

Exposure Draft ED 27 of

APS L1: DUTIES AND RESPONSIBILITIES OF LIFE ASSURANCE ACTUARIES

Draft as at 9 June 2011

Author:	Life Practice Executive Committee
Status:	Draft (to be approved under the Standards Approval Process)
Version:	1.0 to be effective from 1 October 2011
To be reviewed:	No later than 1 January 2013
Purpose:	To set out the requirements for actuaries carrying out the statutory roles of Actuarial Function Holder , With-Profits Actuary , Reviewing Actuary and Appropriate Actuary for Firms transacting long term insurance business, and the relationships between them and the actuaries who support those role holders.
Authority:	The Institute and Faculty of Actuaries
Target Audience:	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 and the actuaries who support those role holders.

General Professional Obligations:

All Members are reminded of the Status and Purpose preamble to the Actuaries' Code which states that the Code will be taken into account if a Member's conduct is called into question for the purposes of the Institute and Faculty of Actuaries' Disciplinary Scheme. Rule 1.6 of the Disciplinary Scheme states that misconduct:

"means any conduct by a Member...in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity or

professional judgement which other Members or the public might reasonably expect of a Members having regard to...any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or...the Board for Actuarial Standards (BAS)".

Members are required to comply with all applicable provisions of Actuarial Profession Standards.

Use of the words "must" and "should":

This **APS** uses the word "must" to mean a specific mandatory requirement.

In contrast, this **APS** uses the word "should" to indicate that, while the presumption is that **Members** comply with the provision in question, it is recognised that there will be some circumstances in which **Members** are able to justify non-compliance.

1. Introduction

- 1.1. In this **APS**, requirements of legislation or of **FSA** rules and guidance are specifically referred to as such. 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 **Members** to whom this **APS** 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. A **Member** must not accept an appointment as an **Actuarial Function Holder** or **With-Profits Actuary** if he/she does not have the necessary skill and experience to provide appropriate actuarial advice. Similar considerations apply within the **FSA** rules applying to **Approved Persons**. The requirement to have the necessary skill and experience also applies to the role of the **Reviewing Actuary** and the role of the **Appropriate Actuary**.
- 1.4. Before taking up an appointment, a **Member** must ensure that the relevant requirements of the Actuaries' Code have been met, including the need to consider a discussion with his/her immediate predecessor, if any.
- 1.5. A **Member** must take reasonable steps to ensure that his/her principal understands when he/she is providing advice in accordance with legislation, **FSA** rules and guidance, **APSs** and **BAS Standards**, as opposed to providing advice or expressing an opinion as an employee, director or external adviser, as the case may be.

2. General obligations

- 2.1. **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** 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** 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**; however this is a matter for the individual **Approved Person** to determine and no guidance on this is provided.
- 2.2. **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. The **BAS Standards**, the Actuaries' Code and **APSs** establish some elements of generally accepted

practice. Such actuaries must also consider whether there are any other practices that may be non-mandatory but still considered as generally accepted actuarial practice.

- 2.3. If a **Member** adopts a practice which is significantly different from non-mandatory generally accepted actuarial practice, then the **Member** must disclose the reasons for the practice actually adopted. In this context “significant” 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 significant for this purpose.
- 2.4. **Actuarial Function Holders, With-Profits Actuaries and Appropriate Actuaries** are required by section 344 of the Financial Services and Markets Act 2000 to communicate particular matters to the **FSA**, and other matters are required by the **Regulations**. The requirements under section 344 are to notify the **FSA** without delay:
 - 2.4.1. when they resign;
 - 2.4.2. when their appointment is terminated or not renewed; or
 - 2.4.3. 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.

Guidance on applying the requirements of the **Regulations** is given in **APS L2** and holders of these roles must be familiar with its contents.

