

Memorandum

To: All Fellows, Affiliates, Associates, and Correspondents of the Canadian Institute of Actuaries and Other Interested Parties

From: A. David Pelletier, Chair
Actuarial Standards Board

Nancy Yake, Chair
Designated Group

Date: June 25, 2013

Subject: **Final Standards – Part 4000 Practice-Specific Standards for Actuarial Evidence and Relevant Paragraphs of Part 1000 General Standards**

Document 213051

INTRODUCTION

The attached final standards were approved by the Actuarial Standards Board (ASB) on June 13, 2013. These final standards include two documents, a revised Part 4000 (Practice-Specific Standards for Actuarial Evidence) and a few related changes to Part 1000 (General Standards). Since the revised part 4000 is a substantial rewrite of the current standards of practice, we have not included a red-lined version showing the changes.

BACKGROUND

The ASB established a designated group (DG) in 2010 to review and revise the current Practice-Specific Standards for Actuarial Evidence. The DG is chaired by Nancy Yake, and includes the following members: Brian FitzGerald, Normand Gendron, Jay Jeffery, Ian Karp, John Tarrel, and David Wolgelerenter.

The DG consulted with the Committee on Actuarial Evidence periodically during its review and revision of the standards. A [notice of intent](#) was published on May 11, 2011, with a comment period ending on July 15, 2011. An [exposure draft](#) was published on September 4, 2012, with a comment period ending on November 30, 2012.

All actuaries, regardless of their primary area of practice, should consider the potential relevance of these revised standards with respect to any of their work that relates to a dispute resolution proceeding.

COMMENTS RECEIVED

A total of six written submissions on the exposure draft were received. Five of these submissions were made by individual CIA members and one was made by the CIA's Committee on Actuarial Evidence. In addition, feedback on the exposure draft was provided at the CIA's Actuarial Evidence Seminar in September 2012. The submissions presented a number of thoughtful comments that were very useful to the DG. The DG carefully considered all comments received, and reflected many of them in the revised standards.

A number of comments proposed that more specific guidance be included in part 4000, and some of these suggestions have been reflected. In other cases, the DG concluded that appropriate guidance is already included in the General Standards or the rules, or that any additional guidance, if required, would be more appropriate as part of an educational note. The DG also notes that the standards cannot clearly address all situations, and that judgment is required to interpret the standards in specific circumstances.

Some of the comments received included suggested changes to the General Standards that are not related to actuarial evidence work, or changes to section 4300 of the current standards (Capitalized Value of Pension Plan Benefits for a Marriage Breakdown). As these suggested changes are beyond the mandate of the DG, they have been referred to the ASB for consideration.

Some of the comments related to format and style issues, and the related lack of consistency in these respects with other parts of the standards. The ASB is currently in the process of revising the format and style of the standards, and is introducing these changes as the various parts of the standards are amended for other purposes.

A number of corrections or improvements were suggested to the French translation of part 4000. These comments were forwarded to and considered by the reviewers of the French translation.

A summary of the major comments received, and the DG's responses to those comments, is shown below. In addition to these comments there were suggestions for a number of other minor changes and edits to the exposure draft and many of these were reflected.

1. General Standards

Comment

Although the submissions supported the inclusion of a definition of actuarial evidence work, there were a number of suggested changes to the proposed definition in paragraph 1110.03.1. These suggested changes include: delete the requirement for independence, add a condition that the work must be intended to be shared with both parties to the dispute before it is considered to be actuarial evidence work, and set up a separate definition for a dispute resolution proceeding. Some of the comments also suggested that the proposed definition may open a loophole, where an actuary could claim that the work was not independent and therefore not actuarial evidence work, hence not subject to part 4000.

DG Response

The DG believes that the requirement for independence must be a key element of the definition of actuarial evidence work and has retained this condition. The courts and other users of the actuary's work typically expect that the expert's opinion should be independent. Nevertheless, in view of the comments received and the suggested possible loophole, the definition in paragraph 1110.03.1 has been revised slightly. The DG concluded that a requirement for sharing the work with both parties to the dispute would not be an appropriate criterion for defining actuarial evidence work. Instead of creating a separate definition, the DG elected to retain the description

of a dispute resolution proceeding within the definition of actuarial evidence work, as the term is relevant only for the actuarial evidence practice area.

