

Supervision

Chapter 4

Actuaries

4.3 Appointment of actuaries

Appointment by firms

4.3.2 **G** [deleted]

Actuaries' qualifications

4.3.8 **G** The *FCA* is concerned to ensure that every *actuary* appointed by a *firm* under *PRA* rules made under section 340 of the *Act* or for the purposes of *PRA* Rulebook: Solvency II firms: Conditions Governing Business, 6, has the necessary skill and experience to provide the *firm* with appropriate actuarial advice from a conduct perspective. ■ SUP 4.3.9 R to ■ SUP 4.3.10 G set out the *FCA's* rules and guidance aimed at achieving this.

4.3.9 **R** Before a *firm* applies for approval of the *person* it proposes to appoint as an *actuary* under *PRA* rules made under section 340 of the *Act*, or for the purposes of *PRA* Rulebook: Solvency II firms: Conditions Governing Business, 6, it must take reasonable steps to ensure that the *actuary*:

- (1) has the required skill and experience to perform his functions under the *regulatory system*; and
- (2) is a Fellow of the Institute of Actuaries or of the Faculty of Actuaries.

4.3.10 **G** To comply with ■ SUP 4.3.9 R and *Principle 3*, before an *actuary* takes up his appointment the *firm* should ensure that the *actuary*:

- (1) has skills and experience appropriate to the nature, scale and complexity of the *firm's* business and the requirements and standards under the *regulatory system* to which it is subject; and
- (2) has adequate qualifications and experience, which includes holding an appropriate practising certificate under the rules of the Institute of Actuaries or the Faculty of Actuaries;

and seek confirmation of these from the *actuary*, or the *actuary's* current and previous employers, as appropriate.

Disqualified actuaries

4.3.11 **R** A *firm* must not appoint under *PRA* rules made under section 340 of the *Act* or for the purposes of rule 6.1 of the *PRA* Rulebook: Solvency II firms: Conditions Governing Business, an *actuary* who is disqualified by the *FCA*

under section 345 of the Act (Disciplinary measures: FCA) or the PRA under section 345A of the Act (Disciplinary measures: PRA) from acting as an *actuary* either for that *firm* or for a relevant class of *firm*.

4.3.12 **G** If it appears to the FCA that an *actuary* has failed to comply with a duty imposed on him under the Act, it has the power to and may disqualify him under section 345 of the Act. A list of *actuaries* who are disqualified may be found on the FCA website (<http://www.fca.org.uk>).

Conflicts of interest

4.3.12A **R** A *firm* must take reasonable steps to ensure that an *actuary* who is to be, or has been, appointed under PRA rules made under section 340 of the Act, or for the purposes of PRA Rulebook: Solvency II firms: Conditions Governing Business, 6:

- (1) does not perform the function of chairman or *chief executive* of the *firm*, or does not, if he is to perform the *with-profits actuary function*, become a member of the *firm's governing body*; and
- (2) does not perform any other function on behalf of the *firm* which could give rise to a significant conflict of interest.

4.3.12B **G** Both the *actuarial function* and the *with-profits actuary function* may be performed by *employees* of the *firm* or by external consultants, and performing other functions on behalf of the *firm* will not necessarily give rise to a significant conflict of interest. However, being a *director*, or a senior manager responsible, say, for sales or marketing in a *firm* (or for finance in a proprietary *firm*), is likely to give rise to a significant conflict of interest for an *actuary* performing the *with-profits actuary function*. He nevertheless retains direct access to the *firm's governing body* under ■ SUP 4.3.17 R (2).