3. The Actuarial Function Holder

- 3.1. The **Actuarial Function Holder** must hold a **Life Actuary Practising Certificate** which must cover **With-Profits Business** if he/she is appointed in respect of such business.
- 3.2. **SUP 4.3.1R** allows a **Firm** to appoint more than one **Actuarial Function Holder**, each in respect of one or more classes of business. Where this is the case, each **Actuarial Function Holder** must:
 - 3.2.1. follow this **APS** in respect of the class (or classes) of business in respect of which he/she has been appointed; and
 - 3.2.2. seek written confirmation from the **Governing Body** which specifies in respect of which classes of business he/she is appointed.
- 3.3. When accepting an appointment as an **Actuarial Function Holder**, a **Member** must ensure that he/she has the right to present a report to the **Firm's Governing Body** in person, should he/she deem the report sufficiently important.
- 3.4. To provide the advice on risk and the monitoring of exposures required by **SUP 4.3.13R** (1) and (2), the **Actuarial Function Holder** must:
 - 3.4.1. ensure that he/she has sufficient information and resources to enable the necessary investigations to be carried out, both at the time of the appointment and thereafter; and
 - 3.4.2. use his/her judgement to decide which risks need to be monitored, and the frequency with which they should be monitored and advise the **Firm** accordingly.

The information required, and the frequency of monitoring, will depend on the nature of the business carried out by the **Firm**.

- 3.5. Where there is more than one **Actuarial Function Holder** within a given **Firm**, it may not be possible for the requirements described in **SUP 4.3.13R** (1) and (2) above to be carried out separately by each such **Member**. This is particularly the case where they are appointed in respect of different classes of business within the same long-term insurance fund. In such a

case, each **Actuarial Function Holder** must ensure, before accepting the appointment, that the **Firm** allocates to one of them, or to each of them acting collectively, the responsibility described in **SUP 4.3.13R(1)** and (2) in relation to the **Firm** as a whole.

- 3.6. For **With-Profits Business**, the **With-Profits Actuary** must advise the **Firm** on key aspects of discretion. The **Actuarial Function Holder** must liaise with the **With-Profits Actuary** to ensure he/she is aware of such advice given by the **With-Profits Actuary** and of relevant decisions taken by the **Firm** insofar as they affect liabilities to policyholders.

- 3.7. The **Actuarial Function Holder** must ensure that the **Firm's** management are aware at all times of:

3.7.1. obligations to treat its customers fairly which need to be taken into account in assessing the liabilities; and

3.7.2. his/her interpretation of its policyholders' reasonable expectations.

other than where the matter is covered by the responsibilities of the **With-Profits Actuary**. This interpretation must have regard to the nature of the **Firm's** practices and business plans and its approach to the treatment of policyholders both individually and (where appropriate) collectively as a group vis-à-vis shareholders.

- 3.8. When a significant change is likely to take place in the **Firm's** business plans, practices or other circumstances, the **Actuarial Function Holder** must take all reasonable steps to ensure that the **Firm** appreciates the implications for fairness and the reasonable expectations of its policyholders.

- 3.9. The **Actuarial Function Holder** must also satisfy himself/herself that systems of control are in place intended to ensure that the **Firm's** policyholders are not misled as to their expectations. If the **Actuarial Function Holder** believes that the systems of control may not be adequate, he/she must draw this to the **Firm's** attention and advise the **Governing Body**, unless sufficient steps are otherwise taken to meet his/her concerns.

- 3.10. If a **Firm** requires a **Member** to produce work which the **Member** believes conflicts with the requirements in the **FSA Handbook** and/or a **TAS**, the **Member** may do so provided that the work clearly and unambiguously states that the **Member** has done so under instructions and that the work does not conform with the requirements in the **FSA Handbook** and/or the **TAS(s)** as applicable. The adoption of such resulting technical provisions or resilience capital requirement will create a situation where the **Member** producing the work will be required to report the matter to the **FSA** in accordance with paragraph 2.4 above.

4. The With-Profits Actuary

- 4.1. The **With-Profits Actuary** must hold a **Life Actuary Practising Certificate**, with that certificate covering **With-Profits Business**.