2. Part 4000

Comment

The word “independent” is used in a number of paragraphs to describe actuarial evidence work, such as paragraphs 4210.06 and 4230.01. A couple of submissions noted that the word “independent” is not required in these instances as actuarial evidence work is independent by definition. These submissions suggested that the word “independent” be deleted in these paragraphs. Other feedback suggested that the word “independent” should be added as an adjective to describe expert opinion in all relevant cases.

DG Response

Given the importance of independence for actuarial evidence work, the DG believes that it is useful to repeat the word “independent” in some paragraphs. Nevertheless, the DG also appreciates the importance of a consistent approach. Part 4000 has been reviewed and revised for a consistent approach to the use of the word “independent”.

Comment

The word “used” appears in several paragraphs, and is underlined in some cases and not others. Some comments suggested that the word “used” should always be underlined and that another word should be used when the underlined term is not intended. Other comments suggested that there is some confusion regarding the word “used”.

DG Response

The DG has reviewed part 4000 and has replaced the word “used” with another word in all cases where the underlined term “used” is not intended.

Comment

Sections 4300, 4400, 4600 (4500 in the attached document) and 4700 (4600 in the attached document) should be revised to follow a similar structure.

DG Response

Although a similar structure for these sections may have some advantages, it would likely lead to unnecessary wording as the issues addressed in each section and the relative importance of the issues are somewhat different for each section. The DG elected to leave the structure of these sections unchanged, but did make minor changes to improve consistency.

3. Section 4100 – Scope

Comment

The comments questioned whether specific types of work would be included as actuarial evidence work and suggested that the standards should more clearly define the scope for these situations. The specific types of work noted in the comments included: work for another professional who is providing an expert opinion (such as another actuary or an accountant), the valuation and division of pension benefits for a marriage breakdown where all aspects of the work are mandated by law, work for a rate hearing, service as a member of a disciplinary tribunal, the provision of a preliminary opinion by the actuary before such actuary is engaged to perform work, and the provision of an estimate that is not intended to be introduced into a dispute resolution proceeding.

DG Response

It would be neither feasible nor appropriate for the standards to clearly reference all types of work that might be considered to be actuarial evidence work. Instead, each engagement should be considered in view of the definition of actuarial evidence work in paragraph 1110.03.1 and the examples of what is and is not actuarial evidence work (provided in section 4100), and then judgment should be applied. Reference to the General Standards and the rules may also be useful. If additional guidance is needed regarding the scope of actuarial evidence work, then it may be appropriate for the CIA to consider preparing an educational note. If an actuary is still uncertain whether an engagement meets the definition of actuarial evidence work, he or she may consult with the chair or vice-chair of the CIA's Committee on Actuarial Evidence.

With respect to the specific types of work identified in the submissions, the DG suggests that:

- The nature of an actuary's work to support another professional who is providing an expert opinion would depend on the terms and expectations of the engagement and may or may not be actuarial evidence work;
- An actuary's work for the valuation and division of pension benefits for a marriage breakdown may or may not fall within the scope of actuarial evidence work, depending on the actuary's role, the circumstances of the work, and the terms of the engagement,
- An actuary's work for a rate hearing is typically not viewed as independent, and hence may not be actuarial evidence work;
- An actuary who is serving as a member of a disciplinary tribunal is assuming a role similar to that of a judge and not that of an expert providing an independent expert opinion, and part 4000 would not apply;
- The provision of an informal preliminary opinion before the actuary is engaged to perform work, solely for the purpose of deciding whether or not to proceed with the engagement, would not normally be actuarial evidence work; and
- The provision of an estimate that is not to be introduced into a dispute resolution proceeding would not normally be actuarial evidence work (in such case, one would expect the actuary to include the appropriate references to the limitations of the work in accordance with paragraph 4100.08).

Comment

The descriptions of expert and expert opinion included in paragraph 4100.02 of the exposure draft should be moved to subsection 1110 of the General Standards and included as formal definitions.

DG Response

The terms "expert" and "expert opinion" are described solely for the purpose of part 4000 and may not be appropriate for other parts. The DG decided to retain the description of the terms in part 4000.

Comment

Examples should be added to paragraph 4100.06 to refer to other post-employment benefit plans and to describe other pension scenarios.

