Appendix 3 : Responses on a question by question base.

Question 1 : What statutory pension roles can only be fulfilled by an actuary ? Describe the functions covered.

AUSTRIA

All Austrian Pension funds (Pensionskassen) are required to have an Actuary (appointed by the Company and in most cases an employee of the Company) and on the other hand an actuarial supervisor ("Prüfaktuar"). The Prüfaktuar is also appointed by the company but has to be approved by the supervisory authorities. The Prüfaktuar is not allowed to be an employee of the company. The supervisory authority will ask if he/she is a member of the Austrian Actuarial Association (AVÖ) but this is only an additional criterion.

The functions of the Actuary are :

- Premium calculation and creation of products.
- Calculation of the actuarial figures in the balance sheet.
- Calculation of benefits, surrender value, etc….

The functions of the Prüfaktuar (actuarial supervisor) are :

- Actuarial audit of all calculation relevant to the insured persons (members of the VRG- "Veranlagungs- und Risikogemeinschaft" - investment and risk association) e.g. the balance sheet of the VRG, the compliance with the actuarial business plan.
- Audit confirmation of the balance sheet.
- Possibility of meeting the future benefits on the basis of the used actuarial figures (e.g. mortality tables).

BELGIUM

According to the Insurance Control Law (art. 40 bis) all pension funds have to appoint one or more actuaries. The management of the pension fund has the obligation to ask these 'appointed' actuary's <u>advice</u> on technical matters such as funding methods, reserving and reinsurance. These actuaries are required to have a university degree in actuarial sciences and an actuarial experience of at least 5 years.

The functions of the appointed actuary as described by the law and by the Controlling authorities (Controledienst voor de Verzekeringen CDV - Office de Contrôle des Assurances OCA, communication P 18) are :

- The 'appointed' actuary is asked to give a <u>motivated</u> advice before a new pension scheme or a change in an existing pension scheme is applied. His advice relates to the financial safety of the methods and assumptions used in funding and reservation; the justification of the reinsurance program (appropriateness to the risks covered by the pension fund, its technical elements like retention, limits, …);
- The actuary has to test the minimum funding requirements and calculate the legal solvency at least each year and when the accounts are issued. A report on the overall financial soundness of the pension fund is needed. If necessary improvement measures have to be proposed.

CROATIE

The pension reform in Croatia has not started yet. The planned start is 1st January, 2002. So far there are some laws regulating the pension reform, but the government has still a lot to do regarding legislation. Therefore the role of a pension actuary as such is not defined in many details (yet).

The Law on Pension Insurance Companies somehow defines (although not in many details) the role of an actuary in a pension insurance company (PIC) :

- PIC has to employ at least one actuary
- This actuary has to be a licensed actuary (by Ministry of Finance) and furthermore, the Supervisory Agency (the one which supervises the pension funds and PICs) must issue a special approval for this actuary to be able to work for a PIC. So far there are no pension actuaries (because there are no PICs at the moment and the Supervisory Agency has barely started to work).
- The PIC's actuary approves and signs the PIC's business plan, annual plan, quarterly and annual financial statements, actuarial statistical report, report on the technical reserves, pension program rules and is involved in all other actuarial issues in the PIC.

CYPRUS

All defined benefit plans are required to have an actuary to carry out a valuation with very few exceptions. The Company makes the appointment on behalf of the trustees. The trustees are usually employees and company representatives. The actuary is not a Scheme Actuary as in the UK. The role of the actuary is defined in the rules of the plan. The plans must be approved by Parliament as there is no standard legislation covering the setting up of pension funds, largely because the Cyprus Government established a universal social security plan covering all employed and self employed persons. The plan is compulsory. There are several pension plans for semi-government companies and local authorities and very few private plans.

The functions of the Actuary :
valuation at least once every 3 years. No minimum funding requirement.
The Actuary makes a proposal for the distribution of surplus or settlement of deficit.
The Actuary calculates the Standard Contribution Rate and Recommended Contribution Rate.
Individual transfer amounts are based on a defined formula and thus do not require the Actuary. Transfers can only take place between government and seem-government organisations and vice versa. Private company plans offer this option.

CZECH REPUBLIC

None

DENMARK

- The board of management shall ensure that the company has sufficient expertise for calculating technical provisions, etc.
- If the company holds an authorisation to carry on life assurance business, a responsible actuary approved by the Danish Financial Supervisory Authority shall be employed by the company to perform the necessary technical assurance functions, including calculations and investigations.
- The responsible actuary shall ensure that the company complies with its technical basis etc. In this connection the actuary shall review the actuarial content of the company's activities and any other material, including marketing material and bonus forecasts, and ensure that the technical basis etc., cf. section 30 of this Act, is at all times in accordance with the requirements laid down in section 31 (1) to (5) of this Act.

ESTONIA

In Estonia there are 2 types of pension schemes :

- The state pension (I pillar) that is regulated by the Law on State Pension Insurance (which entered into force in 1 April 2000) and is financed primarily from social tax revenues.
- Pension type of products that are sold as voluntary products by life insurance companies (III pillar)

Actuary is mentioned in Law of Insurance Activities. The law states the following (non-official translation) :

- The Actuary estimates the correctness and sufficiency of tariffs, calculates the reserves on the bases of actuarial methods, confirms that they are adequate and fulfil the requirements set by the law, and confirms that the free reserves are in accordance with required solvency margins.
- The appointed actuary in addition constructs the mortality tables and estimates the adequacy of the used tables, calculates the surrender values of the policies and performs actuarial profit analysis on the bases of individual policies and the whole portfolio. The appointed actuary estimates the impact of reinsurance treaties on technical reserves, sums insured paid, surrender values and actuarial profit on the basis of individual policies and the whole portfolio.

FINLAND

All pension insurance companies and pension funds have to have an appointed actuary who has to be a qualified actuary. The functions of the appointed actuary are described in the statute for the appointed actuary which is comparable to the one given by EU for life insurance companies. The functions of the actuary of a pension insurance company are the same as those concerning life insurance companies. The functions of the appointed actuary of a pension fund are :

- Valuation of the technical provisions at least every other year; annually if the pension fund provides statutory pensions. The calculation basis for pension funds providing statutory pensions are set by the Ministry of Social Affairs and Health. The Scheme Actuary is responsible of the calculation basis of an occupational pension funds.
- Statement to the board of the pension fund about the actuarial requirements for investment policy. For that also a 10 years (at least) projection of the pension expenditure etc. has to be made.
- Statement about the solvency of the pension fund if the fund provides statutory pensions.

FRANCE

Unlike some countries in France the title Actuary does not benefit from any protection and from a pure legal point of view anyone can say he is an actuary.
The French actuary has no statutory pension roles.

GERMANY

All pension funds (Pensionskassen) are required to have a Responsible Actuary (appointed by the board of the fund and to be confirmed by the supervising authorities). A Responsible Actuary has to be an experienced actuary but it is not mandatory for him/her to be a Fellow of DAV (German Actuarial Association). To meet the qualification requirements the actuary shall dispose of adequate knowledge in the field of actuarial theory and professional experience. He shall be deemed to dispose of adequate professional experience if he can furnish proof of having carried on an activity as actuary for at least three years.

The duties of the Responsible Actuary are :

- He shall insure that both the premiums and mathematical provisions are sufficient on reasonable actuarial assumptions.
- He shall investigate the financial situation of the undertaking in particular with a view to whether the undertaking is in a position to meet its liabilities under the insurance contracts at any time and whether it disposes of adequate resources in the amount of the solvency margin.
- He shall certify at the end of the balance sheet that the mathematical provision has been established according to section 341f of the Handelsgesetzbuch (Commercial Law) and specify in a report to the board of directors of the undertaking the underlying calculation bases and any additional assumptions for his certification.
- As soon as he realises on performing his legal duties that he will possibly not be able to grant the required certification or be able to grant only a qualified certification, he shall inform the board of directors and, if the board does not take any remedial action immediately, the supervisory authority without delay.
- For the purpose of insurance contracts with profit participation he shall submit to the board of directors proposals for adequate participation in such profits.

