



1 December 2011

Mr Cecil Bykerk  
President  
International Actuarial Association

via email to: [secretariat@actuaries.org](mailto:secretariat@actuaries.org)

Dear Mr Bykerk

### **Submission on Exposure Draft of ISAP 1 General Actuarial Practice ("ISAP 1")**

The Institute of Actuaries of Australia ("Institute") is pleased to make this submission to the International Actuarial Association ("IAA") on the Exposure Draft of ISAP 1 ("ED"). It congratulates the IAA on this initiative and appreciates the opportunity to provide input on the ED.

Our submission is attached and is organised as follows:

1. background on the Institute's professional standards and guidance;
2. general comments on the ED;
3. detailed comments on the ED; and
4. comments on specific questions raised by the IAA.

While we have provided detailed comments on all aspects of the ED, we wish to highlight, in particular, the following key points:

- (a) there are instances where the ED overlaps with the requirements for the code of professional conduct of full member associations of the IAA. It is unclear to us why these overlaps are proposed and we would urge a review of these aspects of the ED; and
- (b) the Institute has a strong view that we should not place our members at a competitive disadvantage relative to other professionals, via the imposition of unnecessarily restrictive regulation (subject always to public interest and reputational considerations). We therefore consider that the application of ISAP 1 should be restricted to a defined set of professional services, excluding non-actuarial services which may be performed by actuaries.

Please do not hesitate to contact me, at [anne.peters@actuaries.asn.au](mailto:anne.peters@actuaries.asn.au), if you have any questions on our submission.

Yours sincerely

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## 1 BACKGROUND ON INSTITUTE'S PROFESSIONAL STANDARDS AND CODE

1. The Institute is the sole professional body for actuaries in Australia. It represents the interests of over 3,800 members, including more than 2,000 actuaries.
2. The Institute sets and maintains its own professional standards and has a comprehensive suite of standards in place:<sup>1</sup>
  - (a) Code of Professional Conduct: The Code prescribes minimum standards of professional conduct to be observed by its members. The focus of the Code is on behavioural standards, as opposed to practice-specific matters; and
  - (b) Professional Standards: The Institute currently has 14 professional standards in place (as well as 5 mandatory guidance notes which are currently being converted to professional standards), each prescribing minimum standards of professional conduct in relation to specific areas of practice, as follows:

Area of practice	Number of standards
Multi-practice	3
Life insurance	1
General insurance	3
Superannuation and employee benefits	6
Health insurance	1

3. To reiterate, the Institute maintains a firm distinction between behavioural issues (which are dealt with in its Code of Professional Conduct) and technical, practice-specific issues (which are dealt with in its professional standards). In terms of professional standards, very close attention is paid to the scope of such, in order to ensure that the area of work covered by a standard is clearly bounded. In the case of both its Code and professional standards, close attention is also paid to avoid, as far as is reasonable in the circumstances, placing its members at a competitive disadvantage compared with other professionals who may perform the same, or similar, work.<sup>2</sup> Whilst this factor is weighed up relative to public interest and reputational considerations in the particular case, the Institute considers it imperative that, absent such a public or reputational interest, it is unhelpful to unnecessarily restrict its members in their practice. Moreover,

<sup>1</sup> For further information, please refer to: [www.actuaries.asn.au/standards](http://www.actuaries.asn.au/standards)

<sup>2</sup> This point is discussed further in section 3.1 of this submission.

the Institute considers that sound regulation requires going no further than is necessary to support the relevant public interest and the reputation of actuaries.

4. The Institute's professional standards are supported by a Disciplinary Scheme. Non-compliance with a professional standard by a member engaged in work covered by a professional standard may constitute actionable conduct and may lead to penalties under the Institute's Disciplinary Scheme.
5. The Institute also issues practice guidelines and information notes to support members, although conformity with these is not mandatory. However, a member should consider explaining any significant departure from a practice guideline.
6. The Institute has a structured process for the development and maintenance of professional standards. It also has a policy of aiming to review and refresh standards and guidance on a 2-year cycle. The process is overseen by the Professional Standards Committee and is governed by a Policy for Drafting Professional Standards and a Due Process for the Development and Amendment of Professional Standards.

