Appendix 2

Comments on the 1996 Second Exposure Draft and Task Force Responses

The second draft of this standard was exposed for review in August 1996, with a comment deadline of December 2, 1996. Ten comment letters were received and reviewed carefully by the Task Force on Rate of Return of the ASB's Casualty Committee. Summarized below are the significant issues and questions contained in the comment letters, printed in lightface. The task force's responses appear in **boldface**.

General Observations

Of the ten comment letters received on the second exposure draft, most of the comments were favorable. Even those commentators who provided suggestions for changes seemed pleased with the overall direction the task force took in developing the second exposure draft. Samples of such satisfaction were found in comments such as follows: "I think this is an example of the type of standards that the profession should be developing," "[t]his draft represents an overall improvement over the initial exposure draft," and "the [task force] has taken great pains in carefully defining many critical concepts that our standards omit today." Most of the suggestions for revising text were to further clarify concepts already present within the second exposure draft.

However, it was also evident from the comments that some confusion still exists surrounding the "rate versus price" issue. For example, one commentator believes that the standard should not limit actuarial practice in setting profit margins that are either explicit or implicit in actual prices in the marketplace. The commentator further raises potential legal issues were the actuarial profession to engage in limiting actuarial practice in this area. **The task force agrees with the commentator that the standard does not apply to final (market) prices— the standard is entirely focused on the evaluation of costs. In fact, the task force has consistently and consciously focused on costs (*not* on prices) in its deliberations in consideration of the legal environment and has obtained competent legal advice as appropriate.**

The commentator also questions whether a consensus on acceptable actuarial practice currently exists in this area. **The task force believes such consensus exists and is embodied in the standard. The current syllabus upon which actuarial examinations are based is one indicator that a consensus exists. The extensive presentations and discussions of the proposed standard at Casualty Actuarial Society (CAS) meetings and seminars is another indication that such a consensus exists.**

Section 1. Purpose, Scope, and Effective Date

Section 1.1, Purpose—One commentator thought that the use of the phrase *include the cost of capital* in the first sentence of this section implied that the *Statement of Principles Regarding*

Property and Casualty Insurance Ratemaking of the CAS requires that an explicit provision for the cost of capital be included in rates. **The task force revised the text by replacing *include* with *provide for* to more closely match its understanding of the *Statement of Principles*.**

Section 1.2, Scope—**The task force revised this section to more clearly distinguish between *rate* and *price*. In addition, the task force added language to clarify that the standard applies to property/casualty risk financing systems, such as self-insurance.**

Section 2. Definitions

Section 2.2, Contingency Provision—One commentator suggested clarifying the language in this section to note that, in addition to quantification, a contingency provision might be provided for in other ways. **The task force reworded the section, making it more consistent with section 3.7.** Another commentator questioned the definition's lack of consideration of the potential variance in results. **The task force did not expand the definition, since it believes that the profit provision more appropriately should reflect variance in results.**

Section 2.3, Cost of Capital—Two commentators suggested changes. One suggested inclusion of specific components in the definition; the second suggested that *cost of capital* be defined as the *cost of capital desired by the capital provider*. **The task force did not modify the definition, as section 3.2 references a number of influences on the cost of capital. The task force did, however, revise section 3.2 by including additional explanatory language and believes these revisions to section 3.2 address the concerns raised by the second commentator.**

Section 2.4, Insurance Cash Flows—One commentator suggested changing the title of this section to Net Insurance Cash Flows, while another suggested referencing the treatment of taxes directly rather than indirectly. **The task force modified the language to clarify that miscellaneous (non-investment) income is from insurance operations. The revised section 2.4 also presents the components of insurance cash flow as items in a list to avoid the appearance of a calculation and directly references the treatment of income taxes.**

Section 2.6, Investment Income—Two commentators suggested clarifying the language with respect to the treatment of income taxes. **The task force adopted the suggestions and also adopted consistent language in sections 2.4 and 2.10.**

Section 2.8, Investment Risk—Two commentators pointed out an inconsistency in the usage of the terms *proceeds* and *income* in other definitions. **The task force clarified the text by using the term *proceeds* consistently.**

