

Frequently Asked Questions About Professionalism and Cross-Border Practice

We often receive questions about the professional obligations of Canadian actuaries practicing in the United States and about U.S. actuaries practicing in Canada. The Canadian Institute of Actuaries (CIA) has entered into a Cross-Border Discipline Agreement (Cross-Border Agreement) with the American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries. That agreement establishes certain obligations of Canadian actuaries practicing in the United States and of U.S. actuaries practicing in Canada. Below are responses to the most frequent questions we receive concerning cross-border practice.

For the purposes of the questions below, the term “Canadian actuary” (or any plural of that term) refers to members of the CIA. The term “U.S. actuary” (or any plural of that term) refers to an actuary who is a member of at least one of the five U.S.-based actuarial organizations that are a party to the Cross-Border Agreement.

The responses to the questions below do not cover every situation that may arise under the Cross-Border Agreement. Rather, they are intended to address the questions that we most often receive about cross-border practice. The responses below provide general information and are not official constructions of the Cross-Border Agreement and do not alter, amend, modify, or supersede its terms in any way.

I. Determining Whether an Actuary is Practicing in Canada or the United States

Q: I am a Canadian actuary and am doing work for a U.S. principal. When am I considered to be “practicing in the United States”?

A: Under the Cross-Border Agreement, Canadian actuaries are treated as practicing in the United States if the ultimate purpose of their work is for use in the United States. The ultimate purpose is determined by whether the work is either

- (1) Performed pursuant to the legal or regulatory requirements of the United States, any state, county, city, or other U.S. governmental authority; or
- (2) Is intended for use in the United States.

For example, under the Cross-Border Agreement, a Canadian actuary is treated as practicing in the United States if the actuary's work is to be filed with a United States governmental body. Likewise, a Canadian actuary is treated as practicing in the United States if the work is intended to be used in the United States whether or not it is filed with a governmental body. These are just examples. Whether a Canadian actuary is treated as practicing in the United States will depend on the facts and circumstances of each situation.

The residence or physical location of the actuary when he or she performs the work is irrelevant to the determination of whether the actuary is practicing in Canada. Thus, a Canadian actuary living and working in Montréal and performing work for use in the United States is treated as practicing in the United States even if the actuary never leaves his or her office in Montréal in performing the work.

Q: Is the answer different if I am a Canadian actuary doing work for a Canadian principal but the work is intended to be used in United States?

A: No, the nationality of the principal is not relevant. What matters is the ultimate purpose as described above. If the work is performed pursuant to the United States legal or regulatory requirements or is intended for use in the United States, then the actuary is treated as practicing in the U.S. regardless of the principal's nationality or location.

Q: I am a U.S. actuary doing work for a Canadian principal. When am I treated as "practicing in Canada"?

A: The analysis of whether U.S. actuaries are practicing in Canada mirrors that used to determine whether Canadian actuaries are practicing in the United States. U.S. actuaries are practicing in Canada when their work is performed pursuant to the legal or regulatory requirements of Canada, a Canadian province, a Canadian city, or other Canadian governmental authority, or is intended for use in Canada.

The actuary's physical location when performing the work, and place of residence, are irrelevant in determining whether the actuary is practicing in Canada. Likewise, the location or nationality of the principal is irrelevant in making the determination. The ultimate purpose of the work as described above is dispositive.

II. What Rules Apply When Practicing in Canada or in the United States?

Q: I am a Canadian actuary practicing in the United States as described above. What rules of professional conduct apply to me?

A: When practicing in the United States, Canadian Actuaries must comply with

- (a) The [Code of Professional Conduct](#);
- (b) The [Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion in the United States](#) (U.S. Qualification Standards); and
- (c) The [Actuarial Standards of Practice](#).

Q: I am a U.S. actuary practicing in Canada as described above. What rules of professional conduct apply to me?

A: When practicing in Canada, U.S. actuaries must comply with

- (a) The Canadian [Rules of Professional Conduct](#);
- (b) The Canadian [Standards of Practice](#) applicable in Canada; and
- (c) [Eligibility requirements](#) of the CIA.

Q: I am both a U.S. actuary and a Canadian actuary. What rules of professional conduct apply to me?

A: The answer will depend on where you are practicing. If you are practicing in Canada, as described above, then you must comply with the Canadian Rules of Professional Conduct, the Canadian Standards of Practice, and the eligibility requirements of the CIA. If you are practicing in the United States, as described above, then you must comply with the Code of Professional Conduct, the U.S. Qualification Standards, and Actuarial Standards of Practice.

