actuarial association of europe

Mutual Recognition Agreement & Q&A Document

Background information for the Professionalism Committee meeting on 16th April 2021

Review of Mutual Recognition Agreement (MRA) and Q&A document

1. On behalf of the AAE Professionalism Committee the MRA Review Task Force has completed a review of the Mutual Recognition Agreement (MRA) and the associated Questions & Answers document, formerly known as "Heubeck letter" on the application of the MRA. Unlike the MRA itself, the accompanying document is non-binding and therefore does not require approval by the General Assembly.

Origin of MRA

2. The current MRA was implemented in 2011 in recognition that it is good for actuaries, and good for the actuarial profession, if actuaries who hold valid actuarial credentials in one country can practice in another country, if they wish to do so. The MRA created a framework for mutual recognition of actuarial qualifications among participating associations.

3. Under Article 6 of the AAE Statutes, AAE Full Member Associations must sign the MRA if they are situated in a European State which is a signatory to the European Economic Area Agreement of May 1992 or which has otherwise entered into a treaty or other agreement with the EU which extends to that state the benefits of the EC Directives on recognition of professional qualifications. Observer Member Associations cannot be party to the MRA, though they may enter into a parallel bilateral agreement on the mutual recognition of qualifications.

Rationale for Review

4. The current MRA came into force in 2011. At the May 2017 Professionalism Committee meeting, the Chair, David Martin, presented conclusions from the first 5-year review of the operation of the MRA. It was generally agreed that the MRA was working well. However, it was suggested that the MRA should be reviewed and updated in light of Directive 2013/55/EC, which amended Directive 2005/36/EC on the recognition of professional qualifications, and that the Q&A document (the "Heubeck" letter) should also be updated in light of experience of implementing the MRA.

5. The review of the MRA was to be carried out on the basis that an updated MRA should continue to reflect the spirit of Directive 2005/36/EC (as amended) but should not necessarily seek to bring into effect the detailed provisions of the Directive[1].

[1] The Directive applies in respect of "regulated professions", as defined in the Directive. Currently, "The EU Single Market Regulated professions database" lists the actuarial profession as a regulated profession in Denmark, Italy, Poland, Slovakia, Slovenia, Spain, Sweden and (formerly) the United Kingdom. Compliance with the MRA

6. An MRA Task Force[2] was set up in 2018 to take this work forward. It completed its work in spring 2019, and after approval of the Professionalism Committee the proposed changes to the MRA were issued for consultation on 6th May 2019. Proposed changes to the Q&A document followed on 8th May 2019. The consultation on both closed on 5th August 2019, and after taking into account the feedback received, the updated MRA and Q&A document were submitted for approval to the General Assembly 2019 in Vienna.

7. After a decision on the updated MRA and the updated Q&A document was postponed at the General Assembly 2019 in Vienna, in 2020 a second MRA Review Task Force[3] was set up to continue work on both documents in the light of current developments. In particular, the TF has been asked by the AAE Board to include CPD requirements and define a possibility to leave the MRA if valid reasons can be presented.

8. The Professionalism Committee is invited to discuss the proposed changes on MRA and Q&A document so that they can be consulted with Full Member Association over the next months. The goal is to finally approve the new MRA (and the Q&A document) during the General Assembly 2021 in Sursee, Switzerland.

Proposed changes to the MRA

9. A "tracked changes" draft is attached.

10. Many of the proposed changes to the MRA are tidy-ups (e.g. to update references to Directives) or clarifications.

11. The list of participating member associations ("Qualifying Associations") has been moved to an appendix, so that it will be easier to update the list in the future.

12. The term "fully-qualified actuary" has been removed, as it can be interpreted in different ways – in particular, some associations deem members who meet the requirements of the IAA Education Syllabus (but not the AAE Core Syllabus) to be fully-qualified actuaries. Care has been taken, however, not to change the intent of the MRA. The updated MRA uses the term "Qualifying Actuary" to refer to members of associations who are regarded as qualifying for mutual recognition. When an actuary becomes a member of a host association, the actuary will not be able to use that derived membership to gain membership of a third association but will otherwise have the same rights, duties and obligations as Qualifying Actuaries of the host association.

