

## SUPERVISION MANUAL (ACTUARIES) INSTRUMENT 2004

### Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 59 (Approval for particular arrangements);
  - (2) section 138 (General rule-making power);
  - (3) section 156 (General supplementary powers);
  - (4) section 157(1) (Guidance); and
  - (5) section 340 (Appointment).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

### Commencement

- C. This instrument comes into force on 31 December 2004.

### Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
The Threshold Conditions (COND)	Annex A
Conduct of Business sourcebook (COB)	Annex B
Authorisation manual (AUTH)	Annex C
Supervision manual (SUP)	Annex D
Enforcement manual (ENF)	Annex E
Glossary of definitions	Annex F

### Citation

- E. This instrument may be cited as the Supervision Manual (Actuaries) Instrument 2004.

By order of the Board  
18 November 2004

Amended by Addendum  
29 July 2005

## Annex A

### Amendments to the Threshold Conditions

In this Annex underlining indicates new text and striking through indicates deleted text.

2.5.7 G (11) where appropriate, the *firm* has appointed auditors and actuaries, who have sufficient experience in the areas of business to be conducted (see *SUP* 3.4 (Auditors' qualifications) and *SUP* 4.3.8G to *SUP* 4.3.1310G (~~Appointed~~ actuaries' qualifications)); and

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## Annex B

### Amendments to the Conduct of Business sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

6.11.11 R ~~Any~~The report to *with-profits policyholders* made under SUP 4.3.16AR (4) by a *with-profits actuary*~~from an *actuary* appointed under SUP 4 (Actuaries)~~ must be annexed to the annual report in COB 6.11.9R.

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6.11.14 G In preparing the report to *with-profits policyholders* in COB 6.11.9R, a *firm* should take advice from a *with-profits actuary*~~*actuary*~~.

Insert the following new transitional provision in COB TR5.

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
	COB 6.11.9	R	<p>Annual report to <i>with-profits policyholders</i></p> <p><i>A firm</i> must produce its first report to <i>with-profits policyholders</i> under COB 6.11.9R in respect of the part of its financial year that follows the date on which PRU 7.4 (With-profits Insurance Capital Component) comes into force.</p>	From 30 April 2004	30 April 2004

## Annex C

### Amendments to the Authorisation manual

In this Annex underlining indicates new text and striking through indicates deleted text.

- 3.9.19 D If an applicant appoints an actuary, ~~other than an appointed actuary~~, to report on an application for *Part IV permission*, the applicant is directed to take reasonable steps to ensure that the *actuary* satisfies the qualification tests in *SUP 4.3.9R* (~~Appointed actuaries'~~ qualifications).

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## Annex D

### Amendments to the Supervision manual

In this Annex underlining indicates new text and striking through indicates deleted text.

Insert the following new transitional provisions in the correct sequential order:

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision: coming into force
...					
4A	<i>SUP 4</i>	R	Anything done before 31 December 2004 for the purposes of an amended provision in <i>SUP 4</i> has effect as if done under that provision.	From 31 December 2004	31 December 2004
4B	<i>SUP 4.3.1R</i>	R	A <i>firm</i> must notify the <i>FSA</i> immediately of all appointments under <i>SUP 4.3.1R</i> (as amended) which come into, or are in, effect on 31 December 2004, advising the <i>FSA</i> of the name and business address of each <i>actuary</i> appointed and the functions each <i>actuary</i> is to perform.	From 31 December 2004	31 December 2004
4C	<i>SUP 4.5.9R</i>	R	An <i>actuary</i> , who immediately before 31 December 2004 is the <i>appointed actuary</i> of a <i>firm</i> , must notify the <i>FSA</i> under <i>SUP 4.5.9R</i> (as amended) if on that date he is not appointed by the <i>firm</i> under <i>SUP 4.3.1R</i> (as amended).	From 31 December 2004	31 December 2004

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
4D	SUP 4.5.10R	R	<p>An <i>actuary</i>, who immediately before the relevant time in (a) or (b) below is the <i>appointed actuary</i> of a <i>firm</i>, must notify the <i>FSA</i> under SUP 4.5.10R (as amended) if:</p> <p>(a) he is not appointed by the <i>firm</i> under SUP 4.3.1R (as amended) on 31 December 2004;</p> <p>or</p> <p>(b) he is or has been formally notified that he will not be so appointed by the <i>firm</i>.</p>	From 31 December 2004	31 December 2004
4E	SUP 4.3.1R and SUP 4.3.3R	G	<p><i>Firms</i> and the <i>FSA</i> will need to make fresh appointments once these proposed amendments come into effect, even if an <i>actuary</i> has already been appointed under the existing provisions. A <i>firm</i> will not need to seek fresh approval under section 60 of the <i>Act</i> for an existing <i>appointed actuary</i> who continues to perform the <i>actuarial function</i> (CF12) or the</p>	From 31 December 2004	31 December 2004