If the Pension Scheme is run as a book reserve plan or as a support fund involving a qualified actuary is not mandatory.

GREECE

Although “actuarial” valuations are performed sometimes, there are no statutory requirements and there is no legal definition of “actuary”.

In contrast to insurance companies, where the qualifications and the statutory roles of actuaries are strictly defined, there are <u>no legal standards in the pension schemes area</u>.

HUNGARY

All Hungarian Pension funds of II. pillar and insurance companies offering pension products are required to have an appointed Actuary . Auditors of Insurance companies are also required (from the year of 2000) to have actuarial professionals.(similar role to the role of The Prüfaktuar in Austria) The supervisory authority has to agree the actuarial nominations.

The functions of the Actuary in insurance company are :

- Annual actuarial reports
- Confirmation of the balance sheet
- Premium calculation and creation of products.
- Calculation of the actuarial figures in the balance sheet.
- Calculation of benefits, surrender value, etc….

The functions of the Actuary of Private pension funds

- Actuarial calculations relevant to the insured persons, e.g. the balance sheet , business plan.
- Confirmation of the business plans
- Annual actuarial reports
- Actuarial balance in every three years
- Calculation of benefits
- Pension projection (obligatory report on projected pensions in every year)
- Control of the return calculations
- Risk control

The functions of the Actuary of Auditing companies

- Actuarial audit of all calculation relevant to the insured persons
- Actuarial control of reported returns
- Audit confirmation of the balance sheet.

ICELAND

All Pension Funds in Iceland have to secure the services of an Actuary or of an individual approved by the Financial Supervisory Authority. The functions of the Actuary are to perform an annual valuation of the fund and to verify that the premiums are adequate to secure that the Fund is capable to pay the minimum compulsory pension to the members.

IRELAND

Under the Pensions Act, 1990, the Trustees of a defined benefit occupational pension scheme are required to have an actuarial valuation of the scheme carried out, and an actuarial funding certificate submitted to the Pensions Board, at least once every 3,5 years. Regulations under the Act define an actuary for this purpose as a Fellow member of the Society of Actuaries in Ireland who holds a pension scheme actuary practising certificate issued by the Society. In addition, other actuarial functions under the Act such as the calculation of transfer values and the determination of actuarial factors can only be undertaken by an actuary who has these qualifications.

The calculation of the actuarial value of pension entitlements for the purposes of the Family Law Acts must also be undertaken by a Fellow member of the Society of Actuaries in Ireland, or a Civil Servant duly authorised by the Minister.

ITALY

The actual role about pension funds and social welfare does not provide for any particular duty to be occupied by an actuary.

From article nr. 6 of the Decree 124/93 (that is one of the primary rules about social welfare) you understand that regarding to pension possibilities in a scheme of defined performances (and for its possible performances of invalidity or death) appropriate agreements are in any case stipulated with insurance companies.

Therefore among technical people who look for the pension fund there is no need for an actuary. Even if a fund has been authorised by Covip (Supervisor on pension funds) to distribute directly its income it has not been specified which person of the fund would be entrusted with the constitution of technical reserves and the calculation of the demographic and financial basis in order to use them for the conversion of the total amount in one’s life annuity.

We finally underline that in some pension fund regulations the presence of the actuary is expected, but this presence does not come from law but from the will of the management of the fund.

LATVIA

The Law on “Private Pension Funds” (enforced on 1 July 1998) does not require employing an actuary.

There are only defined contribution pension plans in Latvia. Pension funds operate only as capital accumulation institutions. In accordance with the law on “Private Pension Funds” pension funds are not allowed to pay instalments or annuities. Annuity can be bought in a life assurance company.

The law on “Private Pension Funds” can be found on the home page of Latvia Insurance Supervision Inspectorate.

LITHUANIA

None

LUXEMBURG

Since the pension law of 8 June 1999, with effect as at 01 January 2000, the actuarial administration of all pension plans (art 18 § 4), and more especially the financing plan can only be made by an approved actuary.

The circular 1/2000 in art. 18 describes how to obtain the approval which is given by the IGSS, Inspection Générale de Sécurité Sociale.

The financing plan includes the actuarial valuations of the pension plans, the calculation of the vested rights, the calculation of the minimum funding according to Luxembourg legislation and eventually of the shortfall. The pension administrator also certificates surrender values, individual transfer values. Standard documents have to be completed and sent to the IGSS. Some of these documents need the approval of the IGSS

NETHERLANDS

Non-insured pension funds need an annual actuarial report and an actuarial statement from a certifying actuary every year. Every pension fund has to make an annual report. The actuarial report has to comply with regulations issued by the supervisor called : "Actuarial Principles for pension funds".

Annually the actuary performs the capital adequacy test to check whether technical provisions set up for pension liabilities can indeed be considered sufficient. The actuary will also check whether the financial strength of a pension fund is sufficiently large. By this is meant all the additional resources that are available in a pension fund to secure its pension liabilities.

NORWAY

Regulations related to actuaries are laid down by the Ministry of Finance on 1 June 1990 pursuant to Section 8-7, second subsection, of Act. No. 39 of 10 June 1988 on Insurance Activity (hereafter referred to as "the Act"). Amended by regulations laid down by the Ministry of Finance on 3 December 1993 no. 1112 and on 22 September 1995. (Cf. Council Directive 92/49/eec and Council Directive 92/96/EEC.)

All occupational pension schemes administrated by a life insurance company or as a self-administrated pension fund shall have an appointed actuary (hereafter referred to as actuary) who is approved by the Banking, Insurance and Securities Commission.

The functions of the actuary are to ensure :

- that the company's insurance business at all times is conducted in an actuarial prudent manner
- That the calculation of the insurance fund and the contingency fund, and the revisions of the valuation basis, are done in accordance with Sections 8-2, 8-3 and 8-4 of the Act
- That the distribution of expenses, losses, income and funds etc. and the distribution of accumulated profit to policyholders and parties insured, is done in accordance with Sections 7-5 and 8-1, second and third subsection with regulations, of the Act
- That the company's premiums are not fixed in defiance of Section 7-6 of the Act with regulations
- That notifications from the company in accordance with Sections 7-5, 7-6 and 7-7 of the Act with regulations are submitted to the Banking, Insurance and Securities Commission
- That the requirement in Section 12-5 of the Act with regulations is fulfilled in respect of branch offices of foreign life insurance companies
- That statistics of the insurance portfolio are compiled.

PORTUGAL

Only the appointed actuary can:

- Make actuarial valuations
- Certify actuarial valuations
- Certify the level of cover of the responsibilities
- Certify the over funding in case of existing
- Certify the adequacy of the assets to the responsibilities. (ALM)

SLOVENIA

All pension schemes (of defined contribution) are required to be approved by an actuary who is appointed by the managing institution of the scheme (insurance company, insurance company specialised for pension benefits). In addition, the actuary has to be approved by the government authorities. If the managing institution is a bank, it has to contract out all the risks (except the investment risk during savings periods) to insurance company**.** In the latter case actuarial involvement is not required.

The functions of the Actuary are :

- Pricing and calculation of reserves for annuities, disability benefits and widow/er arrangements.
- Writing the annual report to the management board of the company and insurance supervisory authority.

SPAIN

All occupational defined benefit schemes under the Pensions Plan Law 8/1987 of June 8th are required to have a Scheme Actuary (appointed by the Control Commission of the Plan). A Scheme Actuary has to be Registered in Dirección General de Seguros (Spanish Supervisor).

