ACTUARIAL ASSOCIATION OF EUROPE
ASSOCIATION ACTUARIELLE EUROPÉENNE

4 PLACE DU SAMEDI
B-1000 BRUSSELS, BELGIUM

TEL: (+32) 22 17 01 21 FAX: (+32) 27 92 46 48

E-MAIL: info@actuary.eu
WEB: www.actuary.eu

Code of Professional Conduct

for Actuaries who are members of European Associations

DRAFT

Approved by the General Assembly of the Actuarial Association of Europe on [date]

Effective from: ~~**1 January 2014**~~***to be decided***

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Common Principles of Ethical and Professional Behaviour accepted by the Actuarial Associations affiliated to the ~~Groupe Consultatif Actuariel Européen~~Actuarial Association of Europe

~~Application~~

~~Each full member association of actuaries affiliated to the Groupe Consultatif Actuariel Européen ("the Groupe Consultatif") has agreed that this Code of Professional Conduct ("the Code"), or a Code of Conduct that includes, but is not necessarily limited to, the substance of the ethical and professional principles set down in the Code, shall apply to all their members in the context of the performance of work as members of the actuarial profession, wherever in the world the members are working.~~

~~Member associations may decide how the Code is taken into consideration where a member's conduct is called into question in a context other than working as a member of the actuarial profession, if this could be considered to reflect on the reputation of the actuarial profession.~~

~~For the purposes of this Code, the following interpretations shall apply:~~

> ~~The term "actuary" refers to a full member (in particular a fully qualified actuary) of any full member association that is affiliated to the Groupe Consultatif. The exact definition of "full member" is for each association to determine, but must be the same as that notified by each Association for the purposes of the Agreement of April 1991 between the Associations concerning the recognition by each EC Association of members of the other EC Associations.~~
>
> ~~The term "principal" means the intended recipient(s) of advice and/or services provided by an actuary. An actuary's principal may be that actuary's employer, as the circumstances and context dictate.~~

~~Purpose~~

~~The Code consists of ethical and professional principles which actuaries are expected to observe in the public interest and in order to build and promote confidence in the work of actuaries and in the actuarial profession.~~

~~Status~~

~~Actuaries are expected to carry out their professional activities in accordance with the Code. However, the Code is not an all-encompassing description of behaviours that should be adopted or avoided. Actuaries should observe the spirit as well as the letter of the Code. Actuaries must be prepared to justify any departure from the Code and explain why an act or omission was appropriate and reasonable in the circumstances involved.~~

~~It is recognised that actuaries may act in a support role in which another actuary carries ultimate responsibility for the work performed. For the avoidance of doubt, the Code applies to actuaries in support roles, though any assessment of their conduct by reference to the Code may have regard to such factors as their level of responsibility in relation to the matter and the extent of their relevant work experience.~~

Note: Words or terms in *italics* are defined in Section 2, Definitions.

Section 1. General

1.1 Purpose - This Code of Professional Conduct ("Code") sets out the minimum requirements that Full Member associations of the *AAE* should include in their own Codes of Conduct.

1.1.1 This Code provides guidance on the behaviours expected of *actuaries* when performing *actuarial services*, to give intended users of those services confidence that they are carried out professionally and with due care.

1.1.2 The Code also provides guidance on the behaviours expected of *actuaries* in wider contexts.

1.2 Application

1.2.1 The Codes of Conduct of Full Member associations of the *AAE* should reflect paragraph 1.2.2 below or should set more extensive requirements in relation to application.

1.2.2 Through compliance with the Code(s) of Conduct of the actuarial association(s) of which they are members[1]:

(a) All *actuaries* are expected to comply with Principle A (Integrity), within and outside the work-place.

In addition:

Actuarial services

(b) All *actuaries* are expected to comply with Principles B – E (Competence and Care; Compliance; Impartiality; Effective Communication) in relation to *actuarial services* that they perform (whether on a paid or unpaid basis).

Non-actuarial work

(c) In relation to non-actuarial work that they perform (if any, and whether on a paid or unpaid basis), *actuaries* should exercise *professional judgement* to determine whether and, if so, to what extent it is appropriate to comply with the spirit of Principles B – E (Competence and Care; Compliance; Impartiality; Effective Communication), taking into account the reasonable expectations of the intended user(s) of the work, the nature of the work, any other Code or standards that may apply to the work and any other relevant factors.

Commented [YL1]: Where the Code uses words that are defined in Section 2, those words are now written in italics. For ease of reading, we have not highlighted the font change.

Commented [YL2]: New section – modelled on the corresponding section of ESAP 1.

Commented [YL3]: This section and section 1.2 reflect the fact that the Code is not directly applicable to individual actuaries, but rather is a set of minimum requirements that member associations must include in their own Codes.

Commented [YL4]: See para. 1.2.2(a) and (c).

[1] References to Principles in paragraph 1.2.2 should be interpreted as meaning the Principles set out at Section 3 together with the associated Amplification of Principles at Section 4.