- 4.2. **SUP 4.3.1R** allows a **Firm** to appoint more than one **With-Profits Actuary**, each in respect of one or more classes of business. However, because there can be conflicts of interest between different classes of business, a **Member** must, before accepting an appointment, have regard to the following:

4.2.1. where a **Firm** has more than one **With-Profits Fund**, it will normally be unacceptable for a **Member** to accept an appointment as a **With-Profits Actuary** for some but not all of the **With-Profits Funds** unless the:

- 4.2.1.1. **Principles and Practices of Financial Management** of the funds adequately describe the way in which the exercise of discretion impacts on the interactions between the different funds;
 - 4.2.1.2. extent to which such interactions from the exercise of discretion impact on **With-Profits Policyholders** is unlikely to be significant; and
 - 4.2.1.3. terms of reference of the appointment allow him/her to discuss freely with the other **With-Profits Actuaries** appointed by the **Firm** the operation of all of its **With-Profits Funds**, and to have access to their written advice to the **Firm**;
- and
- 4.2.2. a **Member** must not accept an appointment as a **With-Profits Actuary** in respect of only some of the classes of business in any one **With-Profits Fund**.
- 4.3. The **With-Profits Actuary** must seek to ensure:
- 4.3.1. through appropriate wording in his/her terms of engagement or otherwise, that he/she will receive, on a timely basis, copies of all papers issued to members of the **Governing Body** or other significant bodies that are relevant to the management of the **With-Profits Fund**;
 - 4.3.2. through appropriate wording in his/her terms of engagement or otherwise that he/she will have the opportunity to comment on any material communications or reports issued or made available by the **Firm** to its policyholders generally, or to particular classes of policyholders (or their advisers) that relate to the **Firm's** exercise of discretion affecting its **With-Profits Business**; and
 - 4.3.3. that he/she should, as far as is reasonably possible, be made aware, in time to be able to comment on them before issue, of any such communications or reports which could significantly affect the readers' understanding of the **Firm's** past or future exercise of discretion affecting its **With-Profits Business**.
- 4.4. The **With-Profits Actuary** must draw the attention of the management of the **Firm**, at the appropriate level of seniority, to any circumstances in which he/she believes that a communication should be issued by the **Firm** to the **Firm's With-Profits Policyholders**, or a particular class of such policyholders.
- 4.5. The **With-Profits Actuary** must give advice to a **Firm** on the future exercise of discretion affecting its **With-Profits Business** whenever:
- 4.5.1. the **Firm** requests it;
 - 4.5.2. he/she considers that, in any respect, a proposed exercise of discretion would be inconsistent with the **Firm's Principles and Practices of Financial Management**;
 - 4.5.3. he /she considers that the **Firm's Principles and Practices of Financial Management** have become inappropriate;
 - 4.5.4. the steps the **Firm** proposes to take in order to demonstrate its ability to meet its regulatory capital requirements raises particular issues relating to the exercise of discretion affecting those classes of the **With-Profits Business** of the **Firm** in respect of which he or she has been appointed; or
 - 4.5.5. he/she considers that the interests of the **With-Profit Policyholders** require it.

- 4.6. Where, in the **With-Profits Actuary's** opinion, there is uncertainty regarding the extent to which the **Governing Body** can exercise discretion when allocating surplus, he/she must state in his/her report or advice:
- 4.6.1. the nature of the uncertainty;
 - 4.6.2. the assumptions he/she has made with regard to the uncertainty;
 - 4.6.3. the consequences were the uncertainty to be resolved differently;
 - 4.6.4. if appropriate, that the **Firm**, if it has not already done so, take legal advice with regards to the uncertainty;
 - 4.6.5. the extent to which he/she has relied upon any legal advice that the **Firm** might have taken; and
 - 4.6.6. whether in his/her opinion there is any conflict between that legal advice and his/her interpretation of the fair treatment of the **Firm's With-Profits Policyholders** having particular regard to the **Firm's Principles and Practices of Financial Management**.

5. The Appropriate Actuary

- 5.1. The **Appropriate Actuary** must hold a **Life Actuary Practising Certificate**, which must cover **With-Profits Business** if such business is written by the **Firm**.
- 5.2. When accepting an appointment as an **Appropriate Actuary**, a **Member** must ensure that he/she has:
- 5.2.1. the right to present a report to the **Firm's Governing Body** in person, should he/she deem the report sufficiently important; and
 - 5.2.2. sufficient information and resources to enable the necessary investigations to be carried out. This applies both at the time of the appointment and thereafter.