III. Who Investigates and Resolves Complaints and Other Disciplinary Matters?

Q: I am a Canadian actuary or a U.S. actuary practicing in Canada. If a complaint is filed against me, who investigates that complaint?

A: When an actuary is practicing in Canada, as defined above, questions concerning that actuary's practice are investigated by the CIA in accordance with its rules and bylaws.

Q: I am a Canadian actuary or a U.S. actuary practicing in the United States. If a complaint is filed against me, who investigates that complaint?

A: Questions concerning an actuary's practice in the United States will be investigated by the Actuarial Board for Counseling and Discipline (ABCD). If the actuary is a Canadian actuary but not a U.S. actuary, then the findings and recommendation of the ABCD will be reviewed by the Academy under its rules and bylaws as if the Canadian actuary were a member of the Academy. If the actuary is both a Canadian actuary and a U.S. actuary, then the findings and

recommendation of the ABCD will be reviewed by each of the U.S.-based organizations of which the actuary is a member under its rules and bylaws.

Q: What happens in cases in which it is not clear whether the actuary is practicing in Canada or in the United States as described above? Who makes the decision then?

A: In cases in which it is unclear whether a complaint, inquiry, or incident should be investigated by the CIA or the ABCD, the CIA's executive director and the ABCD's legal counsel will discuss the matter and determine which body will investigate the complaint, inquiry, or incident.

IV. Handling of Complaints, Inquiries and Investigations of Canadian Actuaries Practicing in the United States

Q: I am a Canadian actuary but not a U.S. actuary practicing in the United States as described above and a complaint is filed against me or an inquiry is begun against me. What happens next?

A: The ABCD will investigate the question concerning a Canadian actuary's practice in the United States using its rules and procedures about whether a violation of the Code of Professional Conduct, the U.S. Qualification Standards, or the Actuarial Standards of Practice has occurred. The Academy will review the ABCD's investigation of that question as if the Canadian actuary were a member of the Academy.

Q: I am a Canadian actuary but not a U.S. actuary practicing in the United States and am found to have violated the Code of Professional Conduct, the U.S. Qualification Standards, or the Actuarial Standards of Practice. Can I appeal those findings to the CIA?

A: No. Under the Cross-Border Agreement, a determination that a Canadian actuary violated the applicable Code of Professional Conduct, Qualification Standards, or Actuarial Standards of Practice made by the ABCD and reviewed by the Academy is conclusive. The CIA does not review that determination. You may appeal a determination of a violation of the applicable U.S. rules using the procedures available for appeal in the United States, but once the determination of a violation is made in the U.S. and all appeals are exhausted, that determination is conclusive in Canada with respect to violations determined to have occurred while practicing in the United States.

Q: How does the Academy communicate to the CIA when it has determined that a Canadian actuary has violated the applicable rules while practicing in the United States?

A: When the Academy makes a public determination that a Canadian actuary has violated the applicable rules while practicing in the United States, it will send the following materials to the CIA:

- (1) The ABCD's findings and conclusions;
- (2) A summary of the Academy's conclusions; and
- (3) Upon request from the CIA, all additional documents not subject to the lawyer-client privilege or the lawyer work product doctrine.

Q: Does that mean that the Academy will impose a penalty that is automatically adopted or imposed on me by the CIA, such as a public reprimand, a suspension, or expulsion?

A: No. If you are a Canadian actuary but not a U.S. actuary, then any penalty imposed upon you for violation of the applicable Code of Professional Conduct, U.S. Qualification Standards, or Actuarial Standards of Practice while practicing in the United States is determined by the CIA. Under the Cross-Border Agreement, the CIA retains sole authority to determine the penalty to be imposed upon one of its members based upon a determination that the member breached the applicable rules when practicing in the United States.

Q: Can the U.S.-based organizations recommend a penalty?

A: No. The U.S.-based organizations will not recommend any specific penalty be imposed upon a Canadian actuary based upon a violation of the applicable rules while practicing in the United States. The U.S.-based organizations may, however, recommend that the CIA consider public discipline against a Canadian actuary for violation of the applicable rules while practicing in the United States.

Q: How does the CIA determine the penalty for one of its members found to have violated the applicable rules while practicing in the United States?

A: The CIA will make its own penalty determination using its own rules and procedures and applying its own standards.

Q: I am a Canadian actuary who is found to have violated the applicable rules while practicing in the United States. Can I be disciplined for violating the applicable Canadian rules based on my conduct while practicing in the United States?