The Law establishes that the Supervisory Authority has to keep a registry of the Actuaries that can certify the different aspects required by the Law. As a matter of fact all the registered actuaries are members of a local actuarial association because the law compels to that. The Supervisory Authority must also request to all the registered actuaries that they are legally allowed to work as an actuary and that they are covered by a professional liability insurance otherwise they must provide another type of financial guarantee.

Up to recently this was also applicable tot Defined Contribution Arrangements that were funded in the framework of the Law 8/1987, but now an actuary is no longer required. The functions of the Scheme Actuary are :

- At inception, certify that the plan is technically sound and produce a document called “Bases Técnicas” where the methods of calculation of liabilities and contributions and the actuarial assumptions to be used must be stated. This document needs to be approved by the “Comisón de Control” (a body

representing the employer and the employees with a majority of seats held by the employees) and any future amendment to it needs also to be approved by them.
- Valuation of the funding status and the contributions to be made (this needs to be performed at least once every three years). When an aggregate actuarial method was used the valuations had to take place every year (These methods are no longer allowed).
- Certify the amount of vested rights for those members leaving the plan.

SWEDEN

All pension schemes in Sweden are financed through either insurance, book-service, a separate pension fund called "stiftelse" or a combination of these (retirement pension through book reserve and disability- and family pension through insurance).

When the pension is financed through book-reserve or stiftelse the company keep the obligation in-house. The stiftelse is only a legally separated fund without obligations. The company is required to calculate their liabilities according to guidelines (actuarial assumptions) set out by the Swedish Supervisory Authority (Finansinspektionen). These requirements are valid both for accounting purposes, for the annual report, as well as for tax purposes. However there are no requirements that the valuation should be made by an actuary. Thus, there are no statutory requirements for the actuary specified. Often these valuations are made without direct actuarial involvement.

The insurance companies that cover pension obligations are required by law to have an appointed actuary. The insurance company normally employs the appointed actuary, who needs to be approved by the Swedish Supervisory Authority. The authorities set the out requirements that the appointed actuary shall meet. These requirements, which was increased in December 1999, contains requirement of

- Mathematical studies and studies in mathematical statistics, together equivalent to two and a half year fulltime university studies.
- Further academically studies in insurance-mathematics, economy and law
- Relevant actuarial experience for at least three years with an insurance company, at the Supervisory Authority or a consultant firm.

The law only states that the actuarial investigations at an insurance company shall be made under an actuary's supervision. The actuary, as well as the managing director and the board of directors, is by law liable for damages made deliberately or due to careless.
The authorities might in addition appoint an external actuary.

SWITZERLAND

- Performs the actuarial valuation of the fund.
- Certifies that legal minimum benefits are provided under the plan.
- Certifies the adequacy of the funding level and contributions.
- Recommends actions to be taken in respect of the above.

UNITED KINGDOM

All occupational defined benefit schemes are required to have a Scheme Actuary (appointed by the Trustees not the Company). A Scheme Actuary has to be a Fellow of the Faculty or Institute or an individual approved by the Secretary of State for Social Security.

The functions of the Scheme Actuary are :

- Valuation at least every 3 years on the prescribed basis for the Minimum Funding Requirement.
- Certification of the contributions payable (Schedule of Contributions)
- 2 Certificates in connection with contracting-out of the State Second Pension : one on quality of benefits, one on solvency of certain minimum benefits.
- Certification of Individual Transfers.
- Certification on employer debt on winding up.
- Certification of (bulk) transfers in case of mergers and acquisitions.
- Certification following an actuarial valuation that the scheme does not have an “excessive” surplus on a prescribed basis.
- Certification, at the time of modifying a scheme, that members’ entitlements or accrued rights are not adversely affected.
- Calculation and verification of liabilities according to statutory priority order when a pension scheme winds up.
- Certification of the value of pension benefits for the purposes of divorce.
- Production of relevant documents if required by the Occupational Pensions Regulatory Authority to discharge their statutory functions.

Question 2 : List any Guidance Notes or Practice Standards issued by your association specifically for pension actuaries.

AUSTRIA

RICHTLINIE 1.0/1997 (RL 1.0/97)

Empfehlung über den Inhalt des Prüfberichtes einer PENSIONSKASSE gemäss § 21 Abs. 8 PKG - Pensionskassengesetz.

(recommendation of the content of the actuarial audit report of a Pensionskasse according to the PKG - pension fund law).

RICHTLINIE 2.0/1997 (RL 2.0/97)

Empfehlung zur Berechnung des Unverfallbarkeitsbetrages gemäss § 7 Abs. (2a) und (2b), (BGBl. 282/1990 in der Fassung BGBl. 754/1996)

(recommendation how to calculate the value of non forfeitability according to the BPG - company pensions law).

BELGIUM

For the moment the Guidelines for the appointed actuary working for an insurance company or a pension fund are in preparation by our association of actuaries (Koninklijke Vereniging van Belgische Actuarissen - KVBA/ Association des Actuaires Belges - ARAB).

CROATIE

There are no Guidance Notes or Practice Standards issued specifically for pension actuaries.

CYPRUS

The CAA has adopted the following IOA Guidance Notes with some minor modifications. Example of modification is that there is no minimum funding requirement.
GN 9 Valuation Reporting
GN 26 Pension Fund Terminology
The CAA Actuaries follow International Accounting Standard 19 for DB and other similar plan valuation reports.

CZECH REPUBLIC

None

DENMARK

The Danish Society of Actuaries (Den Danske Aktuarforening) does not issue Guidance Notes or Practise Standards.

ESTONIA

There are no Guidance Notes or Standards for pension actuaries at the moment.

FINLAND

There is none.

FRANCE

There are not such Guidance notes or Practise Standards but since a couple of years each actuarial association has elaborated, is updating or is elaborating a conduct code (code déontologique). One of the FFA's roles is to insure consistency between each actuarial association. The FFA has 3 statutory commissions.

- The "commission scientifique" has for purpose to control the actuarial profession and the level of the studies within various actuarial schools.
- The "commission d'agrément" delivers approvals to actuaries entitling them to certify either experience mortality or disability tables.
- The "commission déontologie et discipline" is in charge to ensure that the professional etiquette rules are followed by its members. These rules are widely inspired by the rules set up by the IAA (International Actuarial Association).

The SACEI (the association of independent consulting actuaries the French section of the IACA) has also set up a conduct code.

GERMANY

Up to now there are no Guidance Notes or Practice Standards issued by our association specifically for pension actuaries.

GREECE

None

HUNGARY

No special guidelines

ICELAND

The Association has not yet issued specific Guidance Notes or Practice Standards for pension actuaries. According to Regulations on the operations of Pension Funds the Association shall issue the necessary tables and assumptions regarding the valuations of the funds, which the Association has done.

IRELAND

The Society of Actuaries in Ireland has issued the following Guidance Notes for pension actuaries :

GN3(ROI)	Actuarial Funding Certificates under the Pensions Act 1990
GN3A(ROI)	Funding Proposal under the Pensions Act 1990
GN9(ROI)	Retirement Benefit Schemes - Actuarial Report
GN11(ROI)	Retirement Benefit Schemes - Transfer Values
GN11A(ROI)	Calculations required under the Family Law Acts

In addition, the Society has adopted unaltered the following Guidance Notes issued by the Faculty and Institute of Actuaries :

GN13	Accounting for Pension Costs - FAS87
GN17	Accounting for Pension Costs - SSAP24
GN26	Pension Fund Terminology

ITALY

Hereafter some functions that need further investigations. These instructions emanate from the Commission of the national actuary council of pension funds.

Some systems, as Banca d'Italia, have promulgated internal instructions where the actuary is nominated only regarding to pension funds of defined benefits and only in conformity with the annual relation on the balance sheet.