13. Qualifying Associations not only have to ensure that their education/qualification requirements have covered all aspects of the Core Syllabus for Actuarial Training in Europe of the AAE but also – and this is new – that its Continuous Professional Development (CPD) requirements comply with the Guidelines of the AAE.

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will not necessarily constitute compliance with the Directive. Associations that are subject to the Directive will need to satisfy themselves that they comply with its provisions and with relevant domestic legal obligations.

[2] MRA Task Force: Yvonne Lynch (Chair), Birgit Kaiser, Suzie Lyons

[3] MRA Review Task Force: Birgit Kaiser (Chair), Malcolm Campbell, Romain Durand, Tony Jeffery, Rafael Moreno

14. Consequently, a member of one Qualifying Association who has met that association's education/qualification and experience requirements as well as its CPD requirements and who wants to take up work in another country, is eligible to apply to become a member of the Qualifying Association in that country (the "host" association).

15. A new paragraph 2 has been added, defining "home association".

16. The MRA allows a host association to require an applicant to complete an adaptation period or aptitude test. Under the new MRA, the host association, rather than the applicant, will be allowed to choose between an adaptation period and an aptitude test. However, some Associations must by law offer a choice (if they are subject to Directive 2005/36/EC and no derogation applies (Article 14(2) of the Directive)). Q&A no. 4 of the proposed new Q&A document draws attention to this, and encourages other associations to offer a choice where practicable. This is an example of how the MRA reflects the spirit of the Directive without imposing all its provisions on Qualifying Associations.

17. On the basis that it is not the function of the MRA to set down specific experience requirements for qualification as an actuary, a reference within the provisions on adaptation periods to 3 years' practical experience has been removed. However, associations' qualification requirements can differ in respect of work experience, which may be a valid reason for applying an adaptation period or an aptitude test, and this is reflected in an amendment at paragraph 3.b.i. of the updated MRA. Also, a Qualifying Actuary may wish to pursue a regulated activity in the host country, without being able to demonstrate sufficient experience, and this may also require an adaptation period or an aptitude test, as reflected in the amended paragraph 3.b.ii.

18. A statement on certain matters to be addressed in an association's Code of Conduct has been removed from paragraph 4. of the updated MRA as this is covered under the AAE Statutes and Code of Professional Conduct and belongs more correctly there.

19. New paragraphs 7, 8 and 9 have been added to discuss the various reasons why and how participation in the MRA could be terminated:

    (i) A Qualifying Association's participation in the Agreement may be terminated if it persistently fails to comply with the requirements of the Agreement.

    (ii) Participation in the Agreement must be terminated if a Qualifying Association decides to leave the AAE.

    (iii) In case of force majeure or for other justified reasons a Qualifying Association should inform the AAE immediately, and if no joint solution to resolve the issue behind the wish to leave the Agreement can be found, the case will be presented at the AAE General Assembly.

20. In all three cases in 19., when a Qualifying Association leaves the Agreement, the derived members of that Association must be allowed to continue with their membership. Similarly, derived members whose home association leaves the Agreement must be allowed to continue their pre-existing derived membership of their host association. This applies also to Qualifying Actuaries who were in the process of obtaining derived membership when the exiting

association left the Agreement; they will be allowed to proceed to the end of the process. This particularly applies to any actuary engaged in an adaption period.

Proposed changes to the Q&A document

21. The expression "Heubeck letter" goes back to Klaus Heubeck, past AAE Chairman, who signed the very first letter to AAE member associations on the operation of the MRA in 1994. As this is nowadays rather confusing, the MRA Review TF proposes to speak of a "Q&A document" instead and delete all references to the original letter format. Moreover, introductory paragraphs have been moved to an appendix and have been brought up to date. In their place, the proposed Q&A document includes a new section on the context of the (updated) MRA. This clarifies that:

    (i) The authority for the MRA lies in Article 6 of the Statutes.