The actuarial function

4.3.13 **R** An *actuary* appointed to perform the *actuarial function* must, in respect of those classes of the *firm's long-term insurance business* which are covered by his appointment:

- (1) advise the *firm's* management, at the level of seniority that is reasonably appropriate, on the risks the *firm* runs in so far as they may have a material impact on the *firm's* ability to meet *liabilities to policyholders* in respect of *long-term insurance contracts* as they fall due and on the capital needed to support the business, including regulatory capital requirements;
- (2) monitor those risks and inform the *firm's* management, at the level of seniority that is reasonably appropriate, if he has any material concerns or good reason to believe that the *firm*:
 - (a) is not meeting *liabilities to policyholders* under *long-term insurance contracts* as they fall due, or may not be doing so, or might not have done so, or might, in reasonably foreseeable circumstances, not do so;
 - (b) is, or may be, effecting new *long-term insurance contracts* on terms under which the resulting income earned is insufficient,

under reasonable actuarial methods and assumptions, and taking into account the other financial resources that are available for the purpose, to enable the *firm* to meet its *liabilities to policyholders* as they fall due (including reasonable bonus expectations);

(c) does not, or may not, have sufficient financial resources to meet *liabilities to policyholders* as they fall due (including reasonable bonus expectations) and the capital needed to support the business, including regulatory capital requirements or, if the *firm* currently has sufficient resources, might, in reasonably foreseeable circumstances, not continue to have them;

(3) advise the *firm's governing body* on the methods and assumptions to be used for the *actuarial investigations* and reports of the *appropriate actuary* required by the PRA Rulebook;

(4) perform those investigations and calculations in (3), in accordance with the methods and assumptions determined by the *firm's governing body*;

(5) report to the *firm's governing body* on the results of those investigations and calculations in (3); and

(6) in the case of a *friendly society* to which this section applies, perform the functions of the appropriate actuary under section 87 (Actuary's report as to margin of solvency) of the Friendly Societies Act 1992.

4.3.14 G The PRA Rulebook requires *firms* to which this section applies to cause an investigation to be made at least yearly by the *actuary* or *actuaries* appointed to perform the *actuarial function*, and to report on the result of that investigation. The *firm* is responsible for the methods and assumptions used to determine the liabilities attributable to its *long-term insurance business*. The obligation on *friendly societies* to obtain a report from the 'appropriate actuary' under section 87 of the Friendly Societies Act 1992 applies to a *friendly society* which is to receive a transfer of engagements under section 86 (transfer of engagements to or by a friendly society). The 'appropriate actuary' in this context is the *actuary* appointed to perform the *actuarial function*, rather than the *appropriate actuary* under ■ SUP 4.4 (Appropriate actuaries).

4.3.15 G ■ SUP 4.3.13 R is not intended to be exhaustive of the professional advice that a *firm* should take whether from an *actuary* appointed under this chapter or from any other *actuary* acting for the *firm*. *Firms* should consider what systems and controls are needed to ensure that they obtain appropriate professional advice on financial and risk analysis; for example:

(1) risk identification, quantification and monitoring;

(2) stress and scenario testing;

(3) ongoing financial conditions;

(4) financial projections for business planning;

(5) investment strategy and asset-liability matching;

- (6) individual capital assessment;
- (7) pricing of business, including unit pricing;
- (8) variation of any charges for benefits or expenses;
- (9) discretionary surrender charges; and
- (10) adequacy of reinsurance protection.

The with-profits actuary function

4.3.16

G

4.3.16A

R

An actuary appointed to perform the *with-profits actuary function* must:

- (1) advise the *firm's* management, at the level of seniority that is reasonably appropriate, on key aspects of the discretion to be exercised affecting those classes of the *with-profits business* of the *firm* in respect of which he has been appointed;
- (2) [deleted]
- (2A) where the *firm* is a *Solvency II firm*, advise the *firm's governing body* as to whether the assumptions used to calculate the future discretionary benefits within the *technical provisions* are consistent with the *firm's PPFM* in respect of those classes of the *firm's with-profits business*;
- (3) at least once a year, report to the *firm's governing body* on key aspects (including those aspects of the *firm's* application of its *Principles and Practices of Financial Management* on which the advice described in (1) has been given) of the discretion exercised in respect of the period covered by his report affecting those classes of *with-profits business* of the *firm*;
- (4) in respect of each financial year, make a written report addressed to the relevant classes of the *firm's with-profits policyholders*, to accompany the *firm's* annual report under ■ COBS 20.4.7 R as to whether, in his opinion and based on the information and explanations provided to him by the *firm*, and taking into account where relevant the *rules and guidance* in ■ COBS 20, the annual report and the discretion exercised by the *firm* in respect of the period covered by the report may be regarded as taking, or having taken, the interests of the relevant classes of the *firm's with-profits policyholders* into account in a reasonable and proportionate manner;
- (5) request from the *firm* such information and explanations as he reasonably considers necessary to enable him properly to perform the duties in (1) to (4);
- (6) advise the *firm* as to the data and systems that he reasonably considers necessary to be kept and maintained to provide the duties in (5); and

