

DUE PROCESS FOR THE DEVELOPMENT OF EUROPEAN STANDARDS OF ACTUARIAL PRACTICE (ESAPS)

1. Introduction

A standard of actuarial practice is a statement of behaviour expected of actuaries operating within a specific context. It sets a minimum standard on matters such as the methodology to be adopted, the approach to be used in setting assumptions, the contents of a resulting report or opinion, and the way in which the report or opinion should be presented.

The intention of a standard of actuarial practice is to achieve greater consistency of approach to actuarial practice in a given situation, so as to increase the confidence of users of actuarial services, including clients and the public, in the actuarial work product and thereby to serve the public interest, but without unnecessarily constraining actuarial judgement or creativity. A more detailed articulation of the purpose of standards issued by the Actuarial Association of Europe (AAE) can be found in Annex A: *Purpose for Standards and Criteria to be met*, first approved by the General Assembly on 21 October 2011 in Prague.

A European Standard of Actuarial Practice (ESAP) is a model standard for Member Associations and other actuarial standard-setting bodies in Europe to consider. An ESAP is not binding on an individual actuary unless that actuary states that some or all of the work has been performed in compliance with the ESAP or an association of which the actuary is a member adopts it as a mandatory standard of practice.

2. Due process

The due process to be followed by the AAE in developing and adopting an ESAP is as follows:

2.1 Step 1 – Initial considerations

A proposal is made that an ESAP is needed for a particular aspect of actuarial work (or if relevant experience or changing circumstances requires an existing ESAP to be reviewed for potential amendment). A proposal for a new or revised ESAP may be put to the Actuarial Standards Subcommittee (ASSC) of the Professionalism Committee, through the Chief Executive, by

- a) the Board of Directors of the AAE;
- b) one of the Committees of the AAE;
- c) a Member Association of the AAE; or
- d) an external stakeholder.

In the case of AAE bodies, a proposal from the relevant Chairperson will be deemed sufficient for the proposal to be considered. Member Associations are normally expected to submit their proposals for an ESAP to the relevant Committee(s). A proposal might also be in response to a

direct request by an external stakeholder to the AAE, such as the European Insurance and Occupational Pensions Authority (EIOPA), submitted through the Chief Executive or the Board. It is also open to the ASSC to initiate the process, if considered necessary.

2.2 Step 2 – Standards Work-Plan

After carefully considering all proposals and following consultation with relevant Committees of the AAE, the ASSC recommends to the Professionalism Committee which proposals should be added to the Standards Work-Plan (SWP) with one of the following classifications:

- a) for immediate development as an ESAP, subject to preparation and approval of a detailed Proposal to Develop an ESAP under Step 3; (Elapsed time $t = 0$ – the timings given for each step in the due process are intended to represent the maximum aggregate elapsed time starting from $t = 0$ when the Professionalism Committee approves a potential ESAP to be on the SWP for immediate development)
- b) to be referred to a task force or working group to consider the idea in more detail;
- c) to be put on hold for possible future development.

In its report to the Professionalism Committee the ASSC will list any proposals which it has decided should not to be developed or considered further with a short explanatory statement.

The ASSC also proposes to the Professionalism Committee a broad timetable for the development of an ESAP in respect of each proposal which has been classified as category (a) and a timetable for review of whether each proposal which has been classified as category (b) or (c) should be reclassified as category (a).

The ASSC keeps the SWP reviewed and updated and submits it to the Professionalism Committee at their biannual meetings, for approval by the Professionalism Committee if there are any changes proposed (subject to ultimate ratification by the General Assembly). The Professionalism Committee reports to the General Assembly on the current status of the SWP and the General Assembly is asked to ratify the current SWP.

