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Presidents and Membres Titulaires of Full Member Associations of AAE Presidents and Membres Titulaires of Observer Members of AAE

Dear Colleagues:

Re: 2nd Exposure Draft of European Standard of Actuarial Practice 3 (ESAP3) – Actuarial practice in relation to the ORSA process under Solvency II

I am pleased to attach the 2nd Exposure Draft (2nd ED) of ESAP3. The Standards Project Team (SPT) and its ESAP3 Task Force (TF) responsible for drafting the model standard would like to thank you for your comments during the drafting process of ESAP3 including the first formal consultation, the discussions at the various committee meetings and the comments to the informal consultation.

At the last meeting of the Standards, Freedoms and Professionalism Committee (SFPC) in Barcelona it was decided to conduct an informal consultation of ESAP3, finalize the 2nd ED and approve it for formal consultation under Due Process by late November using an electronic voting of the members of the SFPC. The delegates to the SFPC have approved the attached draft for consultation. Hence the 2nd ED is hereby promulgated for a formal consultation to Member Associations (MAs) and other stakeholders for a 3 month period.

Following the informal consultation the TF has made some limited amendments to the text to reflect the comments received from MAs and the FRC. A summary of those comments and how the TF has dealt with those can be seen in Appendix 1 and Appendix 2.

Attached you'll find the clean version of the text of the 2nd ED and a marked up version against the text of the informal consultation. **The comment deadline is 5 March 21017.**

Any comments should be submitted to the SPT through Monique Schuilenburg (moniques@actuary.eu) at the latest by 5 March 2017. In the subject please include “Comments to the 2nd ED of ESAP3 by [the name of your association]”. You are encouraged to use the attached comment template for your response.

Yours sincerely,

Gábor Hanák
Chairperson, Standards Projects Team
Actuarial Association of Europe
5 December 2016

Appendix 1: Contextual comments to accompany the formal consultation on the 2nd Exposure Draft of ESAP 3

A previous Exposure Draft (1st ED) of ESAP 3 was issued for consultation in September 2015. 10 responses were received, from 8 member associations, the IAA and the UK Financial Reporting Council. While some of the respondents were happy with the 1st ED, the majority did not think it was appropriate and suggested major changes. The key issues to be addressed were felt to involve the following:

- Scope is not clear; there is confusion about when / to whom / to what work various parts apply; in particular, it was felt that the 1st ED did not address well enough its application in the case of an individual actuary acting as a member of a multi-disciplinary team, possibly in a minor role;
- Too much material on non-core and too little on core actuarial work for come respondents;
- Not sufficiently principles-based - too burdensome and detailed; difficult to apply in a proportionate way;
- Contains a mixture of hard requirements (“should”s, or mandatory provisions) and soft guidance (“may”s); and
- Difficult to enforce; it may be better to have more of a discussion between requirements and guidance.

The TF, in conjunction with the SPT carefully considered the feedback received and revised the 1st ED substantially in order to take account of the valuable feedback received. The attached Appendix 2 gives an indication of how each of the key areas were addressed.

In order to check that the revised 1st ED was likely to prove more acceptable, an informal consultation exercise was carried out in October 2016, with the near-final draft issued for comment to all member associations and also those other parties that had submitted comments to the September 2015 consultation.

The SPT and the ESAP 3 TF are very grateful to the 8 member associations and the UK Financial Reporting Council who submitted responses to the informal consultation. In the main, the responses were positive about the changes made to the draft ESAP, with 4 respondents confirming that they had no further points to raise on the draft.

The other 5 respondents identified a number of areas where additional clarification could be helpful in the text and we have incorporated these suggestions, except where:

- we felt that the material would be better placed in an European Actuarial Note (“EAN”) that the AAE Insurance Committee are currently preparing, to accompany ESAP 3 when it is finally adopted; or

- adopting the changes would have meant that the particular text was no longer consistent with the equivalent material in other ESAPs or in line with the approach being followed by the IAA for their ISAPs.

Appendix 2: Summary of consultation follow-up

Issue 1:

Scope is not clear; there is confusion about when / to whom / to what work various parts apply; in particular, it was felt that the 1st ED did not address well enough its application in the case of an individual actuary acting as a member of a multi-disciplinary team, possibly in a minor role

How this has been addressed:

- ESAP3 now only applies to “actuaries who have a material involvement in or responsibility for the design or operation of the ORSA process”
- ESAP3 requirements are structured around those aspects of the design and operation of the ORSA process that are felt to warrant additional requirements, over and above what ESAP1 would require
- Wider adoption is encouraged amongst support actuaries, as is use by non-actuaries

Issue 2:

Too much material on non-core and too little on core actuarial work for some respondents

How this has been addressed:

- Much of the material (mainly non-core) in the 1st ED has been removed from ESAP3 and transferred to the European Actuarial Note (EAN) that it is intended will accompany the ESAP
- “Performance” section now has separate sections on quantitative (projections) and qualitative assessments which should cover much of the core actuarial work in support of the ORSA

Issue 3:

Not sufficiently principles-based - too burdensome and detailed; difficult to apply in a proportionate way

How this has been addressed:

- ESAP3 includes high level principles to be applied and is much shorter than the previous 1st ED, with a desire covering 3 pages
- Key requirements that include “must” are presented in **BOLD** text, but are carefully phrased to avoid too great a burden – e.g. “actuary must take reasonable steps to ensure that ...”

- Documentation requirements from the 1st ED considerably reduced and, in many cases, replaced with “The actuary must be in a position to explain and justify ... if reasonably requested to do so”

Issue 4:

Contains a mixture of hard requirements (“should”s, or mandatory provisions) and soft guidance (“may”s)

How this has been addressed:

- ESAP3 has almost no “may” statements – mainly a mixture of “must” and “should”
- (The four uses of “may” refer to genuine choices/options and do not take the form of soft guidance or educational material)
- Typically, sub-sections follow the pattern of:
 - A “must” statement in bold; followed by
 - “In assessing ... the actuary should consider ...”
- In some cases, onward communication is specifically required – e.g. “Where the actuary has reasonable grounds for believing that there is a material shortcoming ... then the actuary must ensure that ...”

Issue 5:

Difficult to enforce; it may be better to have more of a discussion between requirements and guidance

How this has been addressed:

- ESAP3 only has “must” and “should” statements
- “should” is to be interpreted as per ESAP1 as “comply or explain”
- Optional commentary is confined to the EAN