

GN39: General Responsibilities of and Relationships between Actuarial Function Holders, With-Profits Actuaries, Appropriate Actuaries, and Reviewing Actuaries, of UK Life Insurance Firms and Friendly Societies

Classification

Practice Standard

MEMBERS ARE REMINDED THAT THEY MUST ALWAYS COMPLY WITH THE PROFESSIONAL CONDUCT STANDARDS (PCS) AND THAT GUIDANCE NOTES IMPOSE ADDITIONAL REQUIREMENTS UNDER SPECIFIC CIRCUMSTANCES

Purpose

This Guidance Note sets out general responsibilities of the holders of the various statutory roles for firms transacting long term insurance business, and the relationships between them. Guidance relevant to each individual role will be found in GNs 40-43.

Definitions

Defined terms appear in italics when used in the standard.

Reference

actuarial function holder

Definition

A Fellow of the Faculty of Actuaries or of the Institute of Actuaries appointed by (or by the *FSA* for) a *firm* in accordance with SUP 4.3.1R or SUP 4.3.3R of the FSA Handbook to perform the role specified in SUP 4.3.1R(1)(a)

appropriate actuary

A Fellow of the Faculty of Actuaries or of the Institute of Actuaries appointed by a friendly society in accordance with SUP4.4.1R of the FSA Handbook

firm

An insurance company or friendly society in respect of which the actuary is appointed

FSA

Financial Services Authority

governing body

The board of directors or committee of management of a *firm*

PCS

Professional Conduct Standards of the Faculty of Actuaries and Institute of Actuaries

reviewing actuary

An actuary independent of a *firm* from whom IPRU(INS) 9.35(1A) requires the *firm's* auditor to take appropriate advice

with-profits actuary A Fellow of the Faculty of Actuaries or of the Institute of Actuaries appointed by (or by the *FSA* for) a *firm* in accordance with SUP 4.3.1R or SUP 4.3.3R of the *FSA Handbook* to perform the role specified in SUP 4.3.1R(1)(b).

The following terms have the meanings given to them in the glossary section of the *FSA Handbook of Rules and Guidance*:

liability to a policyholder
Principles and Practices of Financial Management
with-profits policyholder

In addition, the following abbreviations are used for sections of the *FSA Handbook of Rules and Guidance*:

APER	Statements of Principle and Code of Practice for Approved Persons
IPRU(INS)	Interim Prudential sourcebook for Insurers
SUP	Supervision manual

Legislation or Authority

The Financial Services and Markets Act 2000 (the “Act”).
The *FSA Handbook of Rules and Guidance* (the “*FSA Handbook*”)
The Financial Services and Markets Act 2000 (Communications by Actuaries) Regulations 2003 (the “Regulations”)

Application

Actuarial function holders, with-profits actuaries, and reviewing actuaries, appointed by or in respect of UK authorised insurance companies and friendly societies writing long-term insurance business. *Appropriate actuaries* of UK friendly societies.

Author

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Status

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1 General

- 1.1 In this standard, requirements of legislation or of *FSA* rules and guidance are specifically referred to as such. Any other guidance is that provided additionally by the profession. The inclusion of summarised references to, or quotations from, particular provisions of the *FSA Handbook* is not a substitute for referring to the *FSA Handbook*.
- 1.2 The responsibilities of actuaries to whom this standard applies are central to the financial soundness of the long-term insurance business of the *firms* in respect of which they act, and to the fair treatment of policyholders.
- 1.3 It is a professional requirement that an actuary must not accept appointment as *actuarial function holder* or *with-profits actuary* if he or she does not have the necessary skill and experience to provide appropriate actuarial advice. Similar considerations apply within *FSA* rules applying to approved persons. This professional requirement also applies to the role of the *reviewing actuary*. Additionally, the profession requires all such actuaries to possess a practising certificate appropriate to the type of business in respect of which the actuary will act. Before taking up an appointment as *actuarial function holder* or *with-profits actuary*, an actuary must ensure that the relevant requirements of *PCS* have been met including, in particular, a discussion with his or her immediate predecessor, if any. A *reviewing actuary* gives “reserved advice” within the meaning of that term in the *PCS*. This means that a *reviewing actuary* should normally consult his or her predecessor. However, it is considered that where a *reviewing actuary* is a partner in, or employed by, the same professional firm as his or her predecessor this requirement may not be necessary in respect of different reporting dates.
- 1.4 An actuary to whom this standard applies must take reasonable steps to ensure that his or her principal understands when he or she is providing advice in accordance with statute, *FSA* rules and guidance or actuarial professional guidance, as opposed to providing advice or expressing opinion as an employee, director or external adviser, as the case may be.
- 1.5 This standard does not cover the responsibilities of each particular position referred to in this guidance note. It is the responsibility of the actuary to ensure he or she complies with other professional guidance applicable to the position.

