

APPENDIX A

Code of Professional Conduct

EFFECTIVE JANUARY 1, 2001, the five U.S.-based actuarial organizations adopted this Code of Professional Conduct. It was adopted by the Board of Directors of the American Academy of Actuaries on September 28, 2000, and applies to all members.

The Code of Professional Conduct sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession.

The Board of the American Academy of Actuaries thanks the Joint Committee on the Code of Professional Conduct for their hard work and perseverance in drafting the Code and obtaining the approval of all five organizations' boards.

Code of Professional Conduct

The purpose of this Code of Professional Conduct ("Code") is to require Actuaries to adhere to the high standards of conduct, practice, and qualifications of the actuarial profession, thereby supporting the actuarial profession in fulfilling its responsibility to the public. An Actuary shall comply with the Code. An Actuary who commits a material violation of the provisions of the Code shall be subject to the profession's counseling and discipline procedures.

The Precepts of the Code identify the professional and ethical standards with which an Actuary must comply in order to fulfill the Actuary's responsibility to the public and to the actuarial profession. The Annotations provide additional explanatory, educational, and advisory material on how the Precepts are to be interpreted and applied.

In addition to this Code, an Actuary is subject to applicable rules of professional conduct or ethical standards that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services. Actuarial Services are considered to be rendered in the jurisdictions in which the Actuary intends them to be used unless speci-

fied otherwise by an agreement between a Recognized Actuarial Organization for any such jurisdiction and the organizations that have adopted the Code.

Laws may also impose obligations upon an Actuary. Where requirements of Law conflict with the Code, the requirements of Law shall take precedence.

An Actuary must be familiar with, and keep current with, not only the Code, but also applicable Law and rules of professional conduct for the jurisdictions in which the Actuary renders Actuarial Services. An Actuary is responsible for securing translations of such Laws or rules of conduct as may be necessary.

DEFINITIONS

As used throughout the Code, the following terms are capitalized and have the meanings indicated:

- ▶ **Actuarial Communication:** A written, electronic, or oral communication issued by an Actuary with respect to Actuarial Services.
- ▶ **Actuarial Services:** Professional Services provided to a Principal by an individual acting in the capacity of an actuary. Such services include the rendering of advice, recommendations, findings, or opinions based upon actuarial considerations.
- ▶ **Actuary:** An individual who has been admitted to a class of membership to which the Code applies by action of any organization having adopted the Code. When the term "actuary" is used without being capitalized, it refers to any individual practicing as an actuary, regardless of organizational membership or classification.
- ▶ **Confidential Information:** Information not in the public domain of which an Actuary becomes aware as a result of providing Actuarial Services to a Principal. It includes information of a proprietary nature and information that is legally restricted from circulation.
- ▶ **Law:** Statutes, regulations, judicial decisions, and other statements having legally binding authority.
- ▶ **Principal:** A client or employer of the Actuary.
- ▶ **Recognized Actuarial Organization:** An organization that has been accepted for full membership in the International Actuarial Association or a standards-set-

ting, counseling, or discipline body to which authority has been delegated by such an organization.

Professional Integrity

PRECEPT 1. An Actuary shall act honestly, with integrity and competence, and in a manner to fulfill the profession's responsibility to the public and to uphold the reputation of the actuarial profession.

ANNOTATION 1-1. An Actuary shall perform Actuarial Services with skill and care.

ANNOTATION 1-2. An Actuary shall not provide Actuarial Services for any Principal if the Actuary has reason to believe that such services may be used to violate or evade the Law or in a manner that would be detrimental to the reputation of the actuarial profession.

ANNOTATION 1-3. An Actuary shall not use a relationship with a third party or with a present or prospective Principal to attempt to obtain illegal or materially improper treatment from one such party on behalf of the other party.

ANNOTATION 1-4. An Actuary shall not engage in any professional conduct involving dishonesty, fraud, deceit, or misrepresentation or commit any act that reflects adversely on the actuarial profession.

