

Comment Template

Exposure Draft of ESAP3 – Actuarial practice in relation to the ORSA process under Solvency II

1. Do you think that the ED achieves the goal of the drafting team in reaching a balance between the desire for high-quality actuarial work and ensuring the guidance is neither inefficient nor unduly burdensome?

Yes

No

If not then please indicate your concerns:

The Exposure Draft in its current form is drafted in very wide terms. This gives rise to concerns that (1) it would be difficult to enforce this as a mandatory standard; and (2) it will be difficult for actuaries to understand what is expected of them in terms of the ESAP's requirements.

For example, in 3.1.4. it provides that: "The actuary should seek to work with relevant business units to identify..." (our emphasis added) and it is difficult to see how it would be possible to enforce an obligation to 'seek to work with'.

Similarly, a number of the other requirements are either so broadly defined that we believe it will be difficult for individuals to identify what it is that they must appropriately do, or, otherwise, impose, in our view, a disproportionate and unrealistic recording burden.

A number of the provisions, including, for example, 3.1.2, appear to impose a very wide obligation on an actuary (without qualification as to the actuary's role/involvement) to document matters such as 'to what extent the ORSA process is consistent with or deviates from the principles and the rules of Solvency II and the consequences of any deviations'. That appears to impose an extensive recording burden on an individual actuary to document the extent to which the ORSA process is consistent with Solvency II requirements when it may not be something that is their responsibility or which is necessary in the circumstances.

Similarly, 3.1.6 requires the actuary to consider and document if the ORSA process is adequate to identify ORSA-triggering events. We consider this to be potentially burdensome because the definition of such events (in 2.11) is not clearly specified,

referring only to a ‘material change’ in the uncertainties or exposures or how they are understood (although 3.3.2 suggests that the actuary would actually be involved in defining the triggering event).

We would suggest that further consideration might be given to what would be reasonable and proportionate requirements for an individual actuary, having regard to the public interest, and whether there is scope to qualify those obligations so that they only apply to those actuaries who have a material involvement or responsibility.

It would be helpful to distinguish between specific responsibilities that the actuary (if any) who heads up the Actuarial Function might have, and the responsibilities that other actuaries might have, e.g. those working in the Risk Management Function responsible for implementing the ORSA (if different). We note that the ORSA is quite commonly the responsibility of someone other than the head of the actuarial function. However, the Directive includes requirements for the Actuarial Function to contribute to the risk management process (including the ORSA), so it would be useful if the standard could explain how the European actuarial profession considers these particular Directive requirements should be applied (or include a reference if this is covered in a different model standard).

In situations where multiple individuals are in aggregate responsible for a particular activity, it would be helpful to clarify if the requirements may be met collectively across the actuarial function or relevant grouping of actuaries. However, in such circumstances we believe it is usually helpful to specify who is responsible for what. The model standard as currently drafted seems to expect in many cases that every actuary specifically involved in any way with the ORSA will take personal responsibility that a wide range of activities has been undertaken. The standard might instead focus more on requiring the individual actuary to indicate what he or she had or hadn't done. There might then be a model list of some activities actuaries might typically get involved with and guidance on how to do them if within scope of what the actuary had done.

2. Do you think that the guidance in the ED achieves the right level of detail (not too detailed, not too general)?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

If not then please indicate the topic(s) where the standard should be more/less detailed:

In general, much of the material may be better suited to non mandatory guidance. If it is to be retained in the form of a standard, it would be important in our view to distinguish more clearly between material which is intended to create a mandatory (and enforceable) obligation, and material which is more appropriately seen as supporting

guidance (and therefore non mandatory). We would be happy to suggest ways in which this might be done.

Against that context, we suggest that more detail would be helpful on:

- 3.2.1 and 3.3.2- Expectations for documentation of continuous solvency assessment.
- 3.2.4 - Stress and scenario testing- e.g. the types of projections that could be applied for stress and scenario testing.

There could perhaps be less detail on:

- 3.3.1- Entity interactions. This may be construed as too specific and extends beyond where the actuary may be able to influence, e.g. level of involvement of AMSB, control over business planning

3. Is any of the proposed guidance inappropriate for inclusion in ESAP3? If so, please indicate which one(s) and explain why the particular topic(s) should not be included.

3.3.1 requires the ORSA to be consistent with the group Business Plan, which is reasonable. It also lists some items that the Business Plan should include, such as risk appetite, risk profile and cost of capital. While these items are also sensible, we would question whether the actuary responsible for this aspect of the ORSA would necessarily be able to influence the content of the group Business Plan. This is an example of several areas where the Standard requires the actuary to assure certain things which may be beyond their control or authority and thus not possible. In some cases the actuary may need to document an opinion that may not be accepted or implemented by the entity.

4. What other topics should be included in ESAP3? Please indicate which one(s) and explain why you wish guidance in the area(s).

Other topics that may also be helpful to include in ESAP3 – or in non-mandatory guidance, which might be more appropriate for detail such as this:

- 3.2.1 covers the ORSA methodology and how it connects with the Solvency Capital Requirement. The actuary is asked to “assess the significance with which the risk profile of the undertaking or group concerned deviates from the assumptions underlying the Solvency Capital Requirement”. The ED could go further in guiding the actuary in how to respond when there is such a difference between the ORSA and the SCR. We would also note that this assessment may not necessarily fall to the actuary, and that it is presumably relevant only to Standard Formula companies.
- 3.4.3 describes the actuary’s review of all aspects of the ORSA process, but it would be helpful to include guidance on the frequency of such reviews.

- *What should be considered if the entity process or ORSA has material deficiencies, in the actuary’s opinion.*
- *The level of detail expected in the documentation of the ORSA record.*
- *Expectations for documentation of risk mitigation techniques, as required by the EIOPA guidelines.*
- *Guidance relating to documentation of continuous compliance with technical provisions (in addition to solvency) as required by the EIOPA guidelines.*

5. Any additional comments

We would suggest that the material in this standard should be aligned with any relevant draft ISAPs, such as ISAP5 on Insurer Enterprise Risk Models.

We believe that the standard should avoid any implication that a stand-alone ORSA policy is required. For example, paragraph 3.3.2 may suggest this. However, the EIOPA Level 3 guidelines (CP No 14/017, 2.14) suggest that reference to other material containing relevant information may be appropriate. A stand-alone ORSA policy is therefore not necessary, but can instead be covered by other policy documentation that exists within an organisation.

Documentation is relevant to all aspects of the actuary’s activity, therefore we would recommend making a single overarching comment rather than references in some but not all paragraphs.

In 2.15 the definition of ‘uncertainties’ could be amended to read ‘Things which could happen in the larger world ...’, so that it covers potential as well as actual events.

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IMPORTANT:

Please check if the relevant check boxes are ticked appropriately and save the file renamed with the name of your association (i.e. CommentTemplate_ED_ESAP3_[name of your association].Doc). E-mail the file as an attachment to mlucas@actuary.eu, with “Comments to the ED of ESAP3 by [name of your association]” in the e-mail subject.