

MRA – Solution to reduce legal risk raised by FMAs

Executive Summary

- In 2021, the MRA was updated to mitigate legal risks raised by FMAs.
- Since 2021, the AAE worked on further options to resolve the concerns around potential legal risk that the IFoA faces in MRA in general and that has led to suspending their participation in MRAs including the AAE-MRA.
- A solution was presented at the ProfC meeting in Vilnius. This solution has been reviewed by Simmons & Simmons and a legal review report is shared in attachment.
- The solutions is based on three pillars:
 1. Amendments to the Q&A document further clarifying the interpretation of the adaptation period and aptitude test.
 2. Cases presenting various scenarios of Qualifying Actuaries making use of the MRA (supporting documents to this presentation).
 3. The conciliation process in the event of non-compliance with MRA requirements by any Full Member Association.

Subject to due process and required approvals, we will seek to adjust the MRA to incorporate the amendments to the Q&A during the 2027 review process.

Amendments of Q&A document

- See legal review in attachment from Simmons & Simmons
- See Q&A document with track changes from original version to ProfC proposal to final proposal based on feedback from Simmons & Simmons

Cases

- See document in attachment

AAE's role in individual cases

- It is not within the AAE's remit to get involved in individual applications under the MRA.
- A Qualifying Actuary who disagrees with the outcome of their application for recognition by a host association, may appeal to the host association.
- Any appeal is considered and decided by the host association. **The decision of the host association is final.**
- Where a home association considers that the host association, in determining an individual application for recognition (or for any other reason), has failed to comply with MRA requirements, the home association should follow the conciliation process described on the following slide.

What is the conciliation process under the MRA?

Discussion between FMAs

- If there are thematic concerns by an FMA that an FMA is not complying with the requirements of the MRA, discussion and resolution between FMAs is encouraged.
- If concerns remain following discussion, they should be raised with the AAE.

Escalation to AAE level

- The conciliation process outlined in Articles 6 and 7 of the MRA will be invoked.
- The conciliation will consider any alleged non-compliance with MRA requirements by an FMA. The matter is handled confidentially and will seek to resolve the dispute.
- If conciliation does not successfully resolve the dispute, the AAE Board will decide next steps and communicate its decision to the FMAs concerned.
- In case where an FMA does not agree with the decision of the AAE Board, the matter will be taken up with the General Assembly, with the possibility that the FMA may be excluded from the MRA. Alternatively, depending on the circumstances, the FMA could decide to terminate its own participation in the MRA based on Article 9 of the MRA and Article 6 of the AAE Statutes.
- Finally, based on Swiss Law, an FMA can be excluded by the General Assembly without reasons being given.

MRA monitoring TF and mediation

- During the ProfC pre-Budapest meeting an additional proposal was discussed:
- The creation of a Task Force which will meet periodically, facilitating a communication channel between the FMAs and the AAE, to undertake thematic monitoring and analyse any trends in the application of the MRA by FMAs. The information collected by the Task Force may inform the next MRA review taking place in 2027.

Process to approve the proposed Q&A

- **Board approval to the updated Q&A document subject to ProfC approval in Budapest:** documenting the discussion and supporting document in the meeting minutes.
- **ProfC pre-Budapest meeting:** present the proposition to ProfC members and address any comments/questions.
- **ProfC approval in Budapest:** getting the ProfC approval in Budapest and documenting the discussion and supporting documents in the meeting minutes.
- **Information to the General Assembly:** informing the ProfC approval in Budapest and documenting the discussion and supporting documents in the meeting minutes.
- **MRA signature:** the secretariat to ask all FMAs to sign the MRA or confirm their signatures to re-establish the MRA among all FMAs.

Decision

- Does the ProfC approve the Q&A document amendments
[Yes/No]

Next steps

- ProfC approval
- General Assembly information
- Secretariat to confirm MRA signature by FMAs digitally

Appendix

Swiss Civil Law

– III. Exclusion

– Art. 72

¹ The articles of association may specify the grounds on which a member may be excluded, but exclusion may also occur without reasons being given.

² In such cases, the exclusion may not be challenged based on the reasons.

³ Unless the articles of association provide otherwise, exclusion requires a resolution by the members and good cause.