6. The Reviewing Actuary

- 6.1. The **Reviewing Actuary** must hold a **Life Actuary Practising Certificate** relevant to the type of business written by the **Firm** in respect of which he/she has been asked to act as a **Reviewing Actuary**.
- 6.2. The **Reviewing Actuary** must carry out his/her duties in a manner agreed with the auditor of the entity being audited and must comply with the Actuaries' Code. This **APS** does not require the **Reviewing Actuary** to review compliance with audit guidance.
- 6.3. This **APS** applies both to cases where the **Reviewing Actuary** is employed by, or is a partner in, the audit firm and where this is not the case.
- 6.4. The auditor is responsible for determining the scope of the audit. However, the **Reviewing Actuary** must advise the auditor of the implications if the scope is narrower than one expected by the **Reviewing Actuary**. Any limitations in scope should be set out in the **Reviewing Actuary's** report to the auditor.
- 6.5. The **Reviewing Actuary** is required by **IPRU-INS 9.35 (1A)** or **IPRU-FSOC 5.11 (1A)** as appropriate to be independent of the **Firm**. The **Reviewing Actuary** must discuss the auditor's independence requirements with them.

- 6.6. When providing advice to the auditor, the **Reviewing Actuary** must:
- 6.6.1. ensure that it is clear when he/she is acting in a formal capacity as the **Reviewing Actuary**;
 - 6.6.2. in respect of the items within scope, advise the auditor on the methods and assumptions used by the **Firm** and, in particular, on whether they comply with the requirements of **INSPRU 1.2** and, if relevant, **INSPRU 1.3**; and
 - 6.6.3. establish with the auditor the approach that the auditor will be taking to auditing items that are important inputs to the actuarial valuation such as assets, policy data, results of experience investigations and expense analysis.

7. Possible conflicts of interest

- 7.1. **Actuarial Function Holders, With-Profits Actuaries** and **Appropriate Actuaries** are reminded of their obligations under **SUP 4.5** and the Actuaries' Code in relation to objectivity and conflicts of interest.
- 7.2. Additionally, a **Member** must not perform conflicting roles in contravention of **SUP 4.3.12AR**. This would mean, for example, that a **Member** appointed to be a **With-Profits Actuary** under **SUP 4.3.1 (1) (b)** should not also be the finance director (even if not a member of the **Governing Body**) in a proprietary **Firm**. Furthermore, a **Member** 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 in contravention of **SUP 4.3.12AR**.
- 7.3. Provided a **Member** 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**.
- 7.4. Nevertheless, where the role of the **Actuarial Function Holder** and a **With-Profits Actuary** is 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 **Member**.
- 7.5. However, it would not normally be necessary to consult:
- 7.5.1. where the matter is neutral for **With-Profits Policyholders** in aggregate; or
 - 7.5.2. where the sums involved are not significant in the context of the size of the **With-Profits Fund**.
- 7.6. There may be occasions 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 Actuaries' Code apply.

8. Relationship between the Actuarial Function Holder and the With-Profits Actuary

- 8.1. If the roles of **Actuarial Function Holder** and **With-Profits Actuary** are combined, a **Member** must ensure that the **Governing Body** is aware of the particular role in which the **Member** is acting when presenting advice to it.

- 8.2. Where the roles of **Actuarial Function Holder** and the **With-Profits Actuary** are undertaken by different actuaries, each **Member** must ensure that:
- 8.2.1. he/she is aware of the work carried out by and opinions of the other **Member**; and
 - 8.2.2. his/her terms of reference allow regular, direct contact with the other **Member**.
- 8.3. 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.
- 8.4. The **Actuarial Function Holder** must satisfy himself/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**.
- 8.5. The **With-Profits Actuary** must ensure that he/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/she makes or on which he/she expresses an opinion. The **With-Profits Actuary** should seek the relevant **Actuarial Function Holder's** opinion in this regard and to ensure that any actuarial models upon which he/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**).
- 8.6. Where the calculation of asset shares is not the direct responsibility of the **With-Profits Actuary**, that actuary must ensure that he/she is familiar with the process and that the process is in line with the **Firm's Principles and Practices of Financial Management**.
- 8.7. 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 **APS**.
9. **Relationship between the Actuarial Function Holder and the Reviewing Actuary**
- 9.1. 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 **Reviewing Actuary's** opinion 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.