Qualification Standards

PRECEPT 2. An Actuary shall perform Actuarial Services only when the Actuary is qualified to do so on the basis of basic and continuing education and experience, and only when the Actuary satisfies applicable qualification standards.

ANNOTATION 2-1. It is the professional responsibility of an Actuary to observe applicable qualification standards that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services and to keep current regarding changes in these standards.

ANNOTATION 2-2. The absence of applicable qualification standards for a particular type of assignment or for the jurisdictions in which an Actuary renders Actuarial Services does not relieve the Actuary of the responsibility to perform such Actuarial Services only when qualified to do so in accordance with this Precept.

Standards of Practice

PRECEPT 3. An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.

ANNOTATION 3-1. It is the professional responsibility of an Actuary to observe applicable standards of practice that have been promulgated by a Recognized Actuarial Organization for the jurisdictions in which the Actuary renders Actuarial Services, and to keep current regarding changes in these standards.

ANNOTATION 3-2. Where a question arises with regard to the applicability of a standard of practice, or where no applicable standard exists, an Actuary shall utilize professional judgment, taking into account generally accepted actuarial principles and practices.

ANNOTATION 3-3. When an Actuary uses procedures that depart materially from those set forth in an applicable standard of practice, the Actuary must be prepared to justify the use of such procedures.

Communications and Disclosure

PRECEPT 4. An Actuary who issues an Actuarial Communication shall take appropriate steps to ensure that the Actuarial Communication is clear and appropriate to the circumstances and its intended audience, and satisfies applicable standards of practice.

ANNOTATION 4-1. An Actuary who issues an Actuarial Communication shall ensure that the Actuarial Communication clearly identifies the Actuary as being responsible for it.

ANNOTATION 4-2. An Actuary who issues an Actuarial Communication should indicate the extent to which the Actuary or other sources are available to provide supplementary information and explanation.

PRECEPT 5. An Actuary who issues an Actuarial Communication shall, as appropriate, identify the Principal(s) for whom the Actuarial Communication is issued and describe the capacity in which the Actuary serves.

PRECEPT 6. An Actuary shall make appropriate and timely disclosure to a present or prospective Principal of the sources of all direct and indirect material compensation that the Actuary or the Actuary's firm has re-

ceived, or may receive, from another party in relation to an assignment for which the Actuary has provided, or will provide, Actuarial Services for that Principal. The disclosure of sources of material compensation that the Actuary's firm has received, or may receive, is limited to those sources known to, or reasonably ascertainable by, the Actuary.

ANNOTATION 6-1. An Actuary who is not financially and organizationally independent concerning any matter related to the performance of Actuarial Services should disclose to the Principal any pertinent relationship that is not apparent.

ANNOTATION 6-2. An Actuary employed by a firm that operates in multiple locations is subject to the requirement of disclosure of sources of compensation that the Actuary's firm may receive in relation to Actuarial Services with respect to a specific assignment for that Principal, regardless of the location in which such compensation is received.

Conflict of Interest

PRECEPT 7. An Actuary shall not knowingly perform Actuarial Services involving an actual or potential conflict of interest unless:

- A** the Actuary's ability to act fairly is unimpaired;
- B** there has been disclosure of the conflict to all present and known prospective Principals whose interests would be affected by the conflict; and
- C** all such Principals have expressly agreed to the performance of the Actuarial Services by the Actuary.

Control of Work Product

PRECEPT 8. An Actuary who performs Actuarial Services shall take reasonable steps to ensure that such services are not used to mislead other parties.

ANNOTATION 8-1. An Actuarial Communication prepared by an Actuary may be used by another party in a way that may influence the actions of a third party. The Actuary should recognize the risks of misquotation, misinterpretation, or other misuse of the Actuarial Communication and should therefore take reasonable steps to present the Actuarial Communication clearly and fairly and to include, as appropriate, limitations on the distribution and utilization of the Actuarial Communication.

Confidentiality

PRECEPT 9. An Actuary shall not disclose to another party any Confidential Information unless authorized to do so by the Principal or required to do so by Law.