Section 2.10, Operating Profit, and Section 2.13, Underwriting Profit (now sections 2.10, Operating Profit; 2.13, Underwriting Expenses; and 2.14, Underwriting Profit)—Three commentators questioned the usage of the terms included (or excluded) in these definitions. There also appeared to be some confusion as to which expense items were included in the term *expenses*. **After careful review and discussion of the comments, the task force made changes in these definitions and added a new section (2.13, Underwriting Expenses). The intent of**

the commentators was incorporated in the three definitions, and the task force believes the revisions achieve the clarity and consistency suggested. These definitions are consistent with the categories used in the underwriting and investment exhibit statement of income in the National Association of Insurers Commissioners (NAIC) annual statement blank for property and casualty insurers. Specifically, the definition of *underwriting profit* is consistent with the definition of *net underwriting gain (or loss)* from the NAIC statement blank.

Section 2.12, Total Return—One commentator suggested that the definition include some examples of commonly used bases of total return. **The task force did not make any changes, since it believes the definition is clear as stated.**

Section 3. Analysis of Issues and Recommended Practices

Section 3.1, Estimating the Cost of Capital and the Underwriting Profit Provision—One commentator wanted to change the beginning of the third sentence of this section from *Similarly* to *Alternatively*. **The task force made the change.**

Section 3.2, Basis for Cost of Capital Estimates—One commentator suggested that in the second sentence, the phrase *business activity* be changed to *risk transfer*. **The task force made this change.** Another commentator suggested adding *currency* to the list of risks included and noted that the list could be construed as "limiting or as a checklist of specific requirements." **The task force disagrees. Since the types of risk to consider are many and diverse, the task force believes that it is necessary to provide a reasonable set of examples. The language of the standard (i.e., *These risks may include*) clearly indicates that the list is not exhaustive.**

Another commentator suggested that the reference to the *Hope Natural Gas* case be placed in the background section, i.e., in appendix 1. **The task force agrees and moved the reference accordingly (see the section titled, Role of Capital).**

Note as well that a new paragraph was added to section 3.2 (see the discussion below regarding comments received on section 3.8).

Section 3.3, Estimates of Future Costs—Several commentators disagreed that capital costs should be based upon expected future values, since the cost is dependent on the risk or variability to which it is exposed. **The task force agrees that risk or variability is an element of capital costs. Risk or variability is appropriately considered in deriving the expected value; therefore, no change in the language used is necessary.**

Section 3.4, Risk Sharing (now titled Parameters of the Risk Transfer)—One commentator suggested that the title of this section should be changed, noting that insurance is a risk transfer device, and not a risk sharing device. This commentator also suggested alternative wording to clarify the roles of the two main parties to the insurance transaction: the insured and the insurer. **The task force agrees with the commentator and rewrote the section to indicate that the cost of capital may vary with the specific parameters of the risk transfer.**

Another commentator noted that deductibles, limits, etc., affect the *structure* of the risk transfer rather than the parties involved. **The task force agrees that these factors affect the structure of the risk transfer and believes that the revised language addresses this concern.**

Section 3.5, Investment Income—One commentator suggested a revised second sentence in paragraph two as follows: *Investment risk includes the estimated cost of default and reinvestment risk on the assets associated with the proposed transaction, since such costs can result in a significantly different yield than the stated yield rate*. **The task force agrees with the commentator and changed the text to be substantially similar to the suggested revision.**

This commentator also suggested revising paragraph (b) to add *retention of business* as a subject for the actuary's consideration. **The task force agrees that retention of business may be a consideration, but the standard is not intended to provide an exhaustive list of considerations. The phrase *for example* was added to clarify that the section does not provide a complete list.**

Section 3.6, Income Taxes—One commentator suggested adding the following sentence: *The income tax position of the risk assuming entity, such as tax loss carry forwards, and alternative minimum taxes, may also be relevant to accepting or rejecting the proposed risk transfer*. **The task force disagrees with this suggestion, because it believes this suggestion addresses considerations that are not relevant to the cash flows for the risks being transferred. Therefore, no change was made.**