    (ii) In preparing the MRA, the AAE had regard to the principles of Directive 2005/36/EC, and the signatories have entered into the MRA to reflect their support for the spirit and goals of the Directive.

    (iii) It is <u>not</u> the purpose or intent of the MRA to bring into effect in any way the provisions of the Directive and there is no direct connection between the MRA and the Directive. Participating associations in countries where the actuarial profession is a regulated profession (as defined in the Directive) may be subject to obligations beyond those of the MRA.

    (iv) The MRA relates to applications for membership from members of participating associations. If an applicant for membership of a host association is not a member of the association in their home country, the MRA does not apply; associations must separately decide whether and if so how to process such applications.

    (v) The Questions and Answers set out are intended to provide practical help to participating associations in interpreting and operating the MRA. They are provided as a support and with a view to encourage a harmonised application of the MRA. However, the document is non-binding and adopting any of the suggestions set out is not mandatory.

22. Moreover, the text of the document has been amended for improved clarity / conciseness and for consistency with the updated MRA.

    (i) Where the document made recommendations to associations regarding requirements to be applied to individual actuaries, we have amended the text as we felt that such recommendations were beyond the scope of a Q&A on the MRA.

    (ii) At question 2 and elsewhere, we have removed the term "migrant actuary", which we felt was not necessarily clear. In the answer to question 2, some re-ordering and slight editing of the text is proposed in order to improve the flow.

    (iii) The original answer to question 3 says *"We recommend that Associations . . . should require their members"* to inform the associations of specific circumstances relating to the members' work. We have edited the wording here and elsewhere, where similar language

is used, as we think that it is beyond the scope of a Q&A on the MRA to recommend requirements to be applied to individual actuaries.

(iv) We have added a new Q&A no. 4 on adaptation periods and aptitude tests. Here, as mentioned, we draw attention to the fact that some associations must by law offer a choice; we also encourage other associations to offer a choice, where practicable.

(v) We have edited what is now Q&A no. 5. We feel that it is beyond the scope of the Q&A to provide a view on the content of an individual actuary's terms of engagement, and so we have shifted the focus to information that Qualifying Associations should provide when they accept applications for membership under the MRA.

(vi) The original Q&A no. 5 talked about a situation where an actuary seeks membership of a host association without being a member of a home association. We deleted the Q&A as we felt that is was not relevant – the MRA would not apply in this situation.

(vii) At Q&A no. 6, we deleted an additional paragraph about individual actuaries showing qualifications on stationery, visiting cards etc. We support the principle that a fully-qualified actuary practising in a host country should be able to use the appropriate designatory letters or title of that Association. However, the Q&A document is a support to Qualifying Associations in implementing and operating the MRA and we feel that these quite detailed provisions on what individual actuaries "may" do, or "should" or "should not" do, are not appropriate or necessary.

(viii) We have added a new Q&A no. 7 to explain under which circumstances a host association may accept an actuary who qualified through the MRA as a qualified member in their own right. If an association wishes to do this, it will have to set up rules including a minimum period of active membership of at least five years.

(ix) We have also added a new Q&A no. 10 to explicitly state that Qualifying Associations are free to enter into mutual recognition agreements with other non-European associations, only that members accepted under these agreements are not to be considered Qualifying Actuaries for the purpose of the MRA.

(x) We have edited Q&A no. 9 (now 11) to clarify that derived membership of an association cannot be used to obtain derived membership of another association, since applications for membership under the MRA are conditional in the first instance on holding membership of the home association.

(xi) We deleted Q&A no. 10. The MRA provides for mutual recognition of fully-qualified actuaries who are members of the Qualifying Associations, and while it is influenced by the principles and objectives of Directive 2005/36/EC, it is distinct from the Directive. The MRA does not include any conditions or restrictions relating to the nationality of individual actuaries and it does not give associations any right to impose such conditions. For these reasons, we feel that the original question 10 is not necessary.

(xii) We have edited Q&A no. 11 (now 12) for clarity.

(xiii) We have edited Q&A no. 12 (now 13) for clarity and to remove an out-of-date reference to Code of Conduct requirements.