A. Defined benefits funds :
   1. Compilation of technical balance sheet
   2. Constitution of plans for surrender values and transfer of previous seniority
   3. Estimation on changing norms
B. Defined contribution funds :
   The actuary estimations on defined contribution systems are limited and we can enumerate them as follows :
   - Projection of the amount of income, of expenditures and consequently of the funds available throughout the years
   - Projection of the possible results for the participants to the fund
   - Calculation of the premiums for further covers
   - Determination of the conversion coefficients of the amount in one's life annuity and drafting of technical balance sheets
   - Preparation of technical balance sheets in case the fund runs directly the calculation and the emanation of income, after having obtained the authorisation from Covip
   - Determination of the demographic structure of the pension fund and of the respective turnover indexes in order to fix correctly the strategic asset allocation.

LATVIA

The Association of Actuaries of Latvia does not have Guidance Notes or Practice Standards for pension actuaries.

LITHUANIA

None

LUXEMBURG

None

NETHERLANDS

There is no special guidance for Pension Actuaries (no difference). However, for all actuaries with certifying responsibilities there is the code of professional conduct (Reglement van Orde) of the Dutch Actuarial Society, which is an overall Guidance Note.
With effect from July the first of 2003 are the guidelines for reporting by the appointed actuary used. The guidelines are written for the appointed actuary non-life insurance, life insurance and pension funds. For each sector there had to make regulations.

NORWAY

Ethical rules and code of conduct according to obligations for membership in Groupe Consultatif and IAA.
The only Practice Standard is Actuarial Principles for the Accounting of Pension Costs.

PORTUGAL

None

SLOVENIA

There are no specific standards for pension actuaries. The actuary must obey general principles and standards of insurance legislation.

SPAIN

The only Guidance note, practise standards are contained in the Code of Conduct approved by the Groupe Consultatif.

SWEDEN

The local association, Svenska Aktuarieföreningen, has so far no Guidance Notes or Practice Standards specifically for pension actuaries.

SWITZERLAND

Principles and directives for experts in pension insurance, as jointly issued by the SAV (Schweizer Aktuarvereinigung) and the Chamber of Consulting Actuaries " Chambre Suisse des Actuaires Conseil".

UNITED KINGDOM

GN3	Contracting out
GN4	Safeguard of Pension Scheme Contributions
GN9	Valuation Reporting
GN11	Individual Transfers
GN13	Accounting for Pension Costs (FAS87)
GN16	Bulk Transfers
GN17	Accounting for Pension Costs (SSAP24)
GN19	Winding Up and Scheme Asset Deficiency
GN26	Pension Fund Terminology
GN27	Minimum Funding Requirement
GN28 on or	Retirement Benefit Scheme - Adequacy of Benefits for Contracting-out after 6 April 1997
GN29	Scheme Actuary
GN31	Actuaries to Appropriate Personal Pension Schemes
GN34	Defined Contribution Illustrations.

Proposed :

EXD43	Accounting for Pension Costs under FRS17 (to replace GN17)
TM1	Statutory Illustrations of Money Purchase benefits.

Question 3 : What is the relationship between Professional Guidance and Legislation ?

AUSTRIA

There is only a friendly discussion between these two. In some cases in the past the Professional Guidance has been adopted in legislation.

BELGIUM

The general principles are covered in the legislation (law + communication CDV/OCA) ; the ‘guidelines’ to be issued by the professional organisation will be an overview of contents of advice, reflections and actuarial techniques (methods and assumptions) which can be of use to the actuary when formulating his motivated advice.

CROATIE

There is no Professional Guidance, so there is nothing to compare.

CYPRUS

The legislation simply states the basic duties of the Actuary : Contribution calculation and surplus or deficit settlement. The actuarial methods and assumptions are the subject of Professional Guidance.

CZECH REPUBLIC

None

DENMARK

None

ESTONIA

At the moment there is no relationship as there is no Professional Guidance ready.

FINLAND

No

FRANCE

None specific to the actuarial profession.

GERMANY

None

GREECE

None

HUNGARY

None

ICELAND

The relationship is based on the tables and assumptions mentioned in 2.

IRELAND

Some of the guidance Notes issued by the Society are specifically referred to in legislation e.g. in the Family Law Acts. It is expected that the forthcoming Pensions Bill will include further references to Guidance Notes produced by the Society.

ITALY

There is no relation between Legislation and the guidance determined by our professional scheme (see no 2).

LATVIA

None

LITHUANIA

None

LUXEMBURG

None

NETHERLANDS

There is no formal relationship (see former question). However, a certifying actuary reporting to the supervisory board for a pension fund has to comply with the regulations of the "Actuarial Principles for pension funds".

NORWAY

The general principles, actuarial methods and assumptions are covered in the legislation. Other than the Standard for Pension accounting mentioned under 2 Professional Guidance issued by the association is non-existing.

PORTUGAL

None

SLOVENIA

The general principles implying also actuarial methods are covered in the legislation because there is no specialised guidance.

SPAIN

The legislation describes the methods allowed (they are similar to the Unit Credit or to the Entry (and Attained) Age Normal). The legislation also establishes a maximum interest rate and some requirements regarding the mortality assumptions. No reference is made by the Law to any professional guidance or standard of practice.

SWEDEN

None

SWITZERLAND

Professional guidance is complementary to legislation.

UNITED KINGDOM

In some cases the Professional Guidance is referred to in legislation i.e. GN11 Individual Transfers, GN27 Minimum Funding Requirements, GN16 Bulk Transfers, GN19 Winding Up and Scheme Asset Deficiency. The general principles and policy objectives are covered in the legislation and the actuarial methods and assumptions in the Professional Guidance.

The exception is the proposed TM1 Statutory Illustrations of Money Purchase Benefits where the actuarial method and assumptions are also covered in the legislation but kept under review by the actuarial body.

Question 4 : Are there any requirements on the Actuary to report problems to the Supervisor (Whistleblowing ?) Is there any protection for the Actuary ?

AUSTRIA

The Prüfaktuar (auditing Actuary) is required by the law, if he has reasonable cause to believe that there has been a material breach of the law or the Scheme Rules, to report the problem to the Supervisory authorities (part of the ministry of finance).

There are no protections for the Auditing Actuary but there are rules that :

- Outgoing Actuary has to provide incoming Actuary with information
- Incoming Actuary has to enquire about the Professional Position from the Outgoing Actuary.

BELGIUM

The appointed actuary has to fulfil his role vis-à-vis the management of the pension fund.
As such he is not a person employed by the controlling authorities. In his "communication P 18" the CDV/OCA states that if the actuary should have any problem in performing his job, he always can submit the problem to the CDV/OCA.

CROATIE

The actuary has to make a realistic report, especially regarding the reserves (as for any other LOB). Nothing else is defined specifically for pension actuaries.

CYPRUS

The law/plan does NOT require the Actuary to report to anyone apart from the Company and the Trustees. However if he has reasonable cause to believe that there has been a material breach of the law or the Scheme Rules, to report the problem to the Auditor General of the Republic for government and semi-government plans and to the Supervisor of Defined Contribution Plans at the Ministry of Labour for private company provident funds and private company defined benefit plans.

The protections for the Actuary:

Virtually no protections apply for the Actuary with the exception that the incoming actuary may take information from the outgoing actuary. The CAA is in the process to push/implement similar protections as the IOA listed below.

Acting in the Statutory Capacity the Actuary has the protection of the Law. The outgoing Actuary has to provide a Statement/Report on resignation or removal.

CZECH REPUBLIC

No

DENMARK

- The responsible actuary shall notify the Danish Financial Supervisory Authority immediately of any disregard of the matters referred to in subsection 4 hereof (the last point in answer to question 1). The actuary shall be entitled to request from the board of management all such information as is necessary for the performance of his functions. The Danish Financial Supervisory Authority may request from the actuary such information as is necessary for evaluating the financial position of the company.

