ASSOCIATION OF CONSULTING ACTUARIES

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audit.consultation@beis.gov.uk

Dear Sirs

Restoring trust in audit and corporate governance - Consultation on the government's proposals

I am writing on behalf of the **Association of Consulting Actuaries (ACA)** in response to the above consultation. Our thoughts are set out in the Appendix to this letter. They relate to the questions relating to regulation of actuarial work only.

We support the high level principles behind the proposed regime. We also support the aim of enhancing public confidence in the sector and in the work undertaken by actuaries.

In particular, we note that the consultation is not recommending a material change from the existing one, which is generally accepted to be working. We do hold some concerns, however, which relate not to the principles but to the implementation.

As an organisation we are the representative body of UK consulting actuaries and we are keen to be closely involved in the drafting as we consider that it is vital that the draftsmen understand that actuarial work is fundamentally different from audit so needs to be considered separately.

In addition, we are very aware of the regulation that already exists for certain work undertaken by actuaries and this needs to be taken into account to avoid overlap which will muddy the waters and potentially dilute the protections currently in place.

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 on 020 3102 6763 or at david.robertson@aca.org.uk in the first instance.

Yours faithfully

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

APPENDIX

Response from Association of Consulting Actuaries (ACA)

11.2 Oversight and regulation of the actuarial profession

80. Is ARGA the most appropriate body to undertake oversight and regulation of the actuarial profession?

Yes, subject to the points we raise in the following questions, we consider that ARGA is the most appropriate body to undertake oversight and regulation of the actuarial profession.

In addition, it is only yes provided ARGA has a suitable and distinct actuarial function. Actuarial regulation must be viewed independently and can't be an adjunct to audit, as it is different and has different needs.

81. Should the regime for overseeing and regulating the actuarial profession be placed on a strengthened and statutory basis?

Yes.

We, like the authors of this consultation, do not consider that the current regime has or is failing to regulate actuaries effectively. However, we agree that placing the regime on a statutory basis with clearly defined roles will give improved clarity and confidence in the process and so enhance credibility, influence and confidence of and in the profession and we are therefore supportive of this consultation.

There are real risks that inadvertently increasing the scope of actuaries' work covered by the new regime would result in a two tier system, with work undertaken by actuaries subject to higher quality standards (with higher associated costs) and work carried out by non-actuaries not (with lower associated costs). This would not be in the public interest, as it would lead to more work being undertaken by non-actuaries, who would be subject to less rather than greater scrutiny.

The scope of regulated work should be restricted to work that can reasonably be expected to be carried out primarily or exclusively by actuaries or in which actuaries are particularly suited by virtue of their professional knowledge and training.

We would expect the scope to include, as a minimum, all reserved work (which can only be carried out by actuaries). We believe that the list of work covered by the current TAS300 forms a comprehensive and suitable list of these types of work (noting that we are responding on behalf of the Association of Consulting Actuaries, not for the entire profession, so the work that would be covered by this new regime we are primarily concerned with is that of scheme actuaries and other pensions consultants).

In addition, considering the other side of the coin, to the extent that the scope of work includes work that can be carried out by non-actuaries, we consider that it is important the regime is sufficiently flexible/robust to ensure that all practitioners regardless of qualification carrying out work deemed to be of high public interest, should be covered by the same ethical and regulatory standards.

82. Do respondents support the proposed principles for the regulation of the actuarial profession? Respondents are invited to suggest additional principles.

Yes, we support the proposed principles for regulation.

Our primary concern is that it is important to avoid duplication of regulatory oversight with the existing oversight functions of other Regulatory bodies, for example, The Pensions Regulator (TPR), the Institute and Faculty of Actuaries (IFoA), The Financial Conduct Authority (FCA), the Prudential Regulation Authority (PRA) and the Government Actuaries Department (GAD) as to do so might muddy the waters on oversight. It is therefore vitally important that a key part of drafting the new regime consists of collating information and talking to stakeholders to identify those roles where this is required.

83. Are the proposed statutory roles and responsibilities for the regulator appropriate? Are any additional roles or responsibilities appropriate for the regulator?

Yes – as noted above, as long as there is no duplication of roles with other regulatory bodies, including TPR and the IFoA, then the proposed statutory roles and responsibilities seem appropriate on a high-level review.

As an example of the complexity of this task and the need to engage with all stakeholders:

- It will be necessary to formally define what “monitoring activity” means. The actuarial professions’ Quality Assurance Scheme (QAS) effectively carries out the role of monitoring compliance with Technical Standards on behalf of the IFoA, with ultimate responsibility lying with the QAS-accredited firms.
- Whether QAS monitoring is as effective as intended remains to be seen, given the infancy of the regime. External monitoring could be problematic if carried out by competitor firms acting in a delegated capacity, given the potential for commercially sensitive information to be shared. This aspect and other possible conflicts would have to be considered very carefully and in the context of ensuring efficient and cost-effective regulation and monitoring.
- In addition, there are a number of firms operating in the actuarial advice arena that have chosen at this stage not to be QAS-accredited who may therefore (at present) fall outside such a monitoring regime.

