

## **ASOP No. 41—SECOND EXPOSURE DRAFT—December 2009**

### **Appendix 2**

#### **Comments on the Exposure Draft and Responses**

The first exposure draft of this ASOP, *Actuarial Communications*, was issued in September 2008 with a comment deadline of December 31, 2008. Twenty-three comment letters were received, some of which were submitted on behalf of multiple commentators, such as by firms or committees. For purposes of this appendix, the term “commentator” may refer to more than one person associated with a particular comment letter. The General Committee carefully considered all comments received, reviewed the exposure draft and proposed changes. The ASB reviewed (and modified, where appropriate) the proposed changes.

Summarized below are the significant issues and questions contained in the comment letters and the responses.

The term “reviewers” in appendix 2 includes the General Committee and the ASB. Also, unless otherwise noted, the section numbers and titles used in appendix 2 refer to those in the second exposure draft.

<b>GENERAL COMMENTS</b>	
Comment	One commentator suggested that the ASOP should require both date and signature, while another indicated circumstances where signature may be inappropriate or impractical.
Response	The reviewers agreed on the date issue, and ultimately concluded that, while in most circumstances it would be appropriate for an actuary to sign his/her communications, there are legitimate cases where such a requirement would not be appropriate. Section 3.1.4 states that the actuary should ensure that the actuarial communication clearly identifies the actuary responsible for it.
Comment	Several commentators indicated that it was unclear how the standard applied to oral communication.
Response	The reviewers edited the standard to distinguish carefully between “documents” and “oral only” communication, and have provided specific guidance in each case.
Comment	Several commentators expressed concern that there was no requirement to consider or disclose the potential risk or uncertainty associated with the actuarial findings within an actuarial communication.
Response	The reviewers agreed and have provided guidance in section 3.3.1, Uncertainty or Risk, indicating that such a disclosure should be included

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	when appropriate to the intended user.
Comment	One commentator thought that inclusion of the terms “actuarial findings” and “statement of actuarial opinion” were circular and confusing.
Response	The reviewers agreed that there was some confusion and decided to use only the term actuarial findings as it is intended to be somewhat more general in nature.
<b>TRANSMITTAL MEMORANDUM</b>	
Question 1: Do you believe it appropriate to require the actuary to be responsible for assumptions and methods used within an actuarial communication unless otherwise disclosed? Do you believe that this standard is the appropriate place to do that? Does this draft make this intent sufficiently clear?	
Comment	Twelve commentators responded in the affirmative. While a few comments were received about expanding this requirement or making it more specific, no commentator responded that this was inappropriate.
Response	The reviewers retained this requirement.
Question 2: This ASOP is titled <i>Actuarial Communications</i> even though it also addresses documentation. Does this create any confusion? If so, what would a better title be?	
Comment	Eight commentators felt the title should be left as is; a total of six commentators felt the addition of “documentation” and/or “disclosure” would be appropriate.
Response	After considering the responses, the reviewers still believe that the current title is sufficient and any changes or additions are unnecessary.
Question 3: Does this draft make it sufficiently clear when the actuary should issue an actuarial report disclosing methods, procedures, assumptions, and data as opposed to issuing another form of actuarial communication that does not make these disclosures, and only documenting these items?	
Comment	Three commentators responded affirmatively, while eleven felt that the first draft failed to make this clear.
Response	The reviewers agreed that the first draft was unclear, and have taken a revised approach in this draft. Section 3.2 now states that whenever an actuary issues an actuarial document that presents findings that the actuary intends may be relied upon then the actuary should complete an actuarial report.
Question 4: Are the added disclosure requirements in cases involving deviation clear and appropriate?	

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Comment	Eleven commentators responded in the affirmative; none in the negative.
Response	The reviewers made no change.
<b>SECTION 2. DEFINITIONS</b>	
<b>Section 2.1, Actuarial Communications</b>	
Comment	One commentator stated “with respect to actuarial services” is too broad and instead suggested, “A written, electronic, or oral communication issued by an actuary with respect to actuarial services for the purpose of conveying actuarial findings or opinions.”
Response	The reviewers believe the commentator’s concern is addressed by the narrowing of application included in the first paragraph of section 1.2, Scope, and made no change to 2.1.
<b>Section 2.3 (formerly 2.2), Actuarial Findings</b>	
Comment	One commentator felt the use of the word “individual” instead of the use of the word “actuary” was potentially confusing.
Response	The reviewers were concerned that using the term “actuary” (without the phrase “acting in the capacity of an actuary”) would broaden the application of the standard beyond its intent, while use of the term actuary with the clarifying phrase seems awkward and redundant.

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<b>Section 2.4 (formerly 2.3), Actuarial Report</b>	
Comment	A total of six commentators expressed concern over the definition of “actuarial report.”
Response	The reviewers revised the definition.
<b>Section 2.5 (new), Deviation</b>	
Comment	Several commentators felt a definition for “deviation” should be included in the standard.
Response	The reviewers agreed and added this section.
<b>Section 2.6 (formerly 2.4), Intended Audience</b>	
Comment	Two commentators expressed concerns over the term “intended audience.”
Response	The reviewers have made “intended user” the primary definition (instead of “intended audience”) and have shortened and simplified the definition in an attempt to reduce any confusion, keeping in mind that a definition is not the best place to include guidance.
<b>SECTION 3. ANALYSIS OF ISSUES AND RECOMMENDED PRACTICES</b>	
<b>Section 3.1, Requirements for Actuarial Communications</b>	
Comment	Several commentators expressed confusion with respect to the application of the language regarding actuarial report.
Response	The new direction of this draft addresses these concerns.
Comment	One commentator expressed concern that the addition of the word “procedures” may unduly tie the hands of the actuary.
Response	The reviewers disagreed. Sufficient disclosure of procedures so that another actuary in the same practice area can judge the reasonableness of results does not restrict the choice of procedures nor require the actuary to reveal proprietary information.
Comment	One commentator thought that the requirements should be strengthened to allow another actuary to replicate the results.
Response	The reviewers disagreed. Such a requirement may very well require the actuary to disclose proprietary and/or confidential information.
Comment	One commentator suggested that the term “parties” in section 3.1.2 be replaced with “principal and actuary.”
Response	The reviewers agreed and made the change in the new section 3.1.3.