- Where a company seeks the Danish Financial Supervisory Authority's approval of a new responsible actuary, the request for approval shall also give the reason for the change.

ESTONIA

The law states the following (non-official translation) :
If an actuary becomes aware of facts, which threat the reliability of the insurance provider or the amount of free reserves, he or she has to inform the supervisory board of the insurance provider about that fact.

There is no protection for the Actuary.

FINLAND

No

FRANCE

None

GERMANY

As soon as he realises on performing his legal duties that he will possibly not be able to grant the required certification or be able to grant only a qualified certification, he shall inform the board of directors and, if the board does not take any remedial action immediately, the supervisory authority without delay.

The protections for the Actuary are : whenever the appointment of the responsible actuary come to an end, the supervisory authority shall be informed without delay.

GREECE

No

HUNGARY

Under the professional standards of Actuarial Society there is some kind of professional obligation, but there is no practical experience on that.

ICELAND

There are no clauses in the Law according to which the Actuary has the duty to report problems to the Supervisor nor are there any clauses on protection of the Actuary.

IRELAND

The Pensions Act was amended in 1996 to provide for compulsory and voluntary reporting to the Pensions Board by “relevant persons” which include the actuary to a pension scheme. Reporting is mandatory where the relevant person has reasonable cause to believe that material misappropriation or fraudulent conversion of assets of the pension scheme has occurred, is occurring or is to be attempted. The report is to be made as soon as possible in writing, and it is an offence to fail to make a report, or to knowingly make an incorrect report. There is also provision for voluntary reporting by any person on any matter concerning a scheme.
The Act provides that where a report is made in good faith (whether mandatory or voluntary), no duty to which the person making the report may be subject will be regarded as contravened, and no action can be taken in court against the relevant person for making the report.

ITALY

The actual norms do not expect the actuary presence and the Supervisor duties are extremely generic both on the contents and on the roles.
Regarding to the actuary professional protection you can make the same considerations.

LATVIA

No

LITHUANIA

No

LUXEMBURG

No

NETHERLANDS

Yes, problems have to be reported to the Supervisor if the actuary has a certifying responsibility for the fund. In the Pension and Saving Act there is a protection, that the actuary is not responsible for losses, except when he unjust make his report to the supervisor.
The protections for the Actuary are : incoming actuary has to enquire about the Professional position of the outgoing Actuary.

a) Currently the role and the independence of the (appointed / certifying) actuary is point of discussion in The Netherlands. As a result it is likely that (some of) the rules described in the Code of Conduct will change.

b) It is allowed to advise the (Trustee of a) pension scheme and the scheme sponsor simultaneously. In the Code of Conduct article 10 describes the obligations in case of a conflict of interest. The actuary is responsible for taking measures to avoid these risks. In the case of a conflict of interest both parties need to be informed by the actuary. When it is desirable for both parties that the actuary remains the advisor, he is not forced by the code of conduct to stop his activities for one of these clients.

c) It is allowed at this moment, but a majority of the members of our society share the opinion that it is not advisable in the case of ‘conflict of interest’.

NORWAY

The actuary is required by the law to report the problems to the Supervisor Authorities. The actuary has a duty to notify the company's management and board without delay if ::

- the requirements for provisions as laid down by Sections 8-2, 8-3 and 8-4 of the Act have not been fulfilled, cf. Section 12-5 with regulations for branch offices of foreign companies. If the matter has not been settled within four weeks, the actuary shall notify the Banking, Insurance and Securities Commissions.
- he finds that a premium rate is not in accordance with Section 7-6 of the Act. If the actuary's view is not adhered to, the actuary shall ensure that the Banking, Insurance and Securities Commission is notified.
- he finds that the company's business and accounting practice does not satisfy actuarial requirements. If he finds that the matters are serious, the auditor and the Control Committee shall be notified.
- he finds that the distribution according to Sections 7-5 and 8-1 of the Act is not reasonable, cf. Section 7-10.

The actuary shall also confirm by his signature all notifications to the Banking, Insurance and Securities Commission in accordance with Section 8-3 of the Act and regulations pertaining to Sections 7-5, 7-6, 7-7, 7-10, 8-1 and 8-4 of the Act.

The protections for the Actuary are :

- If the company applies for replacement of the actuary, the application shall state the reason for the replacement.

PORTUGAL

On the annual valuations the appointed actuary should report any problems identified to the Supervisory Authorities.

SLOVENIA

The Actuary is required by the law to report problems first to the management board of the managing institution of the scheme. If the institution does not take an appropriate action with respect to reported problems, the actuary is required to report the problem to the Insurance Supervisory Authority.
The protections for the Actuary are : acting in the Statutory Capacity the Actuary has the protection of the Law not to be prosecuted.

SPAIN

The only body that the Actuary has to report to is the "Comisión de Control". The Law does not give the duty to the Actuary of reporting to the Supervisory body any problem. It does not even clarify if the Actuary would be breaking its confidentiality duties.

The Law requires that the Actuary must provide some financial guarantees to cover his (or her) liabilities in case of malpractice. In most cases these guarantees are provided through an insurance contract.

SWEDEN

When the pension is financed through book-serve or stiftelse there are no reporting requirement at the actuary.
The insurance company is liable to send an actuarial report to the supervisory authority at latest one month after the shareholder’s annual meeting. There are also some further information requirements during the year that need actuarial involvement. There are no further legal information requirements on the actuary himself.

SWITZERLAND

The main responsibility for monitoring the ongoing operations of the fund rests with the pension fund's auditors, who involve the actuary as needed.
The actuary is bound to report to the supervisory authority whenever the recommendations he makes at the time of the periodic review are not followed by the pension fund.

UNITED KINGDOM

The Actuary is required by the law, if he has reasonable cause to believe that there has been a material breach of the law or the Scheme Rules, to report the problem to the Occupational Pensions Regulatory Authority (OPRA).

The protections for the Actuary are :

- The Actuary’s duty of confidentiality to the client is not broken by the above requirement
- Outgoing Actuary has to provide a Statement/Report on resignation or removal and consider whether to notify OPRA
- Outgoing Actuary has to provide incoming Actuary with a list of non-reportable breaches to OPRA and copies of any Reports to OPRA
- Incoming Actuary has to enquire about the Professional Position from the Outgoing Actuary.

Question 5. Is there any guidance to actuaries on when reporting requirements override client confidentiality ?

AUSTRIA

No

BELGIUM

No

CROATIE

None

CYPRUS

No, the CAA is considering the adoption of GN29, which covers this issue. This final decision is expected to take place in April 2001.

CZECH REPUBLIC

No

DENMARK

The Danish Society of Actuaries (Den Danske Aktuarforening) has issued Ethical Rules (they will be available soon in English at the Society's web-site www.aktuarforeningen.dk).
The Ethical Rules describe

- good actuarial practice
- relationship to employer
- relationship to client
- relations between employer and clients
- relations among members.

ESTONIA

The Estonian Actuarial Society is preparing the Code of Conduct to be approved by the members at the next general meeting.

FINLAND

The only guidance is The Code of Conduct issued by the Actuarial Society of Finland (SAY), which complies with the one Groupe Consultatif has set.

FRANCE

None but refer to Code of Conduct.

GERMANY

No

GREECE

No

HUNGARY

No

ICELAND

No

IRELAND

There is no specific guidance on this issue, but the Society's Memorandum on Professional Conduct states that "there should be no unauthorised disclosure of the client's affairs save where properly required under statutory or judicial authority". Examples would be where the actuary is required to make a report to the Pensions Board under the "whistleblowing" provisions of the Pensions Act (see Q4) or if a court makes an order in respect of information to be provided under the Family Law Acts in the case of a pension scheme member who is party to divorce or judicial separation proceedings."