(xiv) We have added new Q&A 14 and 15 to address the question which checks the host association is allowed to apply and what should happen if the applicant turns out not to comply with the MRA requirements, i.e. not to be a Qualifying Actuary.

(xv) We have edited Q&A no. 13 (now 16) for clarity.

(xvi) Q&A nos. 14-16: we have replaced these paragraphs on disciplinary matters with a more concise piece at the new Q&A no. 17.

(xvii) We have added new Q&A 18 and 19 to address the issue of leaving the MRA ("exit rules"). We differentiate between the AAE wishing a Qualifying Association to leave, and a Qualifying Association deciding to terminate participation in the MRA.

(xviii) A new Q&A no. 20 describes how individual actuaries and their membership status are protected in the event that a Qualifying Association's participation in the MRA is terminated.

(xix) We have added a new Q&A 21 on the five-yearly review described at Article 6 of the MRA.

Proposed changes to Statutes

The MRA Review TF has also examined the Statutes of the AAE, in particular Articles 5 and 6 (see Appendix), and in the light of the updated MRA proposes various amendments:

23. As compliance with the new AAE Guidelines on CPD is to now be considered as a membership requirement (just as compliance with the AAE Core Syllabus), the CPD Guidelines should be included in Article 5 "Criteria for Full Membership" in a new paragraph.

24. As regards the MRA itself, Article 6 "Mutual Recognition" needs rewording:

    (i) The TF agrees that the intention of Art. 6 should allow member Association which is no longer subject to the Directive to leave the MRA, but then the wording would need to be adjusted.

    (ii) Art. 6 also needs to define under what circumstances a (new) AAE Full Member Association may become a signatory to the MRA if 6, 1. does not apply.

25. Moreover, the TF recommends that Board and Professionalism Committee discuss what the consequences should be when a Member Association persistently doesn't fulfil the AAE membership requirements, and whether this needs to be addressed in the Statutes.

2021 Questionnaire on operation of MRA

The MRA is due for its five-yearly review in 2021 (the last in 2016 initiated the current review). The purpose of the questionnaire is to understand better the operation of the MRA, and ways in which it, and the accompanying Q&A document, might be improved. The MRA Review TF would like to take into account the responses from member associations as part of the consultation process on the revised MRA.

END

APPENDIX:

AAE Statutes, Article 5

1. Actuarial associations applying for full membership must have a Code of Conduct that reflects at least the requirements of the AAE's Code of Professional Conduct, and comply with minimum education standards as set out in the AAE's Core Syllabus for Actuarial Training in Europe of December 1998, as may be amended from time to time.

2. Within 18 months after applying for membership they have to have a formal disciplinary process in place meeting the following criteria:
   - Accessibility of the complaint process to anyone affected by a member's work and his / her professional peers,
   - Availability of a due defence process available for a member complained against,
   - Existence of an independent and objective formal appeal process,
   - Definition of appropriate sanctions.

3. If standards of practice are recommended by the applying association an appropriate promulgation process must be in place meeting the following criteria:
   - Exposure of proposed standards to members and where relevant to third parties for comment,
   - Consideration of comments on the exposure draft,
   - Process of promulgation of standards by an authority vested with adequate powers,
   - Publication of standards and distribution to practitioners.

AAE Statutes, Article 6

1. Full Member Associations must sign the AAE Agreement of April 1991 (as amended from time to time) concerning the recognition by each EU actuarial association of members of the other EU associations, (the Mutual Recognition Agreement) if they are situated in a European State which is a signatory to the European Economic Area Agreement of May 1992, or which has otherwise entered into a treaty or other agreement with the EU which, inter alia, extends to that state the benefits of EU Directive 89/48/EEC (as amended by Directive 2001/19/EC) on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration, and the Directive on the recognition of professional qualifications 2005/36/EC (as amended by Directive 2013/55/EC).

2. Observer Member Associations cannot be a party to the Mutual Recognition Agreement. They may, however, with the prior approval in each case of the signatories of the principal Agreement, enter into a parallel bilateral Agreement on the Mutual Recognition of Qualifications.