2 General responsibilities of *actuarial function holders, with-profits actuaries, appropriate actuaries and firms*

- 2.1 *Actuarial function holders, with-profits actuaries and appropriate actuaries* are required by SUP 4.5.9R to notify the *FSA* without delay when they resign or their appointment is terminated or not renewed. They are also required to notify the *FSA* without delay of any matters connected with the cessation of their appointment which they think ought to be brought to its attention, or that there is no such matter.

- 2.2 *Actuarial function holders* and *with-profits actuaries* (other than those appointed by the *FSA* for *firms*, unless that appointment is confirmed by the *firm*) are Approved Persons as defined in the *FSA Handbook* and must be familiar with the obligations which this imposes on them. In particular, they must be aware of the extent to which the Statements of Principle contained in *APER 2* go beyond the specific requirements applying to *actuarial function holders* and *with-profits actuaries* and must act in accordance with them. Some of the requirements of this standard may contribute towards compliance with some aspects of *APER 2*; however this is a matter for the individual Approved Person to determine and no guidance on this is provided.
- 2.3 *Actuarial function holders*, *with-profits actuaries* and *appropriate actuaries* are required by *SUP 4.5.13R* to pay due regard to generally accepted actuarial practice. *PCS* and professional guidance notes establish some elements of generally accepted practice. Such actuaries must also consider whether there are any other practices that may be considered as generally accepted actuarial practice. If an actuary adopts a practice which is materially different from non-mandatory generally accepted actuarial practice, then the actuary must disclose the reasons for the practice actually adopted. In this context “material” refers to the effect of the practice on the results. A major difference in practice on an item which is trivial in its effect is not material for this purpose.
- 2.4 *Actuarial function holders*, *with-profits actuaries* and *appropriate actuaries* are required by the Regulations to communicate certain matters to the *FSA*. Guidance is given in *GN 37*.
- 2.5 Sections 342(3) and 343(3) of the Act effectively provide that an *actuarial function holder*, a *with-profits actuary* or an *appropriate actuary* does not contravene any duty to which he or she is subjected, such as any legal duty of confidentiality, merely because he or she gives to *FSA* either
- information on a matter of which he or she has, or had, become aware in his or her capacity as the *actuarial function holder*, *with-profits actuary* or *appropriate actuary* (as the case may be) of the *firm* or a person who has close links with the *firm*, or
 - his or her opinion on such a matter,
- if he or she does so acting in good faith and reasonably believes that the information or opinion is relevant to any functions of the *FSA*. This applies whether or not the information or opinion is offered in response to a request from the *FSA*, or required to be communicated under the Regulations.
- 2.6 Section 341 of the Act gives the following powers to *actuarial function holders*, *with-profits actuaries* and *appropriate actuaries* (as all are actuaries appointed by *firms* “under or as a result of” the Act):
- a right of access at all times to the *firm’s* “... books, accounts and vouchers”;

- the entitlement to require the *firm's* officers to provide such information and explanations as he or she reasonably considers necessary for the performance of his or her duties as such an actuary.
- 2.7 The actuary must be aware that SUP 4.3.17R also places a responsibility on a *firm* to, amongst other things, keep its *with-profits actuary* informed of the *firm's* business and other plans and to provide him or her with sufficient resources to perform his or her duties.

3 Possible conflicts of interest

3.1 *Actuarial function holders, with-profits actuaries and appropriate actuaries* are required by SUP 4.5 to be objective in the performance of their duties and to take reasonable steps to satisfy themselves that they are free from bias or from any conflict of interest from which bias may reasonably be inferred. SUP 4.5 provides guidance in both areas and *PCS* provides guidance on conflicts of interest.

3.2 SUP 4.3.12AR states:

“A *firm* must take reasonable steps to ensure that an *actuary* who is to be, or has been, appointed under SUP 4.3.1R:

- (1) does not perform the function of chairman or *chief executive* of the *firm* or does not, if he is to perform the *with-profits actuary function*, become a member of the *firm's governing body*; and
- (2) does not perform any other function on behalf of the *firm* which could give rise to a significant conflict of interest.”

