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9th October 2009

Dear Dr Jones

CP09/18: Distribution of Retail Products: Delivering the RDR

The Institute of Actuaries and the Faculty of Actuaries are the two chartered professional bodies for UK actuaries, working closely together across the UK as The Actuarial Profession. Like most UK professional bodies, The Actuarial Profession has the twin roles of representing members to the outside world and regulating members for the benefit of the outside world. These aims include regulation of members in terms of an ethical code of professional standards produced by the Profession. It is with interest that we read your proposals contained within this Consultation Paper and would like to provide comment on two of the specific questions asked therein.

Q.17: What are your views on this model Code of Ethics as the basis for further PSB/FSA consideration and consultation?

The Actuarial Profession is supportive of the FSA developing a model Code of Ethics. This mirrors our development of the 'Actuaries' Code', which applies at all times to members' conduct in their work as actuaries. This Code has been developed over the last two years and became effective on 1st October 2009. For information, I append a copy of the Code (appendix 1).

I also include, at appendix 2, a document which maps the requirements of your model code on to the Actuaries' Code requirements. While the wording of the two codes differs, it is clear that their meaning and intended outcomes are very much in agreement.

Paragraph 5.23 of your Consultation Paper suggests that relevant professional bodies should incorporate your future new Code into their own codes of ethics or practice. We have reservations about this proposal if it means that professional bodies will have to amend their own codes to conform with a common template. You will appreciate that professions' codes have usually been formulated only after a great deal of internal and external consultation (including, in the case of the Actuaries' Code, extensive consultation with the Financial Reporting Council). They fit the

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9th October

culture and style of the profession concerned. Moreover, if the behaviours they seek to encourage are to take root, there is a good deal to be said for continuity in, and familiarity by members with, the content of their particular profession's code.

We believe that the way forward lies in the suggestion to be found in paragraph 5.23 of the Consultation Paper that the PSB/FSA "should recognise those professional body codes that are consistent with the core Code". We suggest that the FSA's model code should serve as a benchmark against which the content of individual codes can be tested (as in the exercise in respect of our own code the result of which is set out in appendix 2). If, as a result of such a benchmarking exercise, the FSA finds a particular profession's code lacking in some important respect, it should press the profession concerned to remedy the deficiency. If the FSA is content that a profession's code is consistent in substance with the model code, it should recognise that Code as being consistent and commend it (or kite-mark it) as such.

Q18: Do you have any comments on this approach to CPD for investment advisers, including comments on any changes that it would involve to current practices?

The Actuarial Profession strongly supports the proposed approach to CPD. We believe that outcomes-based CPD requirements, relevant to an individual's learning needs, represent the most appropriate way of demonstrating competence to perform specific roles. We are currently exploring how we can implement a scheme of similar style and would welcome the opportunity to benchmark our scheme when final proposals are made by the FSA.

We hope that we have correctly understood your intentions on both these points and that our comments are helpful. Should you wish to discuss our response in more depth, please do not hesitate to contact me.

Yours sincerely

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9th October

Appendix 1:

The Actuaries' Code

THE UK ACTUARIAL PROFESSION THE ACTUARIES' CODE

Application	All actuaries, which for this purpose means anyone subject to the Disciplinary Scheme of the Faculty of Actuaries in Scotland or of the Institute of Actuaries (the disciplinary schemes). They are referred to in this Code as "members".
Scope	The Code applies at all times to members' conduct in their work as actuaries, but will also be taken into consideration where their conduct in other contexts could reasonably be considered to reflect on the profession.
Status and Purpose	The Code consists of principles which members 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. The Code will be taken into account if a member's conduct is called into question for the purposes of the Actuarial Profession's disciplinary schemes. It is not a set of rules, and conduct that falls short of the Code will not inevitably constitute misconduct. Equally, members will be expected to observe the Code's spirit in their professional conduct.

- 1. Integrity:** Members will act honestly and with the highest standards of integrity.
 - 1.1 Members will show respect for others in the way they conduct themselves in their professional lives.
 - 1.2 Members will respect confidentiality unless disclosure is permitted by law and justified in the public interest.
 - 1.3 Members will be honest, open and truthful in promoting their business services.

- 2. Competence and Care:** Members will perform their professional duties competently and with care.

9th October

- 2.1 Members will consider who their advice and/or services are being provided to (their clients). In many cases this may be their employer.
- 2.2 Members will not act unless:
 - a) they have an appropriate level of relevant knowledge and skill; or
 - b) they are acting on the advice of an individual who has the appropriate level of relevant knowledge and skill and all interested parties are aware that this is the case; or
 - c) they are acting under the direct supervision of another member who is taking professional responsibility for that work.
- 2.3 Members will consider whether advice from other professions and other specialists is necessary to assure the relevance and quality of their work.
- 2.4 Members will take care that the advice or services they deliver are appropriate to the instructions and needs of the client, including the legal and other rules which may govern the matter, having due regard to others, such as policyholders of an insurer, members of a pension scheme, or any analogous persons whose interests are affected by the work of the member.
- 2.5 Members will agree with the client the scope and nature of any appointment or instruction.
- 2.6 Members will agree with the client the basis for their remuneration before commencing an appointment or instruction and before any material change in the scope of an existing appointment or instruction.
- 2.7 Members will keep their competence up to date.
- 3. Impartiality:** Members will not allow bias, conflict of interest, or the undue influence of others to override their professional judgement.
 - 3.1 Members will ensure that their ability to provide objective advice to their clients is not, and cannot reasonably be seen to be, compromised.
 - 3.2 A conflict of interests arises if a member's duty to act in the best interests of any client conflicts with:
 - a) the member's own interests, or
 - b) an interest of the member's firm, or
 - c) the interests of other clients.