ITALY

No guidance has ever been precisely determined. There are only personal guidance mentioned in the contract : for example something about the responsibility of the Client and the Actuary during the contract and something about the duty of secrecy on the documents made, unless the Supervisors request something about this.

LATVIA

No

LITHUANIA

No

LUXEMBURG

No

NETHERLANDS

There is no guidance, but the “Actuarieel Genootschap” has a committee of three persons which an individual actuary can address confidentially when he meets problems in executing his profession when loyalty and/or integrity towards his client cannot match with his conscience.
Very recently an agreement is made between the supervisor, the association of insurers and the actuarial association. The most important issue is that the appointed actuary had to make a standard agreement between the insurance company (that he certified), the supervisor and himself. In both agreements are reporting requirements that override client confidentiality.
The associations of pension funds, the supervisor and the actuarial association discuss a similar agreement for pension actuary.

NORWAY

There is no such guidance, but by the Law the Actuary shall be entitled to have access to all information necessary in the execution of his duties.

PORTUGAL

No guidance has ever been determined by law or rules issued by Portuguese Supervisory Authority. Only the Code of Conduct issued by Portuguese Actuarial Association defines some general rules on the field.

SLOVENIA

The general principles on this issue are covered in the Professional Conduct Standards. Special guidance does not exist. The general stand is that client confidentiality has absolute preference unless reporting is required by the Law.

SPAIN

No

SWEDEN

The actuary is normally employed at the insurance company. The client, the insurance company, is then also the employer. Some friendly societies use a consultant actuary. The actuary has no legal requirement to inform the Supervisory Authority further than what is mentioned under question 4.

SWITZERLAND

The actuary is bound by the professional secrecy, There is no specific guidance on dealing with situations involving a conflict in the area.

UNITED KINGDOM

- The statutory requirement to whistleblow to OPRA overrides client confidentiality.
- On other matters, the professional guidance requires that the terms of appointment should clarify the actuary’s role with regard to communications with third parties.

Question 6 : Are actuaries able to limit their liability to professional indemnity claims ? Are there insurance arrangements available ?

AUSTRIA

The liability to professional indemnity claims is limited by law to ATS 5 million. There are no insurance arrangements available but you can find an insurance sometimes.

BELGIUM

Most of appointed actuaries are covered by liability insurance of their employer (consulting firms, auditors). On the Belgian insurance market, probably no insurance cover is available although cover could be obtained in the international insurance market.

CROATIE

No

CYPRUS

All actuaries are advised by the CAA to have an indemnity from their employer or to have their own insurance but the insurance industry in Cyprus is reluctant to offer professional indemnity to professionals such as physicians, lawyers, auditors and actuaries.

CZECH REPUBLIC

No

DENMARK

Insurance arrangements are not available, but if the actuary is an employee of a company, he/she is covered by the employer's insurance.

ESTONIA

No insurance agreements are available for the actuaries.

FINLAND

The local legislation does not impose any limitations with regard to the liabilities that an actuary can incur. Professional liability insurance is available from local or international markets. In most cases the actuaries work as employees of consulting companies or insurance companies in which cases the employer has the prior liability to professional indemnity claims. In that case it is also possible that the actuary is covered by directors and officers liability insurance. SAY has not given any recommendations or assistant on the matter.

FRANCE

Like in the UK this is between the actuary or more likely his employer and his client. All actuaries are advised to have an indemnity from their employer or to have their own insurance.

GERMANY

Generally yes, as long as they meet the general legal conditions for limiting liabilities, for instance, when they are members of a limited company or they have limited their liability by general or special agreement with the client.

For the responsible actuary who has to be a natural person, it seems to be impossible to limit his liability to claims of the members of a Pensionskasse. This problem is still under investigation of experts hired by DAV.

Yes, there are some companies offering liability insurance arrangement. Normally they are limited to a maximum liability which will not cover all risks.

GREECE

No

HUNGARY

No

ICELAND

This is a matter between the Actuary and the Fund.
Insurance arrangements are available.

IRELAND

Actuarial consultants have professional indemnity cover, usually arranged as part of a worldwide programme for international consultancies. Local consultants would also have cover in place which may be placed locally or internationally. Individual actuaries employed by insurance companies or consultancies don’t have separate insurance cover in respect of their work as employees but will be indemnified under the employer’s cover.
There is no statutory requirement for actuaries to have cover in respect of their actuarial advice, although there are such requirements in relation to investment advice and insurance broking which may form part of the consultants’ work. There is no statutory limit on the liability of an actuary in respect of advice given.
The Society of Actuaries in Ireland is not involved in arranging professional indemnity insurance for its members and there is no formal “encouragement” for its members to effect such cover.

ITALY

There isn’t a local legislation that imposes limitations or restrictions with regard to the liabilities that an actuary operating on its territory can incur. There isn’t either any customary local practice in terms of contractual arrangements between the client and the provider of the actuarial consultancy services whereby the client’s specific contract stipulates that the professional liabilities of the service provider are limited.
The local actuarial associations do not encourage their members to cover themselves against professional liability claims and associations neither assist their members with the screening of the insurance market nor with the negotiation of the insurance conditions.
Pension actuaries, irrespective of their employment status, have access to external insurance coverage, on voluntary basis. At times actuaries who do work as a salaried employee for a consulting organisation or an insurance company, are covered on the basis of an insurance contract sponsored by the employer on their behalf, but in the majority of cases this kind of contract isn’t on professional liability.
The actuaries who operate on independent basis for a client, either as an individual or through a consulting or insurance organisation have the same situation mentioned on the first version of the answer above.

LATVIA

No

LITHUANIA

No

LUXEMBURG

Unknown

NETHERLANDS

This is very difficult.
The insurance arrangements are a very expensive matter.
At this moment there is no legislation that limits the liabilities of an actuary. There is very little jurisprudence. Recently one case occurs with an insurance company.
The Dutch actuarial association has made no initiative to assist members in the liability insurance.
In the Netherlands are the four biggest consultants office working. Most of them have an international liability cover. The situation of the independent self-employed actuary is unknown.

NORWAY

This is not common in the life insurance companies, but exists in the consulting companies.
The consulting companies seek coverage either from the local market or the international market.
The legislation does not impose any limitations or restrictions with regard to liabilities that an actuary can incur. There is no practise in terms of contractual arrangements between the client and the provider of actuarial consultancy services whereby the client's specific contract stipulates that the professional liabilities of the service provider are limited.
The actuarial association neither encourage their members to cover themselves against professional liability claims nor assist with the screening of the insurance market and with the negotiation of the insurance conditions.
It is not common to have access to external insurance coverage when working in the life insurance companies. Actuaries who do work as a salaried employee for a consulting organisation are usually covered on the basis of an insurance contract sponsored by the employer on their behalf.

PORTUGAL

Local legislation doesn't impose any limitation and there is no customary practise on the subject. No insurance arrangements are locally available.

SLOVENIA

Actuaries are not able to limit their liability to professional indemnity claims since there are no insurance arrangements for actuaries available yet.

SPAIN

From a legal point of view, the Actuary could reach an agreement with the “Comssión de Control” limiting his (or her) liability. This would have no effect in front of third parties (any individual participant or the employer). The best of our knowledge, such type of arrangements have never been attempted in practice.

SWEDEN

Since the actuary normally is employed by the insurance company the principal responsibility is with the insurance company, the employer, according to the law of claim indemnification.

The responsibility is unlimited.

SWITZERLAND

Professional liability insurance is available.

UNITED KINGDOM

The Actuary’s liability to professional indemnity claims is not limited by statute, but the contractual terms of appointment can specify a limit and this is becoming increasingly common.

All actuaries are advised to have an indemnity from the employer or to have their own insurance. See GN30.