DG Response

The examples included in paragraph 4100.06 are illustrative only, and not a complete list. Throughout part 4000 whenever references are made to other practice areas, such references have been limited to insurance and pensions. Although the lists could be expanded to include examples for all practice areas, the DG believes that it is sufficient to refer to insurance and pensions only. Nevertheless, the pension example included in paragraph 4100.06 has been expanded, as suggested.

Comment

In paragraph 4100.07 a more general term, such as “dispute resolution proceeding”, should be used instead of “litigation”.

DG Response

The DG agrees with the comment, and the term “litigation” has been replaced with the term “dispute resolution proceeding” in paragraph 4100.07.

Comment

The comments suggested that the wording in paragraph 4100.08 be revised to clarify that an expert opinion (which is not actuarial evidence work) might be required for an engagement involving only litigation advice. Another commenter suggested that the term “litigation advice” be replaced with a term such as “dispute resolution advice”.

DG Response

Clarifying wording has been added to paragraph 4100.08 regarding an expert opinion that may not be actuarial evidence work. With respect to the term “litigation advice”, the DG decided to retain the term as it is commonly used and understood within a judicial context.

4. Section 4200 – General

Comment

One comment suggested that the required report format and content be added to paragraph 4210.04 as another example of relevant legislative or regulatory provisions.

DG Response

The DG agreed with this suggestion, and added the example.

Comment

Paragraph 4210.07 should specify what the actuary should do if the stipulated scenarios do not present a complete picture.

DG Response

In such circumstances, the DG believes that the actuary should refer to the General Standards, such as those relating to an appropriate engagement, as well as to the rules, for additional guidance, and that additional detail in paragraph 4210.07 is not required.

Comment

In paragraph 4210.08, the list “existing precedent, law, or regulation” may not be complete, so “etc.” should be added.

DG Response

Although the DG did not add “etc.”, the clause was generalized somewhat to cover other similar situations.

Comment

The DG should reconsider allowing contingency fees as they may be appropriate at times, provided that there is full disclosure of the nature of the compensation.

DG Response

The DG believes that the concept of contingency fees conflicts with the requirement for independence in actuarial evidence work. The DG believes that contingency fees should not be permitted, hence has not revised paragraph 4220.01.

Comment

One submission noted that testimony is a form of reporting, hence subsection 4240 should be moved to the section on reporting (i.e., section 4700 in the attached document). That same submission also suggested that paragraph 4240.02 should not be italicized as it seems to be an explanation of other requirements, and that the phrase “apply best efforts” be moved from the third bullet of paragraph 4240.03 to the introduction to the paragraph.

DG Response

Although testimony may be a form of reporting, there is a significant difference between testimony and other reporting. In particular, the content and presentation of an actuary’s report is typically under the actuary’s control, whereas the actuary’s testimony is partly under the control of others. In line with this fundamental difference, the guidance in part 4000 regarding testimony focuses on the conduct of the actuary, whereas the section on reporting focuses more on the content of the actuary’s report. Based on these considerations, the DG elected to retain the subsection on testimony in section 4200.

The DG decided to retain italics for paragraph 4240.02 to highlight its importance. The phrase “apply best efforts” was retained in the third bullet point of paragraph 4240.03 as the DG concluded that the actuary’s responsibilities were greater than “apply best efforts” for the items described in the other bullet points of this paragraph.

Comment

Regarding paragraph 4250.05, a few commenters suggested that the limitation on using the annuity certain method as a substitute for the capitalized value method where there are contingent events should either be moved to the General Standards where it would be applicable to all practice areas, or else deleted from the standards. It was also noted that the annuity certain method should be permitted as an approximation. One submission suggested that the wording used to describe the method be improved.

DG Response

The General Standards do not currently provide guidance on specific actuarial methods. Hence, it would seem inadvisable to amend the General Standards to single out the annuity certain method as normally inappropriate in specified circumstances, unless there were compelling reasons for adding this guidance. In the case of actuarial evidence work, the DG believes that there are compelling reasons to retain the specific reference to the annuity certain method. These reasons are not applicable to other practice areas.