## **2 GENERAL COMMENTS ON THE ED**

7. The Institute strongly supports the IAA's initiative to develop International Standards of Actuarial Practice ("ISAPs"). ISAPs will not only be useful to IAA member associations that do not currently have their own standards but, in addition, should serve to encourage convergence of actuarial standards globally.
8. While the Institute does not, at this stage, have a definitive view as to how it will accommodate ISAPs within its existing structure of standards, the Institute expects that it may not be practical for it simply to adopt ISAPs (given its existing standards and the interconnection of such with the Australian regulatory regimes in place across different areas of practice). Instead, it may amend its standards to ensure that they at least meet the requirements of the ISAPs, if necessary. However, this will ultimately depend on the specific content of each ISAP.
9. As regards the approach of having an ISAP covering General Actuarial Practice, the Institute considers that this is sensible. In particular, it will ensure consistency of approach in relation to matters of general practice when practice-specific standards are issued in due course.
10. The Institute notes that ISAP 1 does not deal with disciplinary matters. Whilst it appreciates that this will be a matter for each association that adopts ISAP 1, associations will need to consider how discipline of non-compliance will occur and, thus, encourage compliance with ISAP 1.

### **3 DETAILED COMMENTS ON THE ED**

#### **3.1 Overlap with Code requirements**

11. The Institute considers that there are instances where ISAP 1 arguably strays into the requirements for the codes of professional conduct of full member associations of the IAA<sup>3</sup> (albeit that the code requirements are phrased in “must” language, rather than the “should” language of ISAP 1).
12. Whilst such overlaps may be justified when the adopting association is not a full IAA member association, the Institute considers that the design of ISAP 1 in particular should be targeted principally at full IAA member associations.
13. It is not clear to the Institute why these overlaps were proposed in the original Statement of Intent and, with the benefit of hindsight, it is difficult to see why smaller, developing actuarial associations should effectively be required to adopt one set of measures covering a given topic in the code of professional conduct and then advised to adopt another, overlapping set of requirements expressed in different wording.
14. As such, the Institute urges a review of the need for the relevant parts of ISAP 1 where the overlaps occur. It recognises that this may lead to a reconsideration of the Statement of Intent which may involve several IAA channels.
15. At an absolute minimum, the Institute suggests that the inclusion of a statement (perhaps in section 4.3) to the effect that, where there is a conflict between any code obligations imposed upon an actuary and ISAP 1, compliance with the applicable code is not considered a deviation from ISAP 1. Further, the Institute suggests that, at a minimum, the language of ISAP 1 be aligned with that of the IAA’s code requirements (“must” in place of “should”).

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<sup>3</sup> See, for example:

- (a) the requirement in section 4.2.3(g) of ISAP 1 (inclusion of the “actuary’s name, signature, position held and date ...”) which parallels, but is not identical to, the requirement in section 2.2.2(f)(vii) of the IAA’s Internal Regulations (dated 15 March 2011) which refers to identifying “the capacity in which the actuary serves” in communicating professional findings;
- (b) the requirement in section 4.1.4 of ISAP 1 for any communication to “indicate the extent to which the actuary is available to provide supplementary information and explanation” as compared with section 2.2.2(f)(vi) of the IAA’s Internal Regulations (dated 15 March 2011) (“indicate the extent to which the actuary or other sources are available to provide the client or employer with supplementary information and explanation about scope, methods and data in relation to the work performed”); and
- (c) the requirement in section 3.1.1(b) of ISAP 1 for the responsible actuary to be “qualified to perform the services, or able to become qualified before the services are delivered” as compared with section 2.2.2(f)(iv) requiring the actuary to be “competent and appropriately experienced to [perform professional services]”.

