Association of Consulting Actuaries Limited · First Floor (129) · 40 Gracechurch Street · London · EC3V 0BT
Tel: +44 (0)20 3102 6761 · Email: acahelp@aca.org.uk · Web: www.aca.org.uk

7 January 2021

regulation@actuaries.org.uk

Regulation Team (Ref: APS P1 Review)
The Institute and Faculty of Actuaries
Level 2 Exchange Crescent
7 Conference Square
Edinburgh
EH3 8RA

Dear Sirs

APS P1 Review: Consultation response

I am writing on behalf of the Association of Consulting Actuaries in response to the above consultation. Our responses to the survey questions are set out in the Appendix to this letter.

In general, we are in favour of the revised version and welcome the streamlining and clarity. We have a few areas where we think the drafting as stands might result in unintended consequences and these are set out in our response.

We hope that you find the contents of this letter of assistance. We would be happy to discuss them further if that is helpful. In that event, please contact david.robertson@aca.org.uk

Yours faithfully

Jenny Richards
Chair, Professional Affairs Committee
On behalf of the Association of Consulting Actuaries Limited

APPENDIX

About you

1. Personal information

Name:	Jenny Richards
Position:	Chair of the Association of Consulting Actuaries' Professional Affairs Committee

2. Region

UK	x	India	
Republic of Ireland		Asia - other	
Rest of Europe		Canada	
South Africa		USA	
Africa - other		South or Central America	
South East Asia		Australia	
Hong Kong		Oceania - other	
China			

3. Are you a Member of the IFoA?

Yes	x	No	

4. If yes, which category of membership do you hold?

Affiliate		Honorary Fellow	
Associate		Retired	
Certified Actuarial Analyst		Student	
Fellow	x	Student Actuarial Analyst	

5. If you are an actuary, what is your main practice area? (Answer one option only)

Life Assurance		Enterprise Risk Management	
General Insurance		Health and Care	
Pensions	x	Resource and Environment	
Finance and Investment		Other	

If other, please specify:

6. Do you want your name to remain confidential?

Yes		No	x

7. Do you want your comments to remain confidential?

Yes		No	x

8. About your organisation (if applicable)

Name:	Association of Consulting Actuaries

9. Type of organisation (Answer one option only)

Consultancy		Public body or Regulator	
Insurance company or reinsurer		Educational Establishment	
Bank or Building Society		Not applicable	
Investment Firm		Other	x

If other, please comment:

Association representing UK consulting actuaries

10. How many IFoA Members (if any) does your organisation employ?

None		101+ Members	x
2-10		Sole practitioner	
11-50		Don't know	
51-100		Not applicable	

11. Do you want the name of your organisation to remain confidential?

Yes		No	x

12. Do these comments represent your own personal views or your organisation's views?

Personal views		Organisation's views	x
Both personal views and organisation's views			

APS P1

The following questions are in relation to your/your organisation's views on the proposed introduction of the revised APS P1:

13. Do you agree with the proposal to withdraw the current version of APS P1 and replace it with the revised version?

Yes	x	No	
Comments (please specify): The Association of Consulting Actuaries ("ACA") is, in general, supportive of the extra clarity and streamlining and we welcome the introduction of the revised version of APS P1.			

14. Overall do you think that the requirements contained in the revised APS P1 are relevant and appropriate?

Yes		No	x

Comments (please specify):

There are a few areas where the ACA considers that additional wording is required compared with the current draft. The reasons for the additional wording are divided into two areas. Firstly, to ensure parity for Employer Adviser (“EA”) with the requirements on Scheme Actuaries (“SA”) and, secondly, limiting the scope of the responsibilities falling on these kinds of advisers to that which is within reason for their job.
Concerning parity of the requirements on EAs with those on SAs:

- 5.1 requires a mechanism to ensure that the EA is made aware of the Conflicts Management Plan (“CMP”), and also a get out from the requirement of 5.1 if they are not made aware.
- 5.2 should have “Where the EA is aware…” included, as in 4.2 for a SA.