The reference to the annuity certain method is included in part 4000 of the current standards. The DG understands that these provisions were originally included primarily for the benefit of non-actuaries who may be referring to the actuarial evidence standards. It has been common practice for some of these non-actuary users of the standards to substitute the annuity certain method for the actuarial present value method where the payment amounts are subject to contingent events. In view of these considerations, the DG believes that it is appropriate to retain the reference to the annuity certain method, and that the wording is consistent with terminology commonly used in this area.

Paragraph 4250.05 is not italicized and is not a recommendation. This guidance uses the word “would,” which is suggestive and is less forceful than the word “should” that is used in italicized recommendations. Subsection 1120 in the General Standards describes the interpretation of the different levels of guidance provided in the standards.

The concept of materiality is applicable throughout the standards. With respect to paragraph 4250.05, the actuary would not normally use the annuity certain method where the contingent events are material. If the contingent events are not material, then the reference to the annuity certain method in paragraph 4250.05 is not relevant.

Where the contingent events for an actuarial present value calculation are not significant, then the actuary may consider using an appropriate approximation. For example, in some circumstances it may be appropriate to approximate results by assuming that mortality rates are zero. Subsection 1510 of the General Standards describes appropriate approximations, includes examples and provides other relevant guidance. The DG believes that this guidance is sufficient and need not be repeated in part 4000.

5. Section 4300 – Actuarial Evidence Calculations, Other than Capitalized Value of Pension Plan Benefits on Marriage Breakdown and Computations of Criminal Rate of Interest

Comment

One commenter suggested that paragraph 4320.01 regarding the assumptions and methods selected by the actuary being appropriate in the aggregate be revised to include wording such as “unless applicable law prevents”.

DG Response

The DG did not revise the wording of 4320.01 in response to this comment. Subsection 1310 of the General Standards addresses the issue of conflicts between the law and accepted actuarial practice and provides related guidance that appears to be sufficient.

Comment

One submission pointed out that paragraph 4310.02 (4320.02 in the attached document) regarding best estimate assumptions and margins is redundant in light of paragraph 1720.03 in the General Standards, and that the wording in 1720.03 is preferable.

DG Response

In response to this comment, the DG has revised paragraph 4310.02 (4320.02 in the attached document) to improve the wording and to enhance the consistency of this paragraph with that of similar paragraphs included in other practice-specific standards.

Comment

With respect to paragraph 4310.03 (4320.03 in the attached document), a number of comments agreed with the requirement that the actuary should ensure that the assumptions stipulated by the terms of the engagement are plausible. It was noted, however, that the word “plausible” should be replaced by “appropriate” with respect to any method specified by the terms of the engagement. One submission questioned the “plausible” requirement for assumptions, and suggested that “within the range of accepted actuarial practice” would be a better standard. A couple of submissions pointed out that stipulated assumptions are often outside the domain of actuarial practice, and that the actuary may not be able to judge the plausibility of the assumptions. To address this issue and to replace the plausibility requirement, one submission suggested that the actuary be required to state one of the following when the assumptions are stipulated by the terms of the engagement: the assumptions are in accordance with accepted actuarial practice, the assumptions are not in accordance with accepted actuarial practice, or the actuary has no opinion on the assumptions.

DG Response

The DG decided to retain the requirement that assumptions stipulated by the terms of the engagement be plausible. Given that the assumptions stipulated by the terms of an appropriate engagement typically relate to issues outside the domain of actuarial practice, the requirement of plausibility seems preferable to the requirement of appropriateness.

The DG agrees that the word “plausible” should not be used to describe the standard applicable to methods stipulated by the terms of the engagement, but disagrees with the suggested replacement of the word “plausible” with the word “appropriate”. As methods are not normally stipulated by the terms of the engagement, the DG concluded that paragraph 4310.03 (4320.03 in the attached document) should be revised to refer to assumptions only. The guidance regarding methods that is provided in other paragraphs is deemed to be sufficient.

The DG believes that the actuary should consider each assumption that is to be used, including those that are stipulated by the terms of the engagement. If it appears that a stipulated assumption may not be plausible, which is a relatively weak test, it is not appropriate for the actuary to use that assumption without relevant disclosures. In fact, annotation 1-2 of our rules states the following: “It is the professional responsibility of the member not to be associated with anything which the member knows or should know is false or misleading”.