2.3 Step 3 – Develop Proposal to Develop an ESAP

In accordance with the timetable proposed in the SWP, the ASSC prepares, in respect of each proposal which has been classified as category (a) at Step 2, a Proposal to Develop an ESAP (PDE). This should include sufficient detail of the intended content and purpose of the ESAP to enable a judgement to be formed as the nature of the proposed ESAP and the implications of it being developed. The PDE is submitted by the ASSC to the Professionalism Committee and should demonstrate that the proposed ESAP meets the pre-determined criteria which justify the development of ESAPs (see Annex A). At this stage the ASSC should also provide an indication to the Professionalism Committee of a more detailed intended timetable for the development of the ESAP. ($t = 3$ months)

2.4 Step 4 – Approve Proposal to Develop an ESAP

The PDE is normally considered by the Professionalism Committee at a meeting of the Committee. There should be early communication with Member Associations and relevant external stakeholders in advance of such discussion, in order to give ample opportunity for them to consider any draft PDE which Professionalism Committee is expected to be asked to approve. Member Associations are encouraged to engage strongly with the process of development of an ESAP at this stage, providing relevant feedback on the PDE and also putting in place an efficient

process for responding in a timely way to consultation on the eventual exposure draft. If the members of the Professionalism Committee agree that the case for developing an ESAP has been well made, the Committee requests the ASSC to continue work on developing an exposure draft of the ESAP. If the ASSC requires urgent guidance from the Professionalism Committee on whether to continue with the development of an ESAP, this may in exceptional circumstances be dealt with by means of a conference call of the Committee and, if necessary, by electronic vote. (t = 6 months)

2.5 Step 5 – Develop Exposure Draft

The ASSC decides whether to develop the exposure draft of the proposed ESAP as a full team or whether to establish a task force with an appropriate balance of suitably qualified individuals to draft the ESAP (in English). Member Associations will be asked to nominate individuals with appropriate and relevant experience for each ESAP. The ASSC will then appoint to the task force individuals whom they consider to be well-suited to the task of drafting a particular ESAP. The ASSC must ensure that the drafting group is made aware of all relevant existing international actuarial standards, including EIOPA guidelines, and provides guidance to the task force on the format and structure of the proposed ESAP.

The ASSC considers any important issues of principle regarding the form and content of the ESAP and its relationship to other ESAPs already issued or under development, to model standards (ISAPs) issued by the International Actuarial Association (IAA) with which consistency and avoidance of overlap must be ensured, and to any relevant guidelines issued (or under development) by EIOPA. The ASSC and the task force must consult with the AAE Committees responsible for the relevant practice area as appropriate. (t = 12 months)

Where there is a close relationship between a proposed ESAP and an existing or proposed ISAP, consideration should be given by ASSC to setting in place more formal consultation arrangements with the IAA Actuarial Standards Committee and relevant subcommittees or task forces.

2.6 Step 6 – Approve issuance of Exposure Draft

Once a complete exposure draft of the proposed ESAP is ready, the ASSC seeks the approval of the Professionalism Committee to issue the exposure draft for wider consultation. (t = 15 months)

2.7 Step 7 – Consult on Exposure Draft

Consultation for a prescribed period (normally no less than three months) takes place with a range of stakeholders, including Member Associations of the AAE, EIOPA, the European Commission, national supervisory authorities, industry bodies (such as Insurance Europe, the CRO Forum, the CFO Forum, AMICE, FEE, EFRAG and, in the case of pensions, Pensions Europe), other standard-setting bodies (both actuarial and for the accountancy profession), including the Actuarial Standards Committee of the IAA, and potential users of professional services by actuaries. The exposure draft is published on the AAE website with an indication that comments are welcome from all stakeholders (including individual actuaries, industry firms and advisers). The list of relevant stakeholders to be formally consulted is decided in any particular case by the Professionalism Committee, on the advice of the ASSC. (t = 18 months)

2.8 Step 8 – Evaluate consultation

The ASSC collates the responses, normally publishes them on the AAE website, and prepares a formal Basis for Conclusions responding to the comments received and proposing whether, and if so how, the draft ESAP should be amended to respond to the comments received. The Basis for