Section 3.7, Contingency Provision—One commentator suggested adding a sentence which would state that the actuary need not explicitly identify the contingency provision separate from the profit provision, and that the contingency provision is not intended as a risk margin for catastrophic events. **The task force believes the definition of *contingency provision* makes it clear that it is *not* a risk margin for catastrophic events. The task force disagrees that a contingency provision can implicitly be combined with a profit provision, because the two provisions are distinctly different, both subject to explicit determination.**

Another commentator suggested that the use and meaning of a contingency provision was unclear and needed to be clarified in the standard. **The task force believes that, with the clarifying changes made to the second paragraph of this section, the standard adequately explains the use of the contingency provision as a correction factor when the ratemaking process has produced in the past, and is expected to produce in the future, cost estimates not equal to average actual costs.**

Section 3.8, Structure of Insurer—This section of the second exposure draft addressed the structure of the insurer, such as stock, mutual, etc. Several commentators expressed concern that the requirements of the capital providers should be taken into account when considering the cost of the insurance product, and that non-stock organizations might have different requirements than stock companies. One commentator specifically suggested making a greater distinction between the cost of capital and the desired return on capital. **The task force rewrote the text of this section to place greater emphasis on the economic concept of *opportunity cost*, which**

refers specifically to the value of capital in its next best alternative use. Under this definition, the proper cost of capital is the return that the capital could earn in an alternative investment of equivalent risk. The task force does not believe that this differs depending on the ownership structure (i.e., stock, mutual, or other) of the insurer per se. However, as discussed in section 3.4, the actuary's estimate of the cost of capital should reflect characteristics of the risk transfer that may arise due to ownership structure (such as, for example, the availability of policyholder dividends). Note, in addition, that the text of this section was moved to section 3.2 in order to enhance clarity.

One commentator who questioned section 3.8 also wished to add to the standard a new section, which would read as follows:

> *Several of the models used for estimating the underwriting profit provision also permit the actuary to rank potential risk transfer undertakings. An actuary should be prepared to rank the risk versus the reward (the total return, from underwriting and from investment income) for various scenarios involving the allocation of capital towards a certain line of insurance or a specific product.*

The commentator's rationale for this suggestion is that "the actuary of the future may often be called upon to estimate not only the reward (the total return from allocating capital towards a certain line of insurance or a specific product), and not only the associated risk, but also to rank several risk/reward scenarios for a client or employer." **The task force agrees that an actuary can be asked to estimate and rank various risk/reward scenarios for a client or an employer. However, the task force thinks that while this is implicit in the role an actuary plays, the matter is beyond the scope of the standard.**

Appendix 1—Background and Current Practices

Role of the Underwriting Profit Provision—One commentator found the references to *all other cost and revenue components* too vague. **The task force agrees that the reference is not precise, but the next clause of the sentence refers to *total [rate of] return*, which is precisely defined in section 2.12. Hence, no change was made.**

Estimating the Cost of Capital—One commentator suggested adding a parenthetical phrase, *(generally a risk free investment),* to the description of the risk premium model (in the second sentence of item (3), after the phrase, *reference investment*). **The task force disagrees with this change. In the typical (perhaps the most common) implementation of the risk premium method, the reference security is a long-term utility bond, which is not risk free. Thus, the second sentence was left unchanged. However, the task force did modify the next sentence as follows: *One widely used form of risk premium analysis is known as the capital asset pricing model (CAPM), in which the reference security is a risk free Treasury security, and the risk margin is determined*…. This correctly identifies that in the CAPM variant of risk premium analysis, the reference security is risk free.**

Relating the Cost of Capital to the Underwriting Profit Provision—One commentator expressed concern about the use of the singular *rate* in the last sentence of the section that discusses the net present value model, and another suggested alternative wording for clarity, in the definition of the IRR model. **The task force changed *rate* to *rate(s)*, and adopted the proposed wording to note that the IRR calculates the rate(s) of return by setting the net present value of a risk transfer's cash inflows and outflows equal to zero.**

The task force thanks everyone who took the time and made the effort to write comment letters. The input was helpful in developing the final standard.