Support roles

(d) It is recognised that *actuaries* may act in a support role in which another *actuary* carries ultimate responsibility for the work performed. For the avoidance of doubt, *actuaries* in support roles are expected to comply with the Code (as per paragraph 1.2.2), though it is reasonable to expect that any assessment of their conduct by reference to the Code would have regard to such factors as their level of responsibility in relation to the matter and the extent of their relevant work experience.

Observing the spirit of the Code

(e) *Actuaries* are expected to observe the spirit as well as the letter of the Code, recognising that it is not an all-encompassing description of behaviours that should be adopted or avoided.

Departing from the Code

(f) There may be exceptional circumstances in which it is impracticable or inappropriate to comply fully with the Code. However, *actuaries* are expected to be prepared to justify any departure (and the extent of such departure) from the Code of Conduct of the actuarial association(s) of which they are members and explain why an act or omission was appropriate and reasonable in the circumstances involved.

Section 2. Definitions

The terms below are defined for use in this Code.

2.1 **AAE** – Actuarial Association of Europe

2.2 **Actuarial services** – Services based upon actuarial considerations that may include the rendering of advice, recommendations, findings or opinions.

2.3 **Actuary** – An individual member of one of the member associations of the *AAE*, including (where a member association admits part-qualified *actuaries* as members) any individual member who performs *actuarial services*, within his or her employment or otherwise, but is not yet a fully qualified *actuary*.

2.4 **Principal** – The party who engages the provider of *actuarial services*. The principal will usually be the client or the employer of the *actuary*.

2.5 **Professional judgement** – The judgement of the *actuary*, based on actuarial training and experience.

Commented [YL5]: Section 2: new section – drawing on the structure of ESAP 1.
Compared to the definitions of ESAP 1:
-The definition of "Actuarial services" is slightly different, for conciseness. The ESAP 1 definition would require further definitions to be added (the ESAP 1 definition is: "Services, based upon actuarial considerations, provided to intended users that may include the rendering of advice, recommendations, findings or opinion"; "intended users" is also defined, and that definition in turn includes a definition of "report").
- The definition of "Actuary" is extended to include part-qualified actuaries. Some associations admit part-qualified actuaries as members. Some of these members carry a high level of responsibility in their work, and therefore it would not be appropriate to exempt them from the Code. An association that does not admit part-qualified actuaries as members could omit the reference to members who are not fully qualified from its Code.

Section 3. Principles

Commented [YL6]: Section 3: The Principles were previously numbered 1-5; now A-E, for ease of reference at 1.2.2 and in section 4. For ease of reading, these numbering changes are not highlighted.

A. Integrity

An *actuary* shall act honestly and with the highest standards of integrity.

B. Competence and Care

An *actuary* shall perform ~~professional duties~~*actuarial services* competently and with care.

C. Compliance

An *actuary* shall comply with all relevant legal, regulatory and professional requirements.

D. Impartiality

An *actuary* shall not allow bias, conflict of interest or the undue influence of others to override *professional judgement*.

E. Effective Communication

An *actuary* shall communicate effectively and meet all applicable reporting standards.

Section 4. Amplification of Principles

The following information, which forms part of the Code, is included in order to elaborate on how (subject to paragraph 1.2.2) *actuaries* are expected to interpret and apply the Principles.

This information is not exhaustive. *Actuaries* are expected to apply *professional judgement* as and when necessary to ensure that they observe the spirit as well as the letter of the Code.

A. Integrity

A1 An *actuary* shall perform ~~professional services~~*actuarial services* with integrity, skill and care, shall fulfil the *actuary's* professional responsibility to the *principal* and shall not act against the public interest.

A2 An *actuary* shall act in a manner that will uphold the reputation of the actuarial profession, shall be of good character and shall, in both personal and business conduct, behave with integrity.

A3 In promoting and performing *actuarial services*, an *actuary* ~~and~~ shall not provide information that the *actuary* knows or ought to know is false or misleading.

A4 An *actuary* shall perform ~~professional services~~*actuarial services* with courtesy and shall co-operate with others serving the *actuary*'s *principal*.

A5 An *actuary* shall respect the confidentiality of information received.

A6 When an *actuary* is asked to ~~take on~~ provide ~~professional services~~*actuarial services* previously provided by another *actuary*, the *actuary* shall consider whether it is appropriate to consult with the previous provider to establish whether there might be any professional reason not to take on the new responsibility.

B. Competence and Care

B1 An *actuary* shall perform *actuarial services* carefully, thoroughly and without undue delay.

Commented [YL7]: Changed "professional duties" and, elsewhere, "professional services" to "actuarial services", for consistency with ESAP 1. Both "professional services" and "actuarial services" are used in the IAA requirements relating to Code of Conduct – it is not clear whether there is any significance in this, or whether they are considered to be interchangeable. Only the term "actuarial services" is used in ISAP 1.

Commented [YL8]: The paragraphs in Section 4 have been re-numbered, for consistency with the re-numbering of the Principles. For ease of reading, these numbering changes are not highlighted.

