

FIT AND PROPER

AN OPPORTUNITY FOR THE ACTUARIAL PROFESSION

BY **LUTZ WILHELMY** AND
CHRISTOPHE HECK



LUTZ WILHELMY

is Director Group Risk
Management at Swiss Re
and Chairman of the AAE

GENERAL CONTEXT

'Fit and Proper tests' have been introduced at the beginning of the millennium as supervisory tests for those that run a financial undertaking (e.g., a bank, an insurer, or a pension provider). The 2005 IAIS '**Supervisory standard on fit and proper requirements and assessment for insurers**' keeps the responsibility with supervisory authority but extends the scope to key functions of insurance undertakings. While the succeeding and in-force Standard of IAIS Insurance Core Principles (ICPs) avoids the notion of 'Fit and Proper', it effectively lists requirements for being 'Fit and Proper' while requiring supervisors to ensure that insurers have effective key functions, including an actuarial function. So, the ultimate responsibility is shifted to the insurance and reinsurance undertaking. The ICPs are soft laws that are applicable for European supervisory systems and regularly assessed by the IMF's Financial Sector Assessment Program (FSAP).

EUROPEAN UNION CONTEXT

More directly, applicable to EU supervisors and undertakings, more recent European banking, insurance, and pensions regulations set out 'Fit and Proper' requirements. Thus, it is cross-sectorial regulation. In insurance and pensions, the EU regulators assign responsibility for ensuring 'Fit and Proper' to insurance and reinsurance undertakings and institutions for occupational retirement provision – not to supervisory authorities. This is not to be confused with supervisory >

'Fit and Proper' tests, that remain required in many jurisdictions. In contrast, the requirements and the compliance process assigned to the insurance and reinsurance undertakings and institutions for occupational retirement provision are not public, even though at least insurance and reinsurance undertakings are asked by direct delegated regulation (SII Delegated Reg. Art. 273, 294) to establish a (non-public) policy on 'Fit and Proper' and report on their requirements for 'Fit and Proper' as well as on their processes for the assessment in their public Solvency and Financial Condition Report.

COUNTRY LEVEL CONTEXT

In some countries, some actuarial services are regulated by local laws, and some are not regulated. For the services regulated by local laws, the appointment of a body controlling the provider of the actuarial services can either be delegated to a professional body (e.g., local actuarial association), or it can be kept within the realm of the supervisor or regulator. In some Member States the regulator has legally recognized a local professional actuarial organization (i.e., full members of the AAE (FMAs)) as a source of persons who are automatically considered basically 'Fit and Proper' to hold key actuarial functions as the required checks are made by the local professional actuarial organization. That, however, does not waive the responsibility of insurance undertakings or pensions providers in the context of SII and IORP II.

DEFINITION

According to [Art 42](#), Solvency II Directive, persons are:

- **'Fit'**: if their professional qualifications, knowledge, and experience are adequate to enable sound and prudent management, and
- **'Proper'**: if they are of good repute and integrity.

According to [Art 22](#), IORP II Directive, persons are:

- **'Fit'**:
 - For persons who effectively run the IORP, this means their qualifications, knowledge and experience are collectively adequate to enable them to ensure a sound and prudent management of the IORP;

- For persons who carry out the actuarial or internal audit key functions this means their professional qualifications, knowledge and experience are adequate to properly carry out their key functions;
 - For persons who carry out other key functions this means their qualifications, knowledge and experience are adequate to properly carry out their key functions.
- **'Proper'**: they are of good repute and integrity.

CHALLENGES ARISING FROM EUROPEAN UNION VERSUS COUNTRY LEVEL LAWS AND REGULATIONS

EU regulation reflects this flexible approach by requiring that Member States shall require insurance or reinsurance undertakings (Solvency II, Art. 42 et seqq.) or institutions for occupational retirement provision (IORP II, Art. 22 et seqq.) to ensure that persons who carry out key functions for the undertaking or institution are **'Fit and Proper'**. Insurance and reinsurance undertakings should (SII Delegated Reg. Art. 273, 294) establish a policy on 'Fit and Proper' and report publicly on their specific requirements for 'Fit and Proper' as well as on their processes for the assessment. It should be noted that this may mean a duplication of ultimate responsibility in some Member States with, on the one hand, supervisory, regulatory, or professional bodies remaining responsible for some actuarial services and, on the other hand, the undertaking or institution assuming quite a comprehensive responsibility for all providers of key functions, including the actuarial function, but also the actuarial components of other key functions under the main prudential systems, namely SII and IORP II. Solvency II and IORP II do not interfere with or overwrite some local supervisors' decisions to recognize a local professional organization (such as FMAs) as a source of persons who are automatically considered as 'Fit and Proper' to provide key actuarial services. It just complements them with an overarching EU-wide requirement for undertakings and institutions to ensure that their key function holders are 'Fit and Proper'. In those Member States, where the supervisor or regulator recognizes a local professional organization (such as FMAs) as a >

CHRISTOPHE HECK

is Market Head Life & Health France at Swiss Re and Chair of the AAE Professionalism Committee



source of persons who are automatically considered as 'Fit and Proper' to provide key actuarial services, undertakings or institutions may choose to base their 'Fit and Proper' assessment on the assessment done by the regulator, supervisor or a professional organization. This does not lift the responsibility from the undertaking or institution, but it makes it easier for the undertaking or the institution to meet the responsibility. In other Member States, where there is no such official recognition, undertakings and institutions often reference actuarial credentials of the local professional organization in their public reports. But it appears challenging for undertakings and institutions to be specific on their 'Fit and Proper' requirements and assessment processes.

WHAT ARE ACTUARIES AND ACTUARIAL ASSOCIATIONS DOING

The AAE and local FMAs have established requirements for Fully Qualified Actuaries (FQAs):

- Core education syllabus: defines the minimum education requirements to be a Fully Qualified Actuary (FQA);
- The CPD guidelines (as of 01.01.2024): defines requirements for FQA to develop their skills over time;
- Code of professional conduct: defines the principles of conduct for FQAs when providing actuarial services.

Probably, the most compelling requirement perhaps is mentioned in the code of professional conduct: 'An actuary must perform specific professional services only if the actuary is competent and appropriately experienced to do so'. Therefore, a FQA should not

perform an actuarial task in case she is not 'Fit and Proper' to do so. In addition, if an FQA doesn't comply with those requirements, FMAs have a disciplinary process in place defining appropriate sanctions.

These requirements ensure that actuaries are 'Fit and Proper' at any time to perform any actuarial tasks.

WHAT COULD THE FUTURE LOOK LIKE?

One of the challenges which can also be seen as an opportunity for the actuarial profession is that there are roles (Actuarial Public Interest Role) in which a person assumes responsibility for an actuarial service that materially contributes to the public interest which are not always subject to 'Fit and Proper' requirements. Consequently, for some of those roles, there is a mismatch between the impact and the importance of the role and the requirements to which the professional is subject to. Consequently, the AAE and the local actuarial association should take advantage of 'Fit and Proper' requirements to promote the actuarial profession and ensure that any Actuarial Public Interest Role tasks are provided by actuaries and non-actuaries who are subject to the same 'Fit and Proper' requirements.

Finally, we would like to thank the AAE Task Force on 'Fit and Proper' for the work done on this topic and the time spent in analyzing European legislation (Solvency II, IORP II and so much more). <