Conclusions is published on the AAE website. The ASSC also prepares responses to those who have submitted comments. The ASSC may delegate these tasks to a task force, whilst retaining oversight. In the event of very large numbers of comments being received and aspects of the exposure draft proving to be controversial, this step and the next step may take longer than the time indicated. (t = 20 months)

2.9 Step 9 – Decision on Exposure Draft by Professionalism Committee

In the light of the consultation responses, the ASSC prepares a final version of the ESAP for presentation to the Professionalism Committee, together with a commentary on responses to the public consultation, embodied in a Basis for Conclusions. In the event of substantial stakeholder disagreement with important aspects of the original exposure draft, or changes in circumstances or underlying legislation, leading the ASSC to propose material changes, the Professionalism Committee decides whether a further period of consultation should be undertaken on the basis of a revised exposure draft. The decision by the Professionalism Committee to approve an ESAP or to request a revised exposure draft of the ESAP should be made at a physical meeting of the Professionalism Committee. In case a revised exposure draft is requested, Steps 5 to 9 should be repeated. (t = 22 months assuming no re-exposure)

2.10 Step 10 – Adoption by General Meeting

Once it has agreed the final version of the ESAP developed by the ASSC, the Professionalism Committee recommends the ESAP for approval by the General Assembly of the AAE. (t = 24 months)

2.11 Step 11 – Promulgation of ESAP

Following the adoption of an ESAP by the General Assembly, the ESAP is published on the AAE website. The Chairperson of the AAE issues the ESAP to the Presidents of all Member Associations, requesting them to acknowledge receipt and to inform the AAE in a timely fashion, through the Chief Executive, of how they intend to use the ESAP, for example by

- a) adopting the ESAP as a standard of the association (after applying any drafting notes);
- b) translating the ESAP into the language(s) of the association and adopting it;
- c) adapting the ESAP to take into account the circumstances of the country, existing standards and legislation, language and tradition while maintaining substantial consistency with the ESAP except if law prevents such consistency;
- d) adapting an existing standard or standards to incorporate any elements of the ESAP which may not be adequately covered to obtain substantial consistency with the ESAP;
- e) introducing a new standard or standards to cover the material of the ESAP;
- f) certifying that existing standards are already substantially consistent with the ESAP; or
- g) reporting that, in accordance with the arrangements in force in that particular member state, the association¹ has informed the local standard-setting body of the issuance of the ESAP by the AAE and encouraged the relevant body to take appropriate action.

¹In some countries standards might be issued by an independent standard-setting body rather than by the actuarial association, but the actuarial association which is a member of the AAE will still be responsible for reporting to the AAE on how the ESAP is to be implemented or that a congruent standard is in place.

Member Associations are strongly encouraged to take positive action with respect to the ESAP, as the AAE believes that adoption of actuarial standards will enhance the standing of the profession in all countries where such standards are put in place. Member Associations should provide due explanation of any adaptations which they make to the ESAP, especially if these involve material changes to the content of the ESAP.

Member Associations should also inform the AAE, through the Chief Executive, when any changes are made subsequently to standards which are based on the ESAPs.

2.12 Step 12 – Submission of ESAP to stakeholders

The Chairperson of the AAE formally submits the ESAP to EIOPA, to the European Commission and to other key stakeholders as relevant.

3. Revision of an ESAP

Each ESAP should be reviewed at least every five years to ensure that all existing ESAPs are up-to-date, relevant and meet the needs of users of actuarial services and of actuaries. When Step 1 is initiated in respect of the revision of an existing ESAP, and where material changes are being proposed, the normal due process is to be followed.

