

Response to Practice Code 12 consultation

Comments from the Association of Consulting Actuaries



ASSOCIATION OF CONSULTING ACTUARIES

PRESS RELEASE: IMMEDIATE

ACA says Code 12 must make it clear that most normal corporate activities will not be in scope

2 July 2021 - The Association of Consulting Actuaries (ACA) in its [response to the TPR consultation on the revised Code of Practice 12](#) has said that the Code and related guidance must make it clear that most normal corporate activities will not be drawn into scope. The Code should state clearly that only the listed circumstances would be expected to result in any of the tests being met. Importantly, more clarity is needed on material detriment given this Code will be cross referenced from TPR's criminal offences guidance which carries significant penalties.

ACA Chair, Patrick Bloomfield, comments:

"We welcome the positioning in the TPR press release on this Code that the new tests should not significantly shift current approaches in this area. However, these new tests, especially as they found their way into the then Bill and then the Act, with limited discussion, have caused considerable concern and we think it important that this Code and its related guidance makes clear that most normal corporate activities will not be drawn into scope.

"In addition, this Code and guidance are cross referenced from the draft criminal offences guidance which TPR consulted on recently – in particular, the references to material detriment. In our response to that consultation we noted that this was helpful but that the Code and guidance needed to be tightened to reflect the more significant penalties and increased scope of these new powers. More clarity needs to be added on material detriment, from this perspective."

The ACA response adds that more examples are needed illustrating where the tests would be **unlikely to be met**, in order to provide comfort that normal corporate activity, with minor and possibly temporary potential detriment to the scheme, should not be drawn into scope. The "payment of dividends to parent company" example in the present code-related guidance should be retained.

For further comment:

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About the Association of Consulting Actuaries (ACA)

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