### 3.2 Application of ISAP 1

16. Actuaries are involved in both actuarial and non-actuarial work. The latter category would include roles such as Chief Executive Officer, Chief Financial Officer, General Manager, credit analysts, share analysts, hedge fund operators, investment bankers and personal financial advisers.
17. As elaborated upon in paragraph 3 of this submission, the Institute considers it important not to impose undue burden on actuaries in relation to non-actuarial work (for example, in terms of reporting), most particularly because this may place actuaries at a competitive disadvantage relative to non-actuaries in relation to such work. Any such differences in burden, absent probative public interest or reputational considerations, do not represent sound professional regulatory practice.
18. For this reason, the Institute considers that there is a need to avoid including **every** form of actuarial work (especially non-traditional work) in the scope of ISAP 1. The summary arguments in favour of this view are:
  - (a) much of ISAP 1 has its origins in financial reporting (stemming from International Financial Reporting Standard 4 (Insurance Contracts)). It is targeted towards (and arguably well suited to) financial reporting, prudential management and other similar applications of actuarial skills to regulated tasks concerning major financial entities. This is reflected in its contents. However, in the Institute's view, the case has not been made that this content should be applied to all work done by actuaries in all circumstances;
  - (b) setting such a wide scope is likely to restrict the movement of actuaries into wider fields. The adoption of standards that may not be applicable to the work they are doing (or seeking) may be expected to impair their ability to compete; and
  - (c) in terms of risk management, it would be better to set a narrow scope now and enlarge it as experience proves its worth, rather than setting a broad scope now and potentially unjustifiably impairing the growth of the profession in areas where it is least developed.
19. The Institute therefore recommends that the IAA develop a definition of "professional services" which includes the appropriate target 'traditional' activities of actuaries (including financial reporting, regulatory reporting, major funding advice and (perhaps) whenever another **technical** professional practice standard applies) while excluding the work of, for example, those described in paragraph 16 above where the case has not been made for such regulation and where the immediate response to the adoption of ISAP 1 may be that the relevant people will leave the profession, or never join it. Smaller actuarial associations, or even those larger ones where traditional areas are currently thriving, may not realise these limitations until it is too late. In making this recommendation, the Institute is mindful that the codes of professional conduct

which full member associations of the IAA are required to have in place in any event place an overarching obligation on actuaries to behave professionally in all circumstances.

### 3.3 Language

20. The Institute generally supports the use of the verbs “must”, “should” and “may” as defined in Introduction 2. In the explanation of the verb “should”, it suggests that, rather than indicating that if the “action is not followed, the actuary should disclose that fact and provide justification for it”, the explanation be amended to read “if the indicated action is not followed, the actuary should disclose that fact and explain the reasons for departure”. The rationale behind the suggested change is that the existing requirement to provide justification could set an unreasonably high burden of proof (particularly in the context of a “should”-based obligation).
21. The Institute notes that none of the requirements in ISAP 1 uses the verb “must”. It considers that this considerably weakens the standard and would support most (if not all) aspects of the standard being mandatory. Whilst setting the bar at the “should” level is likely to attract more broad-based support for the standard amongst IAA constituents, the Institute takes the view that the rationale for most of the requirements is sound and, as such, permitting variation from those requirements may water down the purpose and policy rationale of such.
22. Similarly, the Institute considers that the purpose of the standard (as set out in section 1.1) should be amended to state that the “... ISAP provides minimum standards of professional requirements ...”. In the Institute’s view, the existing reference to “guidance” should be deleted as it again weakens the standard. The use of the verbs “must”, “should” and “may” adequately modifies the concept of “requirements” where necessary.

### 3.4 Definition of “opinion” (section 2.9)

23. The proposed definition of “opinion” states: “An opinion expressed by an actuary and intended by that actuary to be relied upon by the intended users”. Intended user is defined to include “any legal or natural person ... that the actuary intends to use work product ...”.
24. First, the Institute notes that the definition is circular.
25. Secondly, there are situations where an actuary may not intend all “intended users” to rely on his or her opinion; for example, where an expert actuarial opinion is included in an offering document, but reliance by third parties is expressly disclaimed. To accommodate such situations (and avoid the circularity noted above), the Institute suggests amending the definition of “opinion” to read:

“A point of view communicated by an actuary and intended by that actuary to be relied upon by some or all of the intended users”.

### **3.5 Definition of “report” (section 2.14)**

26. We note that the definition of “report” relies, in part, on the definition of “communication”. The latter includes both oral and written statements.
27. However, many of the requirements in ISAP 1, particularly as regards reporting, are generally only appropriate in the context of written communications. The Institute suggests that it may be more constructive to treat oral and written communications separately. Its preference is for professional standards to deal with written communications and for oral communications to be dealt with by a code of conduct.