With regard to a requirement to express “no opinion” on the stipulated assumptions and methods, the DG is concerned with the impact that such wording might have on the users of the actuary’s report. As another consideration, the ASB has recently initiated a project to consider the guidance that should be provided in the standards in any practice area where the assumptions or methods are stipulated by the terms of the engagement. Given the potential impact of the suggested change in the actuarial evidence practice area and the current ASB project, the DG agreed to leave the wording unchanged in this respect.

Comment

Paragraph 4310.07 (4320.07 in the attached document) should be expanded to clarify the actuary’s responsibilities when the assumptions stipulated by the terms of the engagement are plausible but are outside the range of accepted actuarial practice.

DG Response

As noted earlier, typically assumptions that are stipulated by the terms of the engagement relate to matters that are outside the domain of actuarial practice. Hence, a requirement to consider

whether they fall within the range of accepted actuarial practice may not be meaningful. The DG did not make the suggested change to this paragraph.

Comment

With respect to paragraph 4310.08 (4320.08 in the attached document), one comment suggested that the guidance provided in this paragraph be strengthened and that part of it be changed to a recommendation and italicized. Other comments suggested that the interpretation of the law was a critical element for the calculations in some cases and that such interpretation should override the consistency of assumptions requirement. Some submissions requested additional examples of assumptions that should be consistent for related calculations.

DG Response

The DG believes that it is important for accepted actuarial practice to require that the assumptions used for the calculations for related items be consistent, and has retained the wording included in the exposure draft. In view of the legal interpretation issues that were raised, the nature of the guidance has not been elevated to a recommendation. Other guidance in part 4000 addresses the issue of an actuary assisting with a challenge of the application of law, which may be useful in cases where a legal interpretation may conflict with the consistency of assumptions requirement. Guidance relevant to conflicts between the law and the standards is provided in the General Standards, and this guidance may be useful in circumstances where the law does not permit the use of consistent assumptions. As suggested, additional examples of assumptions that should be consistent for related calculations have been added.

Comment

Various comments were provided with respect to paragraph 4320.03 of the exposure draft (4340.03 in the attached document). One commenter suggested that the word “reasonable” be replaced with “within accepted actuarial practice”. Others suggested that the word “reasonable” be replaced with “plausible” to be more consistent with the requirements for assumptions stipulated by the terms of the engagement included in paragraph 4310.03 (4320.03 in the attached document).

DG Response

The guidance provided in paragraph 4310.03 (4320.03 in the attached document) is an italicized recommendation. In contrast, paragraph 4320.03 (4340.03 in the attached document) does not introduce any new requirements, but refers the actuary to guidance in the General Standards. For the purpose of paragraph 4320.03 (4340.03 in the attached document), the DG believes that the word “reasonable” is appropriate. Subsection 1720 of the General Standards refers to the reasonableness of assumptions, and not the plausibility of assumptions nor assumptions within accepted actuarial practice. As mandated assumptions are often actuarial assumptions, the DG believes that the criteria of “plausibility” is too weak.

6. Section 4400 – Capitalized Value of Amounts Other Than Pension Plan Benefits for a Marriage Breakdown

Comment

The examples included in paragraph 4410.01 should be expanded to include items such as the capitalized value of lost business income.

DG Response

Depending on the circumstances, the DG agrees that the guidance provided in part 4000 may be applicable for an actuary who is engaged to estimate the capitalized value of amounts that are determined by another expert, such as lost business income, in the context of a dispute resolution proceeding. The examples included in paragraph 4410.01 are illustrative only, include the more common situations, and are not a complete list. The DG elected not to expand the list by adding complex examples.

Comment

As paragraph 4430.04 in the exposure draft addresses reporting issues, the guidance in this paragraph should be copied or moved to the reporting section.

DG Response

Paragraph 4430.04 has been moved to the reporting section (4710.01 in the attached document).

7. Section 4500 – Reporting (4700 in the attached document)

Comment

It was suggested that this section be moved to the end of part 4000, as it applies to all other sections of part 4000 and would improve consistency with other parts of the standards.

DG Response

Section 4500 has been moved to the end of part 4000 to become section 4700, with the appropriate renumbering.

Comment

It was suggested that paragraph 4510.01 (4710.01 in the attached document) should be compared to paragraph 1820.01, for the purposes of eliminating any significant redundancies and improving the wording of paragraph 4510.01 (4710.01 in the attached document).