Courtesy and Cooperation

PRECEPT 10. An Actuary shall perform Actuarial Services with courtesy and professional respect and shall cooperate with others in the Principal's interest.

ANNOTATION 10-1. Differences of opinion among actuaries may arise, particularly in choices of assumptions and methods. Discussions of such differences between an Actuary and another actuary, or in observations made by an Actuary to a Principal on the work of another actuary, should be conducted objectively and with courtesy and respect.

ANNOTATION 10-2. A Principal has an indisputable right to choose a professional advisor. An Actuary may provide service to any Principal who requests it, even though such Principal is being or has been served by another actuary in the same matter.

ANNOTATION 10-3. An Actuary in the course of an engagement or employment may encounter a situation such that the best interest of the Principal would be served by the Actuary's setting out an alternative opinion to one expressed by another actuary, together with an explanation of the factors that lend support to the alternative opinion. Nothing in the Code should be construed as preventing the Actuary from expressing such an alternative opinion to the Principal.

ANNOTATION 10-4. An Actuary may be requested to advise a Principal for whom the Actuary knows or has reasonable grounds to believe that another actuary has provided, or is providing, Actuarial Services with respect to the same matter. In such event, the Actuary may choose to consult with such other actuary both to prepare adequately for the assignment and to make an informed judgment as to whether there are circumstances involving a potential violation of the Code that might affect acceptance of the assignment. The Actuary should request the Principal's consent prior to such consultation.

ANNOTATION 10-5. When a Principal has given consent for a new or additional actuary to consult

with an Actuary with respect to a matter for which the Actuary is providing or has provided Actuarial Services, the Actuary shall cooperate in furnishing relevant information, subject to receiving reasonable compensation for the work required to assemble and transmit pertinent data and documents. The Actuary shall not refuse to consult or cooperate with the prospective new or additional actuary based upon unresolved compensation issues with the Principal unless such refusal is in accordance with a pre-existing agreement with the Principal. The Actuary need not provide any items of a proprietary nature, such as internal communications or computer programs.

Advertising

PRECEPT 11. An Actuary shall not engage in any advertising or business solicitation activities with respect to Actuarial Services that the Actuary knows or should know are false or misleading.

ANNOTATION 11-1. Advertising and business solicitation activities encompass all communications by whatever medium, including oral communications, that may directly or indirectly influence any person or organization in deciding whether there is a need for Actuarial Services or in selecting a specific Actuary or firm to perform Actuarial Services.

Titles and Designations

PRECEPT 12. An Actuary shall make use of membership titles and designations of a Recognized Actuarial Organization only in a manner that conforms to the practices authorized by that organization.

ANNOTATION 12-1. "Title" refers to any title conferred by a Recognized Actuarial Organization re-

lated to a specific position within that organization. "Designation" refers to a specific reference to membership status within such organization.

Violations of the Code of Professional Conduct

PRECEPT 13. An Actuary with knowledge of an apparent, unresolved, material violation of the Code by another Actuary should consider discussing the situation with the other Actuary and attempt to resolve the apparent violation. If such discussion is not attempted or is not successful, the Actuary shall disclose such violation to the appropriate counseling and discipline body of the profession, except where the disclosure would be contrary to Law or would divulge Confidential Information.

ANNOTATION 13-1. A violation of the Code is deemed to be material if it is important or affects the outcome of a situation, as opposed to a violation that is trivial, does not affect an outcome, or is one merely of form.

ANNOTATION 13-2. An Actuary is not expected to discuss an apparent, unresolved material violation of the Code with the other Actuary if either Actuary is prohibited by Law from doing so or is acting in an adversarial environment involving the other Actuary.

PRECEPT 14. An Actuary shall respond promptly, truthfully, and fully to any request for information by, and cooperate fully with, an appropriate counseling and disciplinary body of the profession in connection with any disciplinary, counseling, or other proceeding of such body relating to the Code. The Actuary's responsibility to respond shall be subject to applicable restrictions on Confidential Information and those imposed by Law.