### **3.6 Definition of “responsible actuary” (section 2.15)**

28. The Institute notes that many of the obligations, such as reporting, apply to the “actuary”, rather than to the “responsible actuary”. In some instances – such as in section 4.1.1 compared to section 4.2 – it is not necessarily clear why a distinction is being drawn.
29. We suggest that the responsible actuary should be responsible for the entirety of the work product – including decisions regarding the issuing and content of a report – lest clients become misled or confused about the roles of the two (or more) individuals. One way in which this might be achieved is to define “actuary” as including any responsible actuary or actuaries. Specific obligations imposed only on the responsible actuary/actuaries could still remain in the standard.

### **3.7 Definition of “work product” (section 2.17)**

30. In the Institute's view, the reference in the definition of “work product” to the ‘totality’ of professional services provided is unhelpful and should be deleted. In cases such as ongoing contracts for professional services and employed actuaries – where the line may be blurred in terms of the beginning and end of an “assignment” – there would likely be difficult issues in determining what constitutes the ‘totality’ of such services for the purposes of interpretation (and discipline) of compliance with the standard.

### **3.8 Acceptance of assignment (section 3.1)**

31. At the commencement of an engagement it may not always be possible to specify all of the items set out in section 3.1.2. Hence, the Institute suggests amending the first paragraph of this section to read: “When providing professional services, the responsible actuary should, to the extent practicable, confirm with the principal ...”.

32. The Institute questions whether the last paragraph of section 3.1.2 adds much, and suggests deleting it. Similarly, it considers that the words “(whether a single freestanding assignment or an ongoing contract)” do not add much to section 3.1.1 and, therefore, should also be deleted.
33. With regard to section 3.1.1(d), the Institute considers that the provision should be expanded to refer, not only to access to relevant employees, but also to access to auditors and other third parties providing services to the principal relevant to the actuary’s work.

### **3.9 Knowledge of relevant circumstances (section 3.2)**

34. The Institute considers that the phrase “to be comfortable performing the professional services” is too soft (and vague for enforcement purposes). It suggests that this phrase be replaced with words to the effect of “to be satisfied that he/she can perform the professional services in accordance with his/her code of professional conduct”.

### **3.10 Employed actuaries (section 3.3)**

35. In our view, the reference to the responsible actuary’s belief in the last paragraph of this section is likely to raise difficulties of proof in disciplinary proceedings. The Institute suggests that the phrase “[i]f the responsible actuary believes circumstances are such ...” with the phrase “[i]f the responsible actuary’s opinion, based on reasonable grounds, is that circumstances are such ....”.

### **3.11 Reliance on others (section 3.4)**

36. In the Institute’s view, when an actuary places reliance on information prepared by another party, he or she should take steps to establish whether it was appropriate to rely on the information (as opposed to simply placing blind reliance on the information).
37. We would therefore suggest strengthening section 3.4.1(e) to say: “report details of the steps that the actuary took to determine whether it was appropriate to rely on the information”.
38. In addition, the Institute is concerned that, on its reading of ISAP 1, there does not appear to be a specific requirement for an actuary to explain his or her reasons for disclaiming responsibility for particular information. We consider that, for example, it is important that an intended user of the report understands both:
  - (a) any consequential limitations of the report arising from the reason(s) why the actuary is disclaiming responsibility for the information; and

- (b) the reasons why it is not reasonable for the actuary to separately elicit or construct the relevant information from a more reliable source, such that he or she would not then seek to disclaim responsibility.

### **3.12 Materiality (section 3.5)**

- 39. Since it is important for the user of an actuarial report to understand the materiality threshold applied, the Institute suggests that the actuary be required to document in his/her report the selected threshold of materiality and, if the actuary did not select the threshold of materiality, to indicate which party did so.

### **3.13 Data deficiencies (section 3.6.4)**

- 40. The Institute considers that the second sentence in section 3.6.4 is inconsistent with the first sentence – the actuary is required to consider the possible effect of any data deficiencies, but then not consider them. We suggest adding the word “further” to the second sentence so that it reads:

If the deficiencies in the data are not likely (in the actuary’s professional judgment) to materially affect the results, then such deficiencies need not be further considered.