A: It is possible that certain conduct of a Canadian actuary while practicing in the United States may also violate applicable rules in Canada. For example, Rule 1 of the Rules of Professional Conduct prohibits Canadian actuaries from engaging in dishonest, fraudulent, or deceitful conduct, making misrepresentations or otherwise committing acts that reflect adversely on the actuarial profession. If your conduct in violation of the applicable rules while practicing in the United States also falls into one of those forbidden categories, you could be subject to discipline by the CIA for violation of the Rules of Professional Conduct as well. Whether conduct found to violate the applicable rules while practicing in United States gives rise to an independent violation of the rules applicable to Canadian actuaries will be made on a case-by-case basis and pursuant to the rules and procedures of the CIA.

V. Handling of Complaints, Inquiries and Investigations of U.S. Actuaries Practicing in Canada

Q: I am a U.S. actuary practicing in Canada as defined above and a complaint is filed against me or an inquiry is begun against me. What happens next?

A: The CIA will investigate the complaint or handle the inquiry using its rules and bylaws and will determine whether a violation of the Canadian Rules of Professional Conduct, Standards of Practice, or eligibility requirements has occurred.

Q: I am a U.S. actuary practicing in Canada and am found to have violated the Canadian Rules of Professional Conduct, the Canadian Standards of Practice, or eligibility requirements of the CIA. Can I appeal those findings to the U.S.-based organizations of which I am a member?

A: No. Under the Cross-Border Agreement, a determination by the CIA that a U.S. actuary violated the applicable Rules of Professional Conduct, Standards of Practice, or eligibility requirements is conclusive. No U.S.-based actuarial organization reviews that determination. You may appeal a determination in Canada using the procedures available for appeal in Canada, but once the determination of a violation is made in Canada and all appeals are exhausted, that determination is conclusive in the United States with respect to violations determined to have occurred while practicing in Canada.

Q: How does the CIA communicate to the U.S.-based organizations when it has determined that a U.S. actuary has violated the applicable rules while practicing in Canada?

A: When the CIA makes a public determination that a U.S. actuary has violated the applicable rules while practicing in Canada, it will send to each U.S.-based organization of which the subject actuary is a member the following materials:

- (1) The transcript of proceedings before the Disciplinary Tribunal;
- (2) The transcript of proceedings, if any, before the Appeal Tribunal;
- (3) The findings of the Disciplinary Panel;
- (4) The findings of the Appeal Panel, if any; and
- (5) If requested by a U.S.-based organization, all additional documents and evidence considered by the tribunals in making their decisions except for documents that are subject to the lawyer-client or other litigation privilege.

Q: Does that mean that the CIA will impose a penalty that is automatically adopted or imposed on me by my membership organization in the United States, such as a public reprimand, a suspension, or expulsion?

A: No. Under the Cross-Border Agreement, if you are a U.S. actuary but not a Canadian actuary, then any penalty imposed upon you for violation of the applicable Rules of Professional Conduct, Standards of Practice, or eligibility requirements while practicing in Canada is determined by each of the U.S.-organizations of which you are a member or by whatever

mechanism the U.S.-based organizations use when the U.S. actuary is a member of more than one such organization. Under the Cross-Border Agreement, each U.S.-based organization retains sole authority to determine the penalty to be imposed by that organization upon one of its members, based upon a determination by the CIA that the member breached the applicable rules when practicing in Canada.

Q: Can the CIA recommend a penalty?

A: The CIA will not recommend any specific penalty be imposed upon a U.S. actuary based upon a violation of the applicable rules while practicing in Canada. The CIA may, however, recommend that U.S.-based organizations consider public discipline against a U.S. actuary for violation of the applicable rules while practicing in Canada.

Q: How does a U.S.-based organization determine the penalty for one of its members found to have violated the applicable rules while practicing in Canada?

A: Each U.S.-based organization will make its own penalty determination using its own rules and procedures and applying its own standards.

Q: I am a U.S. actuary who is found to have violated the applicable U.S. rules while practicing in Canada. Can I be disciplined for violating the applicable U.S. rules based on my conduct while practicing in Canada?

A: It is possible that certain conduct of a U.S. actuary while practicing in Canada may also violate applicable rules in the United States. For example, Precept 1 of the Code of Professional Conduct prohibits U.S. actuaries from engaging in dishonest, fraudulent, or deceitful conduct, making misrepresentations, or otherwise committing acts that reflect adversely on the actuarial profession. If your conduct in violation of the applicable rules while practicing in Canada also falls into one of those forbidden categories, you could be subject to discipline by your U.S.-based organization for violation of the Code of Professional Conduct as well. Whether conduct found to violate the applicable rules while practicing in Canada gives rise to an independent violation of the rules applicable to U.S. actuaries will be made on a case-by-case basis and pursuant to the rules and procedures applicable in the United States.