Commented [YL9]: A1: The IAA requires member associations to include, in their Codes of Conduct, a provision consistent with the following: "An actuary shall act in a manner that fulfils the profession's responsibility to the public". The AAE Code is consistent with this through the combination of (i)the final clause of A1 and (ii)C1.
The IAA states that associations may, in their Codes of Conduct, indicate that "an actuary could consider advising a client or employer where a proposed course of action would, in the opinion of the actuary, be contrary to the public interest". We refer to this possibility in the suggested "Questions and Answers" booklet (qt 2.1).

Commented [YL10]: A2: Article 42 of the Solvency II Directive says:
"Insurance and reinsurance undertakings shall ensure that all persons who effectively run the undertaking or have other key functions at all times fulfil the following requirements: . . . they are of good repute and integrity (proper)".
EIOPA has developed a draft guidelines on the "proper" requirement that says that an assessment of whether a person is proper "includes an assessment of that person's honesty and financial soundness based on relevant evidence regarding their character, personal behaviour and business conduct including any criminal, financial supervisory aspects regardless of location".
Against this backdrop, it seems appropriate to strengthen the Code, as per the suggested edit to A2.

Commented [YL11]: A3: The IAA requires associations to include a provision consistent with (but not necessarily identical to) the following: "An actuary shall not engage in any advertising or business solicitation that the actuary knows or should know is false or misleading".

Commented [YL12]: A6: This is consistent with an IAA requirement (though the IAA refers to "professional services" rather than "actuarial services").

Commented [YL13]: The "Competence and Care" section seemed light. Therefore, we have added B1 and B3, which represent good practice and, we feel, are unlikely to be problematic to associations / actuaries. We have also included further explanatory material in a "Questions and Answers" booklet.

B2 An *actuary* shall perform ~~professional services~~*actuarial services* only if:

- the *actuary* is competent and appropriately experienced to do so, or
- the *actuary* is acting on the advice of an individual who has the appropriate level of relevant knowledge and skill and the *principal* is aware that this is the case, or
- the *actuary* is acting under the direct supervision of another *actuary* who is taking professional responsibility for the work.

B3 An *actuary* shall ensure that, in respect of work for which the *actuary* is responsible, appropriate quality assurance processes are in place to provide confidence regarding the accuracy and completeness of the work.

C. Compliance

C1 An *actuary* is responsible for observing applicable technical and professional standards and shall take into account any relevant standards, guidance notes and similar documents formally issued or endorsed by the association(s) of which the *actuary* is a member, having regard to their scope and status (for example mandatory, recommended practice, etc).

C2 An *actuary* is subject to the disciplinary procedures prescribed in the rules of the association(s) of which the *actuary* is a member, and, subject to the right of appeal within those rules, shall accept any judgement passed, or the decision of any appeal procedure.

D. Impartiality

D1 An *actuary* shall not perform ~~professional services~~*actuarial services* involving an actual or potential conflict of interest, unless the *actuary*'s ability to act in an impartial manner is unimpaired and there has been full disclosure of the actual or potential conflict.

D2 An *actuary* shall disclose to the *principal*, in writing and in a timely manner, all sources of income related to any assignment carried out for the *principal*, other than income paid by that *principal*.

E. Effective Communication

E1 An *actuary* shall communicate professional analysis and advice in a timely manner and in a style and format that is appropriate to the particular circumstances, having regard to the need to convey the implications of the *actuary*'s analysis and advice in a manner that is comprehensible to the intended user.

E2 An *actuary* shall, in communicating professional analysis and advice:

- identify that the *actuary* is the source of the analysis and advice;
- state the capacity in which the *actuary* is acting;
- identify the *principal* for whom the analysis and advice is intended;
- state the scope of the work; and
- state that the *actuary* is available to provide the *principal* with supplementary information and explanation about scope, methods, data, professional judgements and conclusions.

~~*Approved by the General Assembly on 3 December 2012*~~

Commented [YL14]: B2: The IAA allows member associations to include in their codes a provision along the lines that an actuary may act "where the client would be disadvantaged if available advice was denied". However, we have not included this, as the client could also be disadvantaged if, due to the actuary's lack of competence / experience, the advice was deficient.

Commented [YL15]: D1: The IAA requirements state that associations may include a provision along the lines that "an actuary may not perform professional services under these circumstances unless the client and all principals have expressly agreed that the actuary may do so". In the suggested "Questions and Answers" booklet (qt 2.9), we draw readers' attention to the possibility of such a provision being included in a Code of Conduct.

Commented [YL16]: E1: Sets out general principle; consistent with ESAP 1 (Section 4).

Commented [YL17]: E2: Although it overlaps with ESAP 1, this section is retained because it largely corresponds to a section of the IAA requirements. (Also, associations are obliged to put in place a Code of Conduct that reflects at least the provisions of this Code, but they are not obliged to put in place a standard that corresponds to ESAP 1).