- 41. We further suggest strengthening the section to require a statement by the actuary explaining that the data deficiencies are not material.
- 42. In section 3.6.4(c), the Institute considers that:
  - (a) the impact of the data deficiencies on the findings in a report, and not simply the data deficiencies themselves, should be disclosed in the report; and
  - (b) it would be appropriate to make clear that higher obligations (than simply performing the assignment “as well as possible” in the circumstances) may exist. A number of codes of professional conduct include a requirement that, in such circumstances, the actuary must, or must consider, declining the assignment.

Taking the above comments into account, we propose that the sub-section be amended to read:

- c. subject to compliance with the actuary’s code of professional conduct, perform the assignment as well as possible and disclose the data deficiencies in the report (including an indication of the potential impact of those data deficiencies).

### **3.14 Assumptions and methodology (sections 3.7 and 3.8)**

43. Similar to the point made in paragraph 38 of this submission, the Institute considers that simply stating which party's assumptions and/or methodology were used in circumstances where the actuary would not have chosen such assumptions and/or methodology, without further explanation, is unhelpful to users of a report. The requirements in ISAP 1<sup>4</sup> are expressed at a reasonably high level and a user of a report (including the principal) might well question, if the actuary had used what he or she would have considered to be a reasonable assumption and/or methodology, how and to what extent the report would have differed.<sup>5</sup> We consider that, whilst this needs to be addressed, the potentially wide range of circumstances in which such a case may arise suggests that it may be better to address the issue in practice-specific standards.
44. Relatedly, the Institute notes that section 3.8.4 discusses the issue of assumptions requested by the principal and envisages that the actuary may provide the principal with results based on the principal's assumptions. We suggest that this section should highlight that there may be circumstances where it would be unreasonable and possibly misleading to include results based on the principal's assumptions; for example, because the requested assumptions are too extreme or are internally inconsistent.
45. Section 3.7.2 envisages that assumptions may be implicit or explicit and may contain a known significant bias to underestimation or overestimation of the result. The Institute's strong preference is for all material assumptions to be explicit. Further, it is opposed to having a known significant bias in a selected assumption. Instead, if the methodology or circumstances require it, the Institute would support the inclusion and disclosure of explicit margins rather than the adoption of biased assumptions.

### **3.15 Responsibility for assumptions and methodology (section 3.10.2)**

46. We suggest that the references to "significantly" in each of sections 3.10.2(a) and (b) be amended to "materially" for consistency with other provisions of ISAP 1.

### **3.16 Peer review (section 3.11)**

47. The Institute suggests removing the distinction in section 3.11 relating to employed actuaries since, as a general point, it considers that the application of peer review represents good practice in all circumstances.

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<sup>4</sup> Such as sections 3.9.3, 3.10 and 4.2.1 of ISAP 1.

<sup>5</sup> A similar point may be made in relation to constraints imposed on the actuary relating to sensitivity testing – refer section 3.8.3 of ISAP 1.

48. We also suggest amending the opening words “[t]he responsible actuary should consider to what extent it is appropriate ...” to read “[t]he responsible actuary should consider to what extent, if at all, it is appropriate ...”. The Institute recognises that there may be circumstances where no peer review is appropriate, but considers that it is not clear that this would be permitted by the current wording.

### **3.17 Clarity of communication (section 4.1.2)**

49. The Institute notes that, in the most recent redrafting of its Code of Professional Conduct, use of the word “clear” in the context of communication was avoided as clarity is a subjective matter. Instead, it chose to require that the communication be “appropriate, having regard to ...”. It suggests that this would be a better approach to take in section 4.1.2 of ISAP 1.

### **3.18 Report (section 4.2)**

50. The Institute considers the opening sentence of section 4.2 – and, particularly, the phrase “if the actuary intends the results of professional services to be relied upon” – to be problematic because “any intended user” would include the principal/sponsor who would likely be dissatisfied if the actuary decided he or she did not intend the principal/sponsor to rely on the results. Such a circumstance would leave little room for the operation of the opening words and, as such, the Institute considers that a trigger of “intention of reliance” for a report is inappropriate. It suggests replacing the two opening sentences with the following:

“Where the principal requests a report, or the actuary considers it appropriate in the circumstances to provide a report, the actuary should consider the needs of the intended user in communicating the results in the report.”

