.4, which allows only information from a prior actuarial report to be incorporated into an actuarial report. Assuming the 3.1.4 restriction is intended, perhaps the wording in 3.1.1 could be clarified by adding “except that information incorporated into an actuarial report must be from another actuarial report and not from a less formal actuarial communication”.

While I agree that it makes sense to include the documentation standards in an ASOP entitled “Actuarial Communications”, I do think it is potentially confusing. The wording of paragraph 3.6 contributes to this confusion. It would be very easy for someone not familiar with common practice to be confused as to whether documentation is normally supposed to be attached to written actuarial communications. Documentation requirements may go well beyond anything that would normally be communicated; something in this paragraph should make that clearer than it currently does. Indeed, it might be well to state explicitly that data should be preserved in the documentation when possible, even though the expectation with respect to an actuarial communication or report would just be to identify or describe the data.

I think the retention period sentence in 3.6 could be tightened up a bit. I suggest replacing “for a reasonable period of time (and no less than the length of time necessary to comply with any statutory, regulatory, or other requirements)” with “for a reasonable period of time (and no less than the length of time necessary to comply with any statutory or regulatory requirements)”. The sentence as phrased is just an invitation for a lawyer to argue that an actuary must retain documents for an *unreasonable* period of time in order to comply with “any ...other requirements” (under the principle that words [“or other”] should not be construed in a way that gives them no force in the context of the sentence).

Finally, with respect to a comment another person made on the exposure draft, I do not think it would be reasonable to require that all actuarial communications be signed. (Remember that these include company internal emails, conversations, etc.) Perhaps it would be reasonable to require that all actuarial reports be signed?

I welcome the opportunity to comment.

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