Concerning the scope of the requirements:

- 3.1.1. We believe that the wording is intended to extend those entities that are required to be informed to governing bodies that are not trustee boards. However, as these already come under the definition of ‘trustees’, the way it is worded implies the requirement to tell other parties e.g. lawyers etc which we do not consider to be the intention. We would recommend that this is limited to ‘trustees’ only.
- 3.1.1. We have concerns that the effective extension of para 4.1 of the existing APS P1 to include “the security of members’ benefits” represents a significant widening of the scheme actuary’s obligations (beyond the financing of the scheme which is more clearly within the SA’s statutory role). There are many actions that could have a significant adverse impact, for example payment of dividends by the sponsoring employer. As a minimum, we consider that this should be restricted to actions that could have a ***significant*** adverse impact.
- 4.5.4. we consider needs clarifying to ensure it is clear that it does not encompass ***legal*** implications of agreeing to the CMP.

15. Do you think that Members' obligations under the revised APS P1 are clearly set out?

Yes		No	x
Comments (please specify): • 5.2. we consider that the meaning of "has the opportunity to put a CMP in place" should be clarified.			

16. Do you agree that the scope of the revised APS P1 is appropriate?

Yes	x	No	
Comments (please specify): We consider that expanding the current population covered by this guidance is appropriate and should be welcomed. We do, however, seek that the IFoA ensures that the requirements are level across all types of firm and advising actuary and have provided our comments in this regard. In addition to those comments made under 14., we think the scope of 4.2 should be extended to include Other Actuarial Advisers ("OAA"). We consider that the same conflicts apply to this situation as to when a SA's firm advises more than one party and it is therefore important to be clear that the same requirements apply in both circumstances. If this extension is considered appropriate, then the definition of EA would need to be expanded to cover those who work in the same firm as OAAs and 4.5 extended to include OAAs.			

17. Do you think the key terms within the revised APS P1 are sufficiently well defined? If no, which of these terms would you amend?

Yes	x	No	
Comments (please specify):			

18. Overall, for provisions of the revised APS P1 that apply to work outside of the UK, do you agree that they are relevant and appropriate?

Yes	x	No	

Comments (please specify):

We agree that the provisions are appropriate. However, we note the uncertainty in interpretation arising as a result of entities outside of the UK being very varied in terms of structure and regulations.

In particular, uncertainty over whether certain roles create an Equivalent Scheme Actuary ("ESA") (with the resultant implications stemming from the APS). We have provided some examples below, based on specific experience, but there are, no doubt, many others and this is what we consider may result in difficulty in interpreting scope of the APS:

- When the actuary's primary role is to calculate benefits based on prescribed assumptions and plan rules, but there are "grey areas" for which the actuary makes recommendations for interpretation. For example, "umbrella" DB plans for Internationally Mobile Employees.
- When the IFoA actuary is providing actuarial advice in conjunction with a local actuary who has local professional responsibility. For example, an IFoA providing actuarial advice to the Foundation Board of a Swiss Pension Foundation that also has an appointed "expert agréé en matière de prévoyance professionnelle" who takes professional responsibility for funding reports to the Board and to the local pensions regulator.
- When the only governing body of a plan is the sponsoring company itself. For example, unfunded plans in the UK or overseas – i.e. plans that are financed through the sponsoring company's balance sheet rather than by segregated assets.

19. Do you think that anything substantial has been lost in the revised APS P1 as **compared to the current version of the APS?**

Yes		No	x

Comments (please specify):

- Section 2, with 2.6 in particular, we consider should be made clearer that this relates only to deadlines that are relevant to SA or ESA responsibilities (like it is in the existing APS P1).

20. **Do you have any other comments on the requirements and provisions of the revised APS P1?**

Yes	x	No	
Comments (please specify):			

- 2.5.2, we think that the reference to 2.4.1 should really be to 2.5.1.
- Sections 2-5, we consider that it might be preferable, instead of referring to ESA each time, for brevity, to use the same technique as appears at the beginning of the appendix (ie “references to SA also apply to ESA where relevant”).

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