Actuaries must not perform conflicting roles as envisaged by SUP4.3.12AR. This would mean, for example, that an actuary appointed to be *with-profits actuary* under SUP4.3.1 (1)(b) should not also be the Finance Director (even if not a member of the *governing body*) in a proprietary firm. In addition, actuaries must not perform a role for a parent of the *firm* which, if it were performed for the *firm*, would give rise to a conflict of interest as envisaged by SUP4.3.12AR.

- 3.3 Provided an actuary is not a director of the *firm* (or of any parent of the *firm*), then the same individual may be both an *actuarial function holder* and a *with-profits actuary* of the *firm*. Nevertheless, where:
- both roles are carried out by the same individual who is an employee of the *firm* or of any part of its group; or
 - a *with-profits actuary* reports to an *actuarial function holder*, especially if the latter is a director of the *firm* or of any part of its group other than a subsidiary undertaking,

it is possible that situations may arise which are, or may appear to outside observers to be, conflicts of interest. In such a situation, the *with-profits actuary* should consider whether it is appropriate to consult an independent actuary.

- 3.4 However it would not normally be necessary to consult where the matter is neutral for *with-profits policyholders* in aggregate, or where the sums involved are not material in the context of the size of the with-profits fund. It would not be necessary to consult in advance of giving advice where the decision could be reversed easily.
- 3.5 There may be an occasion when the *governing body* requests advice from the *with-profits actuary* which might conflict with that role. If this occurs, the procedures set out in the PCS will apply.
- 3.6 The *reviewing actuary* is required by IPRU(INS) to be independent of the *firm*. The *reviewing actuary* must therefore be neither the *actuarial function holder* nor the *with-profits actuary*.

4 Relationship between the *actuarial function holder* and the *with-profits actuary*

- 4.1 If the roles of *actuarial function holder* and *with-profits actuary* are combined, the actuary must ensure that the *governing body* is aware of the particular role in which the actuary is acting when presenting advice to it.
- 4.2 Where the roles of *actuarial function holder* and the *with-profits actuary* are undertaken by different actuaries, each actuary must ensure that he or she is aware of the work carried out by and opinions of the other. It may well be impractical for this to be by means of exchange of completed formal reports only. Each actuary must therefore ensure that his or her terms of reference allow regular, direct contact with the other actuary.
- 4.3 The *actuarial function holder* must take account of the *firm's* interpretation of its obligations to policyholders in respect of discretionary benefits on with-profits business. However, as this interpretation is only guided by the advice of the *with-profits actuary*, the *actuarial function holder* must not assume that the advice of the *with-profits actuary* will automatically be accepted.
- 4.4 The *actuarial function holder* must satisfy himself or herself directly that the valuation recommendations made in respect of discretionary payments are appropriate in light of any obligations implied by the *Principles and Practices of Financial Management*.
- 4.5 The *with-profits actuary* must ensure that he or she is fully aware of the implications for capital requirements of the *firm* of any recommendations on the exercise of discretion in respect of with-profits policies which he or she makes or on which he or she expresses an opinion. He or she would be expected to seek the opinions of the *actuarial function holder* in this regard and to ensure that any actuarial models upon which he or she intends to base advice use assumptions

consistent with those used by the *firm* in its modelling (or that the implications of any differences are explained to the *governing body*).

- 4.6 Where the calculation of asset shares is not the direct responsibility of the *with-profits actuary*, the *with-profits actuary* must ensure that he or she is familiar with the process and that the process is in line with the *firm's Principles and Practices of Financial Management*.

- 4.7 The *actuarial function holder* and the *with-profits actuary* are entitled (under section 341 of the Act) to “*to require from the authorised person's officers such information and explanations as he reasonably considers necessary for the performance of his duties as auditor or actuary*”. Each of them must, using this power if necessary, require access to any items prepared by the other necessary to meet the requirements of this, or any other, guidance note.

5 Relationship between the *actuarial function holder* and the *reviewing actuary*

- 5.1 When carrying out the *actuarial function holder's* duties, it is inappropriate to rely on the checks or opinions of the *reviewing actuary*. The *actuarial function holder* may seek the opinion of the *reviewing actuary* in the course of carrying out the role, but it remains a professional obligation for the *actuarial function holder* to be satisfied personally on all relevant points.
- 5.2 Professional guidance for the *reviewing actuary* is supplied in GN42.