A sufficient market exists for reasonable levels of PII cover in the UK. The actuarial body does not run a PII scheme, but has appointed a broker who can provide cover which complies with certain statutory requirements.

Question 7 : a) What is the nature of the relationship between the Pensions (Scheme) Actuary and the Supervisory Authorities?

b) Is it possible for the Pension (Scheme) Actuary to advise the (Trustees of a) pension scheme and the scheme sponsor simultaneously and, if so, how is "conflict of interest" defined if the provision of simultaneous advice is prohibited under certain circumstances?

c) More specifically, can an actuary who advises the (Trustees of a) pension scheme and/or the plan sponsor, act as the Pension (scheme) Actuary certifying the scheme's actuarial accounts? And, if the (scheme) Actuary is not allowed to play both roles, can a colleague actuary belonging to the same consulting firm advise the (Trustees of a) pension scheme and/or the plan sponsor?

AUSTRIA

a) The "Prüfaktuar" - proofing actuary or auditing actuary - has to make a report every year about the actuarial balance and send it to the management, board of directors and the supervisory authority.

   In addition, if the "Prüfaktuar" find some facts that the working in order of the Pensionskasse or the fulfilment of the benefits is not guaranteed or the law is not fulfilled, he had to submit a written report to the supervisory authority immediately.

BELGIUM

a) The “Scheme” Actuary is appointed by the Scheme sponsor and has the obligation to report issues to the sponsor, more in particular with regard to the non-compliance with regulations. The law on occupational pensions which has become effective on January 1, 2004 includes a requirement according to which the Scheme Actuary has to directly report to the supervisory authorities any facts and/or decisions which do not comply with the legal provisions.

b) Usually it is the same actuary who advises the pension scheme and the scheme sponsor. No statutory definition of “conflict of interest” exist and it is generally felt that it is the actuary’s role to consider in its advice a balanced approach that matches the scheme sponsor’s and scheme participant’s interests.

c) At present the actuary who advises the scheme sponsor can act as the actuary who certifies the scheme’s actuarial accounts.

DENMARK

a) In Denmark there are two types of pension funds:
   - lateral pension funds (that means nationwide occupational pension funds)
   - company pension funds

b) Lateral pension funds follow the same legislation as life insurance companies, while company pension funds have their own legislation although it is very similar to the legislation for lateral pension funds.

c) In both types the management (board etc) appoints the actuary. In lateral pension funds the board has to confirm to the Supervisors, that the actuary fulfils a set of conditions, set up in the legislation. In company pension funds the actuary has to be approved by the Supervisors.

   The actuary can – and in some (critical) cases shall – communicate directly with the supervisors, but normally the board is informed in advance before the actuary contacts the supervisors. The actuary has to produce a yearly report to the supervisors about actuarial matters in the pension fund.

FINLAND

The Insurance Supervision Authority has to be informed when a Scheme Actuary is appointed or he/she has resigned. There is no other regulation besides that.

FRANCE

a) Still at present no pension funds (as in Anglo-Saxons countries or the Netherlands) do exist or are planned to exist in France. The closest to pension funds implemented by the Law is the PEIR :Plan d'Epargne Individuelle pour la Retraite which is a savings-retirement vehicle on a voluntary basis from the individual with some fiscal incentives. Since the benefit will be granted mainly as a pension (and not 100% as a lump sum) it has been decided that these plans would be obliged to produce an actuarial report.

   Moreover the regulations have not been published and one does not know yet amongst all proposals and ideas what regulation will finally be retained and published.

   So there is still no pension scheme actuary and no pension fund supervisory authority in France. France is still an insurance driven environment in respect of complementary pensions to Social Security and ARRCO-AGIRC and special regimes.

   In fact the role of the actuary, its responsibilities, professional guidance are those governed by insurance regulation and good practice issued either by the Institut des Actuaires, the SACEI (Syndicat des Actuaires-Conseils et Actuaires-Experts Indépendants) and other bodies involved in pensions. In that respect the chartered accountants, auditors and the money manager have guidance notes.

For instance auditors and chartered accountants have more legal prerogatives on pensions issues than actuaries.

The above begin said, the actuaries are very involved in pension matters but they do not yet have legal recognition or prerogative (like in the UK or Canada) except in issuing mortality and disability tables.

b) There are no pension scheme actuaries nor appointed actuaries in France since there are no pension funds except the "IRP" French IORP that are going to disappear as such by 2008.

   In France, the actuaries have no legal recognition in life insurance operation except for establishing and certifying mortality tables and in the PERP scope since "un rapport actuariel" is required.

   Within the scope of IAS 19 it is the chartered accountants and auditors who certify the accounts even if they are actuaries who calculate the mathematical and technical reserves.

c) Not relevant considering the situation as described under a) and b) here-above.

IRELAND

a) There is no formal relationship between the Pension Scheme Actuary and the Pensions Board (Regulator) as the legislation is based on the responsibilities of trustees of pension schemes. The trustees must appoint a Scheme Actuary to undertake actuarial valuations, and to sign funding certificates which are lodged with the Pensions Board. The Pensions Board has regular contact with the Society of Actuaries in Ireland in relation to actuarial guidance in connection with valuations, funding certificates and funding proposals which must be prepared and submitted to the Pensions Board if a scheme fails to satisfy the funding standard. This will be formalised in forthcoming legislation which will require actuarial guidance notes in relation to certain matters to be subject to the approval of the Minister for Social and Family Affairs, to whom the Pensions Board reports.

b) It is usual for the same actuary to advise the trustees and sponsoring employer in relation to a pension scheme. There is no definition of “conflict of interest” and no statutory provision prescribing circumstances where any actuary cannot act because of a conflict. At present, the Professional Conduct Standards provide that it is a matter for the actuary to decide if it is appropriate for him or her to act for both trustees and employer in a particular matter and if not, he or she will withdraw from one or both appointments.

   It is intended that guidance will be developed by the Society of Actuaries in Ireland to address the issue of potential conflicts of interest for scheme actuaries. This is likely to include the following:

   - the scheme actuary should be a formal appointment
   - it should be the trustees who appoint the scheme actuary
   - the appointment letter should indicate areas where the actuary may advise the employer without consulting the trustees

- the trustees are the scheme actuary's principal client, and in the case of a conflict arising, the employer would have to seek separate actuarial advice
- how to deal with issues relating to information provided to the actuary by the employer which he wishes to keep confidential from the trustees.

c) Yes at present there is no prohibition on this, and no requirement for a different firm to be appointed where there is a conflict – although the actuary or his/her firm may decide that this is the only way to ensure that no conflict arises (particularly in small firms where Chinese walls are difficult to maintain).

ITALY

a) In Italy there isn't a particular (or compulsory) relationship between the Pensions (Scheme) Actuary and the Supervisory Authority (COVIP).

This depends on structures of Pensions (scheme) that haven't particular regulation about the role of Actuary.

One of the aims of Supervisory Authority is the technical control of Pensions (scheme) in general, and then also the actuarial control, but without any particular rule or any particular/direct sanction to the Actuary if the COVIP isn't agree on actuarial results.

At the end, in the case of Pensions (scheme) managed directly by a Insurance company, the relationship between the Pensions (Scheme) Actuary and the Supervisory Authority (ISVAP) depends on "Decreto Legislativo 17/03/95, n. 174" regarding the European Directive on life insurance 92/96/CEE.

b) As replied on the above question, in Italy there are no rules or guidelines to norm this particular area. In any case, if a Pension Scheme has an Actuary his role is in close relation with the Trustees rather than the Scheme sponsor. It is not so common that the Pension Actuary advises directly the Scheme sponsor (this is a rule of the Trustees), so there is not any "conflict of interest".

c) In Italy there is no law or a guideline that makes compulsory the certification/audit of actuarial accounts (there are some cases in the public sector), so everything is allowed in theory.