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<b>Section 3.3 (formerly 3.2) Disclosures Within an Actuarial Report</b>	
Comment	One commentator suggested that the word “complete” be deleted from the second sentence and the phrase “and any relevant ASOP” be added at the end of the same sentence.
Response	The reviewers agreed and have made these changes.
Comment	One commentator questioned the phrase “pertinent information that is not apparent” suggesting the addition of a laundry list of examples.
Response	The reviewers believe the language is clear enough for an actuary to apply appropriate judgment.
Comment	One commentator applauded the addition of the concept of advocacy to the “conflict of interest” section, but suggested enhancement with examples.
Response	The reviewers believe that the guidance is sufficiently clear.
Comment	One commentator questioned the term “other information,” and whether or not this could be interpreted to include assumptions or methods.
Response	The language is taken from ASOP No. 23, <i>Data Quality</i> , and the reviewers believe it is sufficiently clear.
Comment	One commentator questioned the claim that the intended audience will expect that the assumptions and methods have been selected by the actuary unless otherwise disclosed, and suggested that the actuary should always identify the source of any assumption or method. Another commentator suggested that actuaries should opine on why they believe it is appropriate for others to select assumptions or methods.
Response	The reviewers disagreed with the first commentator, but agreed in part with the second and added section 4.3(c).
<b>Section 3.4, Reconciliation of Material Differences</b>	
Comment	Three commentators expressed questions about the requirement to document the reconciliation of differences with earlier communication, particularly if the earlier communication is oral.
Response	The reviewers disagreed and believe the guidance is sufficiently clear.

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<b>Section 3.5, Restrictions of Specific Circumstances</b>	
Comment	One commentator expressed concern (referring to former section 3.3, Oral Communication) that the constraints of oral communication may be found in other forums as well.
Response	This issue has been addressed both in the general change in direction, and in specific reference to guidance applicable to communication constrained by specific circumstances.
<b>Section 3.7 (formerly 3.5), Responsibility to Other Users</b>	
Comment	One commentator expressed concern that the guidance with regard to responsibility to other users may be problematic when dealing with oral communication, particularly when communicating within an organization.
Response	The reviewers agreed and redrafted section 3.7 to apply only to actuarial documents. They modified section 3.6 to address concerns of misquoting an oral communication.
<b>Section 3.8 (formerly 3.6), Documentation</b>	
Comment	One commentator suggested the need to tighten the guidance with respect to the length of time documentation is to be retained.
Response	The reviewers now believe a different approach to documentation is appropriate within this standard. Except for the required disclosure items (which must be made available to all intended users), the choice of what documentation to retain and for how long is viewed as a business and/or legal decision.
<b>SECTION 4. COMMUNICATIONS AND DISCLOSURES</b>	
<b>Section 4.1, Disclosure in Actuarial Communications</b>	
Comment	Several commentators expressed concern over the requirement to disclose a possible conflict of interest in circumstances where the intended audience may change over time.
Response	The reviewers were sensitive to this issue. In this revision, the completeness of a report is to be judged by the information provided to each intended user. Accordingly, if the intended audience has changed, the actuary will need to be careful that he or she has made a reasonable effort to provide complete disclosure information to each intended user.

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<b>Section 4.2, Certain Assumptions or Methods Prescribed by Law</b>	
Comment	One commentator questioned whether the guidance was intended to require the actuary to disclose the specific section of IRC or other applicable law or regulation.
Response	The reviewers did not believe that it was necessary or prudent to try to prescribe the specificity of this disclosure requirement, and believe that the actuary should be able to apply appropriate judgment to each particular situation.
<b>Section 4.3, Responsibility for Assumptions and Methods</b>	
Comment	Several commentators expressed concern about the concept of “disclaiming” assumptions and what must be disclosed in these circumstances. One commentator, in particular, pointed out that the requirements in the first draft are less stringent than similar requirements in the recently adopted revisions to ASOP No. 4, <i>Measuring Pension Obligations and Determining Pension Plan Costs or Contributions</i> .
Response	The reviewers agree. The language of this section has been significantly revised to be made consistent with the requirements found in ASOP No. 4.
Comment	One commentator suggested the language: “Where the actuary states reliance on other sources and thereby disclaims responsibility for any material assumption or method in any situation not covered under section 4.2 or 4.3.1 (now section 4.2, Certain Assumptions or Methods Prescribed by Law), the actuary should prominently disclose the following....”
Response	The reviewers generally preferred this language to that found in the existing ASOP and have incorporated it into the new section 4.3, Responsibility for Assumptions and Methods.
Comment	One commentator suggested that it should be required that an actuary disclose when material changes in assumptions have been made from a prior analysis.
Response	While the reviewers recognize that in most cases this may be desirable or standard practice, they were also able to identify a number of examples where it may not be appropriate to do so. Accordingly, no such requirement was added to this standard.

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<b>Section 4.4, Deviation from the Guidance of an ASOP</b>	
Comment	A couple commentators felt that the last sentence of section 4.4 was unnecessary.
Response	The reviewers agreed and have removed this sentence from this draft.