### **3.19 Report content (section 4.2.1)**

51. In sub-paragraph (b) of section 4.2.1, we suggest changing “state the results of professional services” to read “state the results of the professional services”, as it considers that the former wording could refer to various other professional services provided by the actuary.

### **3.20 Legal, legislative, regulatory or supervisory constraints (section 4.2.2)**

52. The Institute, as described in Section 1 of this submission, maintains a rigid distinction between professional standards (compliance with which is mandatory) and practice guidelines (where compliance is not mandatory, but a member should consider explaining any significant departure from the guideline). This is partly a matter of clarity (particularly in the context of disciplinary actions). Given this, the Institute considers that the reference in section 4.2.2 to “guidance of this standard” to be problematic and

unclear. We suggest substituting the phrase “requirements of this standard”.<sup>6</sup> The term “requirements” continues to leave room for the operation of the verbs “must”, “should” and “may”.

### **3.21 Specific disclosures (section 4.2.3)**

53. In section 4.2.3, which sets out the specific disclosures for a report, the Institute suggests:

- (a) including information on uncertainties/sensitivities to key assumptions; and
- (b) amending sub-paragraph (f) to refer to “material subsequent events” in order to appropriately confine the range of relevant events to be disclosed in the report.

### **3.22 Actuaries other than employed actuaries (section 4.2.4)**

54. In sub-paragraph (b) of section 4.2.4, the Institute suggests referring to “the work product”, rather than to “this assignment”, as the former is clearly defined.

### **3.23 Shorter reports (section 4.2.5)**

55. Section 4.2.5 discusses short reports vs full reports and envisages that a full report should be available to any intended user identified by the principal or sponsor. The Institute does not consider this to be practical. For example, where a short form expert’s report is included in an offering document, it may be undesirable (on commercial or other grounds) to make available the related full report to any reader of the short form report who requests it.

56. The Institute also considers that ISAP 1 should make clear that any shorter report must not be false or misleading (that is, it should include a summary of all material matters). Not only would such a requirement be best practice, it would ensure that, were a full report not made available to the intended users (as discussed in paragraph 55 above), the intended users would not be disadvantaged or misled.

### **3.24 Deviation from guidance in standard (section 4.3)**

57. The Institute also notes that there is a potential issue as to what an actuary should do when he or she belongs to two different associations where one has adopted ISAP 1 and the other either has not adopted it or has a conflicting standard in place.

58. We note our comments in Section 3.20 of this submission concerning the reference in section 4.2.2 to “guidance of this standard”. The change suggested in that paragraph would also need to be made to section 4.3.

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<sup>6</sup> See, also, the commentary in paragraph 58 below.

59. We also refer to our comments in paragraph 9 of this submission.

#### **4 COMMENTS ON SPECIFIC QUESTIONS**

60. Please note that the Institute's comments below on the specific questions raised by the IAA are subject in each case to the detailed comments on the ED set out above in Section 3 of this submission.

61. Is the guidance clear and unambiguous?

The Institute has raised a number of drafting issues with the ED intended to provide greater clarity, increased consistency and enhanced ease of enforcement. Subject to those comments, we consider that, generally, the ED has been drafted well.

62. Is the guidance at the right level of detail, or should it be more or less detailed?

The Institute considers that the level of detail is appropriate. As a general point, our preference is for principles-based standards, and hence we favour less detail or prescription.

63. Is the guidance on when to issue an actuarial report and what should be covered in the report appropriate?

The Institute considers that the requirements are reasonably appropriate.

64. Are there other matters that should be included in this standard on general actuarial practice? Are there some included here that should not be?

There may be an argument for some aspects of the guidance to be removed and included in a Code of Practice (for example, section 3.1 dealing with acceptance of an assignment). However, the Institute does not have strong views on this particular point.

We note that we have drawn attention to areas of inconsistencies (actual or potential) with the IAA's Internal Regulations (refer, particularly, paragraph 9 of this submission). We have not identified any other matters for inclusion in the ED.

65. The intent is to use the same format for future ISAPs. Is the format of this ISAP appropriate?

The Institute considers the format of the ISAP to be appropriate.

66. Is the change in nomenclature (from IASP to ISAP) appropriate?

The Institute is comfortable with the change in nomenclature.