When only minor changes are thought necessary, or where an ESAP which is based on a model actuarial standard prepared by another organisation (such as ESAP1, which closely follows ISAP1 issued by the IAA), then the due process may be foreshortened, unless the Professionalism Committee requests the normal due process to be followed. A PDE could be prepared and submitted to the Professionalism Committee for electronic vote instead of having to wait for a meeting, and the consultation period on the exposure draft could be reduced to one month, unless at least five Member Associations oppose a shorter exposure period and request a full three months exposure to be observed. A revised ESAP resulting from this revision process could be adopted by the Professionalism Committee by electronic vote and submitted to the General Assembly for electronic vote.

the place and date of approval

ANNEX A:

Purpose of standards and criteria to be met

This paper sets out proposals on the purpose of actuarial standards, and the criteria which will need to be met by any proposed standards. A Statement of Objectives for actuarial standards was first approved by the General Assembly in Brussels on 1 October 2010 (see Annex 1).

The Statement of Objectives implies a number of different purposes for setting standards, such as serving the public interest, meeting the needs of users, supplementing the statutory measures and assisting actuaries to operate within a common professional framework.

Statement of Purpose for Standard-Setting

The overriding purpose should be to serve the public interest by ensuring that the users of actuarial services benefit from a high quality of actuarial work. The principal purposes of AAE actuarial standards should be:

- to enhance the quality of delivery of professional services by actuaries;
- to help to ensure that the actuarial work product meets the needs of users of actuarial services;
- to enable actuaries to play an enhanced role in the protection of policyholders and beneficiaries through the quality of the advice given;
- to contribute towards the development of consistency of actuarial practice across the EU; and
- to provide guidance to actuaries on good practice

The agreed governance structure requires the Professionalism Committee to consider whether any proposed standard meets an agreed set of criteria, in addition to meeting, in full or in part, the AAE's Statement of Purpose for Standard-Setting. These criteria are set out below:

Criteria to be met by a proposed standard

1. The proposed standard relates to actuarial work which has common characteristics across the EU and hence it is more efficient for AAE to develop a model standard than for each member association to develop a standard independently and by applying a harmonised approach stakeholders can be expected to have more confidence in the professional services provided by actuaries.
2. There is no conflict or overlap with an IAA standard, unless there are specific circumstances in EU which justify the differences.
3. The proposed standard does not conflict with the legal or regulatory requirements, or with standards or guidelines set by another regulatory or supervisory body at the European level, to which actuaries are also subject.

4. The proposed standard would serve as a significant point of reference for the actuarial profession in relation to other professions and regulators.

In addition, if one or both of the following additional criteria are met it would be particularly persuasive that the AAE should develop a standard:

5. Key stakeholders (such as EIOPA and/or the European Commission) are expecting the actuarial profession to develop a standard (or guidelines) and are not intending to issue a standard of this type themselves or by other means.

6. There is a lack of clarity in the legal provisions or regulatory requirements and a standard would assist actuaries to interpret the requirements and to deliver a high quality work product.

ANNEX 1:

Statement of Objectives approved by the General Assembly in Brussels on 1 October 2010

In the light of the roles for actuaries envisaged under Solvency II and the framework of measures to be established by the European Commission and EIOPA, AAE considers it essential:

- to contribute effectively to the development of European actuarial standards and guidelines;
- to establish, review and maintain professional and other standards to support the carrying out of actuarial activities in relation to Solvency II, with a view, in the public interest, to promoting high quality actuarial practice and convergence of practice between actuaries in the member states of the EU;
- to ensure that professional and other standards serve the needs of users of actuarial information, in particular the management and Boards of insurance and reinsurance undertakings, and give confidence to financial supervisors, policyholders, shareholders and other stakeholders that actuarial work under Solvency II has been carried out by competent professional persons in a way which is objective, operationally independent, transparent, without conflict of interest, consistent over time and from company to company, regardless of geographical location within the EU;
- to put in place professional and other standards to supplement, at a greater level of technical detail, the Level 1 and Level 2 measures relating to Solvency II, in line with the principles set out therein, bearing in mind that professional standards can be revised more readily than legal measures and updated to accommodate changing circumstances;
- to assist all actuaries within the EU to be able to operate within a common professional framework for Solvency II; and
- to promote and support actuaries in a wide range of roles under Solvency II.