- (7) in the case of a *friendly society* to which this section applies, perform the function of appropriate actuary under section 12 (Reinsurance) of the Friendly Societies Act 1992 or section 23A (Reinsurance) of the Friendly Societies Act 1974 as applicable, in respect of those classes of its *with-profits business* covered by his appointment.
- (8) advise on any *actuarial investigation* required to determine the *with-profits-fund surplus*.
- 4.3.16B** **G** In advising or reporting on the exercise of discretion, an *actuary* performing the *with-profits actuary function* should cover the implications for the fair treatment of the relevant classes of the *firm's with-profits policyholders*. His opinion on any communication or report to them should also take into account their information needs and the extent to which the communication or report may be regarded as clear, fair and not misleading. Aspects of the business that should normally be included are:
- (1) bonus rates to be applied to *policies* at maturity or on the death of a *policyholder*, or when calculating the annual bonus;
 - (2) investment policy in the light of product descriptions disclosed to *customers*;
 - (3) surrender value methodology (including market value adjusters);
 - (4) new business plans and premium rates;
 - (5) allocation of expenses to *with-profits business*;
 - (6) investment fees to be charged to *with-profits business*;
 - (7) changes to the *Principles and Practices of Financial Management*; and
 - (8) communications with *policyholders* or potential *policyholders* on the issues in (1) to (7).
- 4.3.16C** **G** The reports in **SUP 4.3.16AR (3)** and **SUP 4.3.16AR (4)** should be proportionate to the nature of the *with-profits business*. For smaller *firms* with fewer products, the extent of reporting would be proportionately less.
- 4.3.16D** **G** *Firms* should normally obtain advice, from the *actuary* appointed to perform the *with-profits actuary function* in respect of the affected class or classes of *with-profits business*, whenever they are preparing to make key decisions based on the exercise of discretion affecting their *with-profits business*. *Firms* should also have risk management processes in place to ensure that all relevant matters are referred to the *actuary* for advice.
- 4.3.17** **R** A *firm* must require and allow any *actuary* appointed to perform the *with-profits actuary function* to perform his duties and must:
- (1) keep him informed of the *firm's* business and other plans (including, where relevant, those of any related *firm*, to the extent it is aware of these);

- (2) provide him with sufficient resources (including his own time and access to the time of others);
- (3) hold such data and establish such systems as he reasonably requires;
- (4) request his advice about the likely effect of material changes in the *firm's* business plans, practices or other circumstances on the fair treatment of the relevant classes of the *firm's with-profits policyholders*;
- (5) pay due regard to his advice, whether provided in response to a request under (4) or on the *actuary's* own initiative; this will include, if he requests it, allowing him to present his advice directly to the *firm's governing body* (that is, the board of *directors* or, for a *friendly society*, the committee of management); and
- (6) ensure that where a conflict of interest may arise in relation to the role of the *with-profits actuary* and the advice he gives, for example due to the *firm's* reporting lines or remuneration process, that potential conflict is identified and managed in order to minimise the possible effect of the potential conflict on the advice given.

4.3.18 **G** A *firm's* duty to keep an *actuary* appointed to perform the *with-profits actuary function* informed includes providing relevant information, even where the *actuary* does not ask for it. The *firm* needs to appreciate that the *actuary* may be unaware of certain business developments and so unable to request relevant information.

4.3.19 **G** [deleted]

4.3.20 **R** [deleted]

4.3.21 **G** [deleted]