DG Response

The DG compared the two paragraphs, and introduced only minor wording changes as there are no significant redundancies.

Comment

A number of comments were made with respect to the bullet points listed in paragraph 4510.01 (4710.01 in the attached document), including:

- Various changes were proposed for the fourth bullet point regarding the independence of the actuary, including the addition of examples and the replacement of the word “reasonably” with “plausibly”;
- One commenter suggested that the ninth bullet point should be revised to require the disclosure of all margins in the assumptions, including those assumptions which are mandated; and
- One comment that related to the eleventh bullet point suggested that the actuary should be required to disclose all sources of information and not just those on which he or she has relied.

DG Response

With respect to the fourth bullet point, the DG concluded that examples are not needed and that the word “reasonably” is preferable to “plausibly”, and hence made no changes.

The DG believes that it is not necessary to require disclosure of any margins in mandated assumptions, and in fact the identification of possible margins in mandated assumptions could be problematic for actuarial evidence practitioners. Hence, the DG has left the wording in the ninth bullet point unchanged. It should be noted that all assumptions are to be described in the actuary’s report, including those that are mandated.

In actuarial evidence work the actuary is often provided with significant amounts of information, much of which may not be used. It would seem inappropriate and potentially misleading to require disclosure of all information, including that which is not used. Hence no changes were made to the eleventh bullet point.

Comment

It was suggested that the guidance in paragraph 4160.01 of the current standards, where the actuary’s report should be sufficiently detailed to enable another actuary to reproduce the calculations approximately, should be retained and added to the proposed wording.

DG Response

The DG believes that the wording included in paragraph 4510.02 of the exposure draft (4710.02 in the attached document), where the actuary’s report should be sufficiently detailed to enable another actuary to assess the reasonableness of the results, is more appropriate than the suggested wording for a minimum standard and is more consistent with other parts of the standards. The DG has not revised paragraph 4510.02 (4710.02 in the attached document). Nevertheless, more complete disclosure, as suggested, may represent good practice in many cases.

Comment

The sample disclosure wording shown in paragraph 4510.04 (4710.04 in the attached document) should be revised to cover a wider range of circumstances, and consideration should be given to elevating this wording to standard reporting language.

DG Response

Given the wide range of actuarial evidence work, the DG concluded that it would not be feasible to establish standard reporting language and that the disclosure wording included in this paragraph should be sample wording only. As a result, no changes were made.

Comment

With respect to paragraph 4510.06, it was noted that the wording in paragraph 1820.23 may be preferable and includes more examples.

DG Response

The DG has consolidated paragraphs 4510.05 and 4510.06 (4710.05 in the attached document), and deleted some of the wording in view of the guidance already included in paragraph 1820.23.

Comment

One comment advised that the wording of paragraph 4510.08 (4710.07 in the attached document) is somewhat inconsistent with sections 1515 and 1520 in the General Standards. It was suggested that paragraph 4510.08 (4710.07 in the current document) be reviewed, and the consistency with the General Standards improved or the differences clarified.

DG Response

The DG has revised paragraph 4510.08 (4710.07 in the attached document) to improve consistency with the General Standards, where appropriate, and to retain the intended differences.

8. Section 4600 – Commuted Value of Pension Plan Benefits for a Marriage Breakdown (4500 in the attached document)

Comment

One comment pointed out that the effective dates of the italicized recommendations in this section had been updated in the exposure draft, but the dates should remain the same as those in the current standards.

DG Response

The DG agrees with this comment, and the effective dates of the recommendations in this section are now the same as those in the current standards.

9. Section 4700 – Computations of Criminal Rates of Interest (4600 in the attached document)

Comment

Very few comments were received on this section. One submission suggested that the title should refer to calculation instead of computations, and another suggested that the reporting of a result of zero should be required in paragraph 4730.02 (4630.02 in the attached document).

DG Response

The DG agreed with these suggestions, and made the appropriate changes.

DUE PROCESS

The ASB's Policy on Due Process for the Adoption of Standards of Practice has been followed in the development of these revisions to the Practice-Specific Standards for Actuarial Evidence and related paragraphs of the General Standards.

EFFECTIVE DATE AND EARLY IMPLEMENTATION

These final standards are effective on December 31, 2013. Early implementation is encouraged.

ADP, NY