84. Should the regulator continue to be responsible for setting technical standards? Should these standards be legally binding? Should the regulator be responsible for setting technical standards only?

In our view the regulator should be responsible for setting technical standards only and these should be legally binding. However, if the technical standards are to be made legally binding then their scope should be reduced to include actuarial work only where there is a high degree of risk to the public interest and that work cannot normally be done by non-actuaries (who would not be subject to the same standards).

We believe that the IFoA is better placed to set any other standards that it deems appropriate for actuaries, including ethical standards. ARGA’s direct regulation should only extend only to work under the technical standards which ARGA has set, with the remainder of ARGA’s role being oversight of the IFoA.

85. Should the regulator be responsible for monitoring compliance with technical standards? Should it also consider compliance with ethical standards if necessary?

We consider that ARGA should be responsible for monitoring compliance with technical standards, although it may agree to work with the IFoA through the QAS scheme and thematic reviews for example in order to achieve this aim.

ARGA should consider ethical standards and compliance, we consider that standard setting, monitoring and regulation should in the first instance remain with and be referred to the IFoA. As a general principle, we consider that the standard setting body should be responsible for monitoring and regulating the standards it is responsible for setting (even if some activities are delegated to another body). In cases of material public interest we consider that it would be appropriate for ARGA to have powers with respect to ethical standards as well as technical standards.

86. Should the regulator have the power to request that individuals provide their work in response to a formal request - and to compel them to do so if necessary?

Yes, subject to the regulator being required to make a case for any compulsory disclosure and with appropriate protocols in place to maintain confidentiality and protection of the disclosing entity's intellectual property. In addition, the regime should ensure that compulsory disclosure should not put actuaries in legal jeopardy from clients/third parties.

87. Should the regulator have the power to take appropriate action if work falls below the requirements of the technical standards? What powers should be available to the regulator in these instances?

Yes. A wide range of graded powers should be available to the regulator so that appropriate action can be taken. It is important that any action is proportionate to the nature and extent of any non-compliance identified.

88. Do respondents agree with the proposed scope for independent oversight of the IFoA? In which ways, if any, should the scope be amended?

Yes, we consider that the proposed scope for independent oversight of the IFoA is appropriate and will provide increased credibility of the regulatory regime. This will improve public confidence in actuarial work and help to ensure consistently high standards across the profession.

89. Should the regulator's oversight of the IFoA be placed on a statutory basis? What, if any, powers does the regulator require to effectively fulfil this role?

We do not consider that placing the oversight on a statutory basis will deliver any significant improvement in the regime. It is unlikely that the IFoA would refuse to implement a recommendation without first actively engaging with ARGA and explaining its reasons. If a statutory regime were to be implemented, we have a strong view that it should require recommendations by ARGA to be considered by the IFoA on a comply or explain basis and so this would revert back to an equivalent non-statutory position in effect.

90. Does the current investigation and discipline regime remain appropriate? Should it be placed on a statutory basis? What, if any, additional powers does the regulator require to fulfil this role?

The current investigation and disciplinary regime is largely appropriate and fit for purpose.

If the oversight and regulation of the profession is to be construed on a statutory footing, then it seems appropriate and consistent to also ensure the investigation and discipline regimes are on a similar statutory basis.

It would be both necessary and desirable to ensure that the regulator is able to access relevant documentation, files, emails and advice so that they are able to effectively carry out their investigation work. Care would be needed for example to ensure that employers of actuaries are not able or incentivised to refuse to release documents (for example citing client confidentiality) where this might otherwise exonerate the individual from any alleged wrongdoing. It is also necessary that any regime gains the confidence of actuaries that they and their work will be subject to fair and transparent review.

91. Do respondents think that the regulator's remit should be extended to actuarial work undertaken by entities? What would be the appropriate features of such a regime, including the appropriate enforcement powers for the regulator?

In our view the regulator's remit should not be extended to actuarial work undertaken by entities. There are a number of reasons for this:

- The current position is that individual actuaries are professionally responsible for their work and are individually appointed to reserved roles. This is supported by the Actuaries Code, which states that "Members must show clearly that they take responsibility for their work when communicating with users". Therefore, the example situation set out in paragraph 11.2.28 of the consultation should never arise.
- Individual professional responsibility is a strength of the current system, and extending the regulator's remit to include entities could muddy the waters and potentially have unintended adverse effects such as greater prevalence of "house views" and a greater risk of "group think".
- The amount of work involved and the practical difficulties in setting up a new regime for registering and regulating actuarial entities would be considerable. A simpler and more cost effective and proportionate approach could be achieved via the regulator's oversight of the IFoA's Quality Assurance Scheme (QAS).

92. Should the regulator's independent investigation and discipline regime for matters that affect the public interest also apply to entities that undertake actuarial work? Should the features of the regime differ for Public Interest Entities?

We have not responded to this question as we are responding on behalf of the Association of Consulting Actuaries.

93. Does the regulator require any further powers in relation to its regulation and oversight of the actuarial profession?

No, we do not believe that any further powers are required.

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