LATVIA

a) The law "On private pension funds" does not require pension funds to appoint the actuary for pension plans provided.

b) There are only defined contribution pension plans in Latvia where the participants of the pension plans bear investment risk themselves.
Private pension funds are not allowed to provide annuities for the participants of the pension plans.

c) Annuities contracts could be purchased with life insurance companies. An actuary of the life insurance company is required to evaluate the contracts signed by the life insurance company and also financial stability of insurer as well as to prepare actuarial valuation which has to be submitted to the Supervisor simultaneously with annual report.

LUXEMBOURG

a) Since the pension law of 8 June 1999, with effect as at 01 January 2000, the actuarial administration of all pension plans (art 18 § 4), and more especially the financing plan can only be made by an approved actuary.

b) The circular 1/2000 in art. 18 describes how to obtain the approval which is given by the IGSS, Inspection Générale de Sécurité Sociale.

c) The financing plan includes the actuarial valuations of the pension plans, the calculation of the vested rights, the calculation of the minimum funding according to Luxembourg legislation and eventually of the shortfall. The pension administrator also certificates surrender values, individual transfer values. Standard documents have to be completed and sent to the IGSS. Some of these documents need the approval of the IGSS.

THE NETHERLANDS

a) Currently the role and the independence of the (appointed / certifying) actuary is point of discussion in The Netherlands. As a result it is likely that (some of) the rules described in the Code of Conduct will change.

b) It is allowed to advise the (Trustee of a) pension scheme and the scheme sponsor simultaneously. In the Code of Conduct article 10 describes the obligations in case of a conflict of interest. The actuary is responsible for taking measures to avoid these risks. In the case of a conflict of interest both parties need to be informed by the actuary. When it is desirable for both parties that the actuary remains the advisor, he is not forced by the code of conduct to stop his activities for one of these clients.

c) It is allowed at this moment, but a majority of the members of our society share the opinion that it is not advisable in the case of 'conflict of interest'.

NORWAY

a) The actuary reports to the manager of the pension fund or the life insurance company, but by the law the actuary is required to report the problems directly to the Supervisor Authorities.

b) Yes, there is a possibility for a scheme actuary to work both for the pension fund and the sponsor. This is enlightened below.

- The pension scheme actuary meets regularly at the meetings of the board of the scheme. The majority of the members of the board of the pension scheme is appointed by the sponsor. When it comes to advice about how to dispose the surplus in the pension fund, the actuary usually tells what are the opportunities and limitations within the law, and on background of these, gives advice according to his opinion on the best use of the surplus. This implies that the actuary weighs the needs from the sponsor against the needs from the pension fund and the needs from its pensioners. There is obviously conflict of interest between those parts. The actuary usually sees it as his main objective to see to that the pension fund is solvent and sound, but this may also mean that the actuary takes into account the sponsor's willingness and ability to support the fund in bad times (as long as the minimum requirements are met). And, of course, the actuary often tries to make the sponsor see the need for pensioners to get an increase of the pensions.

- The scheme actuary is also often contacted by the sponsor of the scheme in connection with possible changes of the scheme. The conflict of interest here lies between the sponsor (employer) and the employees. In those cases the actuary tries to give objective advice, telling about the pros and cons for both parties. Normally, this will not have an impact on the soundness of the pension fund.

- With regard to the valuation and other statutory work for the pension scheme, the regulations by the authorities are so strict that there is virtually no room for the actuary to be tempted (by the sponsor or others) to set aside lower reserves than he would want. On the other side, the actuary in Norway has historically had very little influence on the assets, or that side of the balance. The actuary has no formal obligation to give advice about investments, though the later years more and more pension funds have asked for ALM analysis. Still, this will only be an advisory role for the actuary.

Especially because of the strict and detailed regulations the actuary very seldom comes in positions where he will have ethical doubts of what to do. As mentioned above, the conflicts most often arises as to how to use the surplus or about changes of the scheme, which in theory should not have any effect on the solvency.

c) Usually it is the other way around: the pension fund actuary is allowed to work as an advisor of the sponsor. For instance, it is quite common that the pension fund actuary also does the FAS/IAS/FRS valuations. This has not been looked upon as conflict of interests. The answer to the question is therefore yes, and moreover, quite common.

PORTUGAL

a) There is the requirement to report problems to the Supervisory Authorities at the occasion of the annual valuations (cf. question 4).

b) It is not usual, but it is not forbidden.

c) For both questions the answer is yes.

SPAIN

a) Law states that an actuary (different from the plan actuary who advise the Sponsor or calculate contributions or rights in case of leaving the plan), who have to be appointed by the trustee, have to review the scheme, and release a report including any problem, certifying any solvency problem and proposing measures. It is not clear if this review could include the certification of the Scheme accounts or it has to review the scheme accounts formulated by other actuary only.

   This reviewer actuary has No Obligation to report and submit certified actuarial accounts to the Authorities directly. Law only states that actuary has to submit the (report of)review of the Scheme to the Trustee and this trustee has to accept (or not) it (this decision, among others, need to be communicated to Supervisor but it's not stated that this communication have to annex the review, even though it's quite common). The Manager of the fund where the Plan is invested have to send the review to the Supervisor together to the annual accounts of the Fund.

b) No formal incompatibility and usually the actuary who gives advise to Sponsor assumes both roles of Advisor of Trustee and Sponsor, but the reviewer actuary (or certifier of Scheme's Actuarial Accounts) have to be different from this actuary. Conflict of interest is not defined for the actuary if it's advising both Trustee and Sponsor.

c) The actuary who is advisor of Sponsor and who may be advisor of Trustee too, has to be different from the reviewer actuary (or certifier of Scheme's Actuarial Accounts), but a colleague actuary belonging the same firm as the advisor actuary is allowed to perform the review.

SWEDEN

a) The nature of the relationship is good. The Pensions Actuary is responsible according to what is stated in the Business Act of Insurance and is reporting the Supervising Authority as requested. No tension and no conflict or interest.

b) The Pensions Actuary can be involved in certain discussions regarding how the plan is constructed. Once the plan is finally negotiated and decided upon the Pensions Actuary is acting in his/her role as s professional actuary. The reason why we accept the Pensions Actuary to be involved in discussions is mainly in order to prevent the parties from deciding upon a plan which has non-insurable elements in it. No conflicts of interests are present. The discussions are held on a arm-length distance. The Pensions Actuary is not advising, more answering to certain questions.

c) The question has, as I read it, more to do with situations where actual advice is given which would create a conflict of interest and as I see it, that could not happen in Sweden. Another way to answer the question would be: From my point of view, if an actuary was advising the Trustees of a pension scheme, neither would he/she be used to certify the accounts, nor would another actuary with specific links (for example for the same firm) to that actuary be used in that role.

UNITED KINGDOM

a) Whilst the Pension Scheme Actuary is appointed by the pension scheme trustees, he has certain statutory responsibilities under which he needs to report directly to the supervisory authorities - at the moment this is confined to whistle blowing on specified legal breaches or if he spots any unusual practice that may have a detrimental effect on members' benefits.

   Some new legislation is awaited which will give the supervisory authority more clout and perhaps greater responsibilities on actuaries to protect the interests of members; this new legislation is still expected.

   The scheme actuary has certain statutory responsibilities in terms of reporting to the supervisory authorities including whistle-blowing.

b) Yes, at the moment but this is under consideration due to the Morris review . At the moment it is up to the actuary, trustees and sponsor to draw the appropriate lines and manage the conflicts in a manner that is best suited to them.

c) This is possible at the moment but under review. It is likely that going forward, the conflicts may be such that different actuaries will in practice (if not forced by law) advise sponsors and trustees. Whether they can belong to the same firm is a matter under discussion.