Term	Definition
Act	Financial Services and Markets Act 2000.
Actuarial Function Holder	A Fellow of the Institute and Faculty 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).
APER	The part of the FSA Handbook in High Level Standards which has the title Statements of Principle and Code of Practice for Approved Persons.
Appropriate Actuary	A Fellow of the Institute and Faculty of Actuaries appointed by a Friendly Society in accordance with SUP 4.4.1R of the FSA Handbook.
Approved Person	A person in relation to whom the FSA has given its approval under section 59 of the Act (Approval for particular arrangements) for the performance of a controlled function.
APS	Actuarial Profession Standard.
APS L2	APS L2: The Financial Services and Markets Act 2000 (Communications By Actuaries) Regulations 2003.
BAS	The Board for Actuarial Standards.
BAS Standards	TASs and other standards or guidance issued by the BAS.
Firm	An insurance company or Friendly Society in respect of which the actuary is appointed.
Friendly Society	An incorporated friendly society or a registered friendly society.
FSA	Financial Services Authority (or its successor).
FSA Handbook	The FSA Handbook issued by the FSA.
Governing Body	The board of directors or committee of management of a Firm.
INSPRU	The Prudential Sourcebook for Insurers.
IPRU-FSOC	The Prudential Sourcebook for Friendly Societies.
IPRU-INS	The Interim Prudential Sourcebook for Insurers.
Liability to a Policyholder	Means: in relation to a Firm carrying out contracts of insurance) any liability or obligation of that Firm to, or in respect of, a policyholder, including any liability or obligation arising: (a) from the requirement to treat customers fairly

	<p>under Principle 6, including with respect to policyholders' reasonable expectations; or</p> <p>(b) from a determination of liability by an Ombudsman; or</p> <p>(c) from any requirement to pay compensation under the regulatory system.</p>
Life Actuary Practising Certificate	The two types of practising certificates issued by the Institute and Faculty of Actuaries for Members who act for a company which either (1) includes With-Profits Business (known as the Life Actuary Certificate (including with-profits), or (2) does not include With-Profits Business (known as the Life Actuary Certificate (not including with-profits)).
A Member	A Member of the Institute and Faculty of Actuaries.
Principles and Practices of Financial Management	These are the Principles and Practices of Financial Management, containing with-profits principles and with-profits practices, which a Firm carrying on With-Profits Business must establish, maintain and record under the Conduct of Business Sourcebook (COBS 20.3) (Principles and Practices of Financial Management) issued by the FSA.
Regulations	The Financial Services and Markets Act 2000 (Communications by Actuaries) Regulations 2003.
Reviewing Actuary	An actuary independent of a Firm from whom IPRU-INS 9.35(1A) requires the Firm's auditor to take appropriate advice.
Statements of Principle	Statements of Principle issued by the FSA under section 64(1) of the Act (Conduct: Statements and codes) with respect to the conduct of Approved Persons and set out in APER.
SUP	The Supervision Manual published by the FSA.
TASs	Technical Actuarial Standards issued by the BAS.
With-Profits Actuary	A Fellow of the Institute and Faculty of Actuaries appointed by (or by the FSA for) a Firm in accordance with SUP 4.3.1R or SUP 4.3.3R to perform the role specified in SUP 4.3.1R (1) (b).
With-Profits Business	Any business of an insurer that may affect the amount or value of the assets comprising a With-Profits Fund.
With-Profits Policyholder	A policyholder under a With-Profits Policy.
With-Profits Policy	A contract falling within a class of long-term insurance business which is eligible to participate

With-Profits Fund

in any part of any established surplus.

Means (Except in INSPRU):

(a) a long-term insurance fund (or that part of such a fund) in which policyholders are eligible to participate in any established surplus; and

(b) where it is an insurer's usual practice to restrict policyholders' participation in any established surplus to that arising from only a part of the fund (or part fund) falling within (a), that part (or that part of the part fund).

Means for the purposes of INSPRU, a long-term insurance fund in which policyholders are eligible to participate in any established surplus.