9th October

- 3.3 Members will take reasonable steps to ensure that they are aware of any relevant interest, including income, of their firm.
 - 3.4 Members will disqualify themselves from acting where there is a conflict of interest that cannot be reconciled.
 - 3.5 Members will document the steps they have taken to reconcile a conflict and will agree those steps with their clients if they would be ineffective without agreement.
 - 3.6 Before accepting any assignment, members will consider carefully whether they should consult with any member who previously held such a position with the client, to establish whether there might be any professional reason why the assignment should be declined.
- 4. Compliance:** Members will comply with all relevant legal, regulatory and professional requirements, take reasonable steps to ensure they are not placed in a position where they are unable to comply, and will challenge non-compliance by others.
- 4.1 Members will speak up to their clients or to their employers, or both, if they believe, or reasonably ought to believe, that a course of action is unlawful, unethical or improper.
 - 4.2 Members will fulfil any obligations to report information to relevant regulatory authorities.
 - 4.3 Where there is legal protection available, members will report behaviour that they have reasonable cause to believe is unlawful, unethical or improper, to regulators or other relevant authorities. In the UK these protections include: the Public Interest Disclosure Act 1998, sections 342 and 343 of the Financial Services and Markets Act 2000 and section 70 of the Pensions Act 2004.
 - 4.4 Members will promptly report any matter which appears to constitute misconduct or a material breach of any relevant legal, regulatory or professional requirements including Actuarial Profession Standards and Technical Actuarial Standards issued by the Board for Actuarial Standards, for consideration under the relevant disciplinary schemes. To the extent that the consent of a third party is required for this purpose in order to disclose information, members must take all reasonable steps to obtain such consent.

9th October

- 5. Open Communication:** Members will communicate effectively and meet all applicable reporting standards.
- 5.1 Members will ensure that their communication, whether written or oral, is clear (indicating how any further explanation can be obtained) and timely, and that their method of communication is appropriate, having regard to:
- a) the intended audience;
 - b) the purpose of the communication;
 - c) the significance of the communication to its intended audience; and
 - d) the capacity in which the member is acting.
- 5.2 Members will take such steps as are sufficient and available to them to ensure that any communication with which they are associated is accurate and not misleading, and contains sufficient information to enable its subject matter to be put in proper context.

9th October

Appendix 2

Correlation of Proposed FSA Code of Ethics with the Actuaries Code.

FSA Code of Ethics	Actuaries Code
To act honestly and fairly at all times when dealing with clients and to act in the best interests of each client	1. Integrity: Members will act honestly and with the highest standards of integrity.
To act with integrity in fulfilling the responsibilities of your appointment and seek to avoid any acts, omissions or business practices which damage the reputation of your organisation and the financial services industry	1. Integrity: Members will act honestly and with the highest standards of integrity. 2. Competence and Care: Members will perform their professional duties competently and with care.
To observe applicable law, regulations and professional conduct standards when carrying out financial service activities	4. Compliance: Members will comply with all relevant legal, regulatory and professional requirements, take reasonable steps to ensure they are not placed in a position where they are unable to comply, and challenge non-compliance by others.
To observe the standards of market integrity, good practice and conduct required or expected of participants in markets when engaging in any form of market dealings	1. Integrity: Members will act honestly and with the highest standards of integrity
To be alert to and manage fairly and effectively and to the best of your ability any relevant conflict of interest	3. Impartiality: Members will not allow bias, conflict of interest, or the undue influence of others to override their professional judgement.
To attain and actively manage a level of professional competence appropriate to your responsibilities and commit to continued learning to ensure the currency of your knowledge, skills and expertise	2. Competence and Care: Members will perform their professional duties competently and with care. 2.6 Members will keep their competence up to date.

9th October

<p>To decline any engagement for which you are not competent unless you have access to such advice and assistance as will enable you to carry out the work competently</p>	<p>2.2 Members will not act unless:</p> <ul style="list-style-type: none">a) they have an appropriate level of relevant knowledge and skill; orb) they are acting on the advice of an individual who has the appropriate level of relevant knowledge and skill and all interested parties are aware that this is the case; orc) they are acting under the direct supervision of another Member who is taking professional responsibility for that work.
<p>To uphold the highest personal and professional standards</p>	<p>1. Integrity: Members will act honestly and with the highest standards of integrity</p>