

Comment #21 - March 26, 2010 - 11:07 a.m.

ASOP No. 41 Revision
Actuarial Standards Board
1850 M Street N.W., Suite 300
Washington, DC 20036-4601

Dear Sir or Madam:

This letter is the response of Towers Watson to proposed changes to Actuarial Standard of Practice (ASOP) No. 41, Actuarial Communications, as requested in the Second Exposure Draft of December, 2009. Towers Watson is a global human capital and financial management consulting firm specializing in employee benefits, human capital strategies, and technology solutions. Established on January 1, 2010 as a combination of the former Watson Wyatt and Towers Perrin, Towers Watson employs approximately 14,000 associates on a worldwide basis, over 1,100 of whom are members of U.S. actuarial bodies subject to the standards. The undersigned have prepared our firm's response with input from others in the firm.

We understand that the Actuarial Standards Board (ASB) establishes standards of actuarial practice and it is the ASB's goal to set standards for appropriate practice in the U.S. When setting standards, we believe it is critically important that the ASB strike the correct balance between ensuring that the public receives high quality actuarial services and avoiding increasing the compliance burdens and litigation risks of actuaries. With that in mind, we have several concerns about the proposed changes. Our comments generally follow the sections contained in the Second Exposure Draft.

Section 2.2. Actuarial Document. The second sentence can be read to imply that that any notes taken by an actuary may be considered to be an actuarial document. The ASOP should clarify that this is not the intent. Only those notes taken by an actuary that are designated by the actuary as part of the actuarial report, should be considered an actuarial document.

Section 3.1.3 Timing of Communication. This section focuses primarily on considering the needs of the intended audience in determining when to provide an actuarial communication. We believe the section should balance the Principal's need for the actuarial communication with the actuary's need to take the time needed to diligently complete the assignment. We suggest that the section simply call for communications on a mutually acceptable timeframe which reflects the needs of both the Principal and the actuary.

Section 3.2. Actuarial Report. The first sentence refers to "findings." We believe the ASB intended to use the defined term "actuarial findings" here. We also do not believe that an ASOP should impinge on the conditions of the engagement between an actuary and his or her Principal. The requirement that an actuary "complete an actuarial report within a *reasonable* time period agreed to by the actuary and the principal" in our view does just that, and we respectfully request that the word reasonable be deleted.

We believe that the example provided for how a report may differ between intended users does not add clarity to the concept. The timing of involvement in a project by different project team members is unlikely to be a good reason for compiling different actuarial reports. We do not believe an example is needed to illustrate the statement that reports can differ based on the user and suggest this example be eliminated.

The rest of this section is an acceptable change from the earlier version.

Section 3.3.1. Uncertainty or Risk. While we agree that it will often be a best practice to “consider what cautions regarding possible uncertainty or risk in any results should be included in the actuarial report”, a requirement to do so is inappropriate for this ASOP. In many instances, such considerations would be outside the scope of the assignment and unwanted by the Principal. Even if this is not the case, the ASOPs can and will be used against the profession in litigation and thus should contain minimum acceptable standards as opposed to best practices. We urge that this requirement be removed.

We acknowledge that the discussion of uncertainty or risk is expected or even required in some practice areas. However this is not nearly universal, so we suggest that such requirements continue to be maintained in the ASOPs relevant to those practice areas and not be included in an ASOP with such broad applicability as this.

Section 3.3.2 Conflict of Interest. The requirement for an actuary to disclose a conflict of interest should be limited to conflicts of which the actuary is aware and that may cause the actuary’s objectivity to be impaired.

Section 3.3.4 Responsibility for Assumptions and Methods. We continue to be troubled by the changes in disclosure requirements concerning an actuary’s opinion about assumptions used to develop actuarial findings. We believe that an actuary should not be required to express any opinion on assumptions selected by a third party and his or her required disclosure related to such assumptions should be limited to a statement indicating who selected the assumptions and that the actuary expresses no opinion on those assumptions. The recent changes concerning these disclosures can place actuaries in untenable situations in which they have accepted an engagement or performed actuarial services and then are required to disclose that the assumption prescribed by the Principal is unreasonable. By including this requirement, the ASB would be inappropriately interfering in the relationships between actuaries and their Principals. In addition, such a requirement would unnecessarily expose the profession to risk.

Section 3.3.6. Subsequent Events. The actuary should not be required to disclose any event that becomes known to the actuary after the information date and before the date the report is issued. The actuary should be able to indicate that no events that occurred after the information date and before the date the report was issued were considered in preparing the valuation report unless the scope of the project requires and specifies it. Moreover, an actuary is not always in a position to judge whether an event would have a material effect on actuarial findings as a) in many cases it is the Principal, not the actuary, who needs to judge materiality, and b) it is often impossible to judge the magnitude of impact without conducting significant additional work that is outside the scope of the engagement with the Principal. As such, this requirement would inappropriately impinge on the terms of engagements between actuaries and their Principals.

Section 3.4 Reconciliation of Material Differences. While we agree that a later communication should explain why earlier results have changed and are no longer valid, we are concerned that the term “reconciliation” creates a very high, and potentially inappropriately expensive, bar to overcome. Such a detailed reconciliation need only be performed when it is inside the scope of the assignment or at the request of the Principal. The standard should call for an explanation without requiring a reconciliation.

Section 3.6 Oral Communications. This proposed section represents a significant expansion of the responsibilities of an actuary who makes an oral communication from those set forth in the existing standards in ASOP 41 under Section 3.3.1. The expansion requires what we would classify as a best practice. Adopting reasonable minimum standards in the ASOP, rather than best practices, would avoid unnecessarily increasing our liability risks; we therefore suggest that the existing language in 3.3.1 be retained.

Section 3.8. Documentation. This section can be read to imply that the actuary needs to keep file material relating to Section 3.3 disclosures and we don't believe that this is the intent. We suggest changing the section to simply read "Nothing in this ASOP requires the actuary to maintain or to disclose any documentation to any other party other than the disclosures under Section 3.3."

Section 4.1.3 Disclosure in Actuarial Reports. Consistent with our comment concerning Section 3.3.1, we believe that 4.1.3.e should be deleted.

Section 4.2 Certain Assumptions or Methods Prescribed by Law. The final portion of Section 4.2 states that if the prescribed form for the actuarial communication does not accommodate the disclosures, they should be in a separate document sent along with the communication (such as a cover letter). We think this is unnecessary and impractical. A government-prescribed form that includes results based on prescribed assumptions should be expected to include all of the information required by the recipient (i.e., the governmental agency). To impose an additional requirement, especially if it is related to an assumption prescribed by statute or regulation, is not appropriate.

Section 4.3 Responsibility for Assumptions and Methods. We see no reason to include the specific reason that another party rather than the actuary has set the assumption. It is sufficient to disclose that the assumption was selected by another party and identify the party that selected the assumption together with the appropriate statement in paragraph d of that section. We also believe, as discussed in our comments above on Section 3.3.4, that an actuary should not be required to express any opinion on assumptions selected by a third party. Also, in general, we find Section 4.3 as duplicative in large part of Section 3.3.4, and we are not sure why such overlap is necessary or appropriate.

Thank you for this opportunity to comment on the 2nd Exposure Draft. If you have any questions concerning our comments, please contact either one of us directly.

Sincerely,



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