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			<p><i>with-profits actuary function</i> (CF12A). This is because both these <i>controlled functions</i> are already covered by an <i>actuary's</i> existing approval to perform the previous <i>appointed actuary function</i>. However, under <i>SUP TP4B firms</i> are required to notify the <i>FSA</i> of any new or continued appointments to perform either or both of these functions. The effect of <i>SUP TP4CR</i> and <i>SUP TP4DR</i> is to require an existing <i>appointed actuary</i> to notify the <i>FSA</i> under <i>SUP 4.5.9R</i> and <i>SUP 4.5.10R</i> if he ceases to hold any appointment at all under <i>SUP 4.3.1R</i>, but not if he is appointed to perform either or both functions.</p>		
...					

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4.1 Application

4.1.1 R This chapter applies to:

- (1) every *firm* within a category listed in column (1) of the table in *SUP 4.1.3R*; and

- (2) every ~~the appointed actuary or appropriate actuary~~ appointed under this chapter of such a firm;

in accordance with column (2) of that table.

- 4.1.2 G This chapter applies to *long-term insurers* (including *friendly societies*) and other *friendly societies*. This chapter does not apply to the *Society of Lloyd's* or to *Lloyd's underwriting agents*. Requirements dealing with the appointment and duties of *actuaries* in relation to *Lloyd's insurance business* are contained in *LLD*. This chapter does not apply to actuaries advising the auditors of long-term insurers under IPRU(INS) 9.35(1A) or IPRU(FSOC) 5.11(2A), as they are not appointed to act on behalf of the firm.

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## 4.2 Purpose

- 4.2.1 G Section 340 of the *Act* gives the *FSA* power to make *rules* requiring an *authorised person*, or an *authorised person* falling into a specified class, to appoint an ~~actuary~~ actuary. Section 340 further empowers the *FSA* to make *rules* governing the manner, timing and notification to the *FSA* of such an appointment and, where an appointment is not made, for the *FSA* to make an appointment on the *firm's* behalf. The *FSA's* rule-making powers under section 340 of the *Act* also extend to ~~the an actuary's~~ sactuary's duties and to the cessation of an ~~actuary's~~ sactuary's term of office.

- 4.2.2 G This chapter defines the relationship between ~~a firms~~ a firm's and ~~their~~ its ~~appointed actuaries or appropriate actuaries~~ appointed actuaries and clarifies the role which ~~appointed actuaries and appropriate actuaries~~ appointed actuaries play in the *FSA's* monitoring of *firms'* compliance with the requirements and standards under the *regulatory system*. The chapter sets out *rules* and *guidance* on the appointment of ~~an actuaries~~ an actuary to the position of ~~appointed actuary or appropriate actuary~~ appointed actuary, and the termination of ~~an their actuary's~~ an actuary's term of office, as well as setting out their respective rights and duties. The purpose of the chapter is to ensure that:

- (1) *long-term insurers* (other than certain *friendly societies*) have access to adequate actuarial advice, both in valuing their liabilities to policyholders and in exercising discretion affecting the interests of their with-profits policyholders; and
- (2) other *friendly societies* carrying on *insurance business* (and which have traditionally relied upon actuarial expertise) employ or use an *actuary* of appropriate seniority and experience to evaluate the liabilities of that business.

- 4.2.3 G The functions described by *SUP* 4.2.2G(1) ~~is~~ are performed by one or more ~~the appointed actuaries~~ the appointed actuaries who ~~is~~ are required to hold office continuously



and must be ~~an approved persons~~. The principal duty of ~~the~~ an appointed actuary appointed to perform these functions is to advise the *firm* (see *SUP* 4.3.13R to *SUP* 4.3.1824G for the rights and duties of ~~the~~ such an appointed actuary).

4.2.4 G The function described by *SUP* 4.2.2G(2) is performed by ~~the~~ an appropriate actuary who is appointed to prepare the triennial investigation and interim certificate or statement required by *IPRU(FSOC)* 5.2(1) (see *SUP* 4.4.76R ~~to~~ and *SUP* 4.4.10G 4.5.12G to *SUP* 4.5.14G for the rights and duties of an *appropriate actuary*).

4.2.5 G ~~Both the appointed actuary and the appropriate actuary~~ Actuaries act as a valuable source of information to the *FSA* in carrying out its functions. For example, in determining whether a *firm* satisfies the *threshold conditions*, the *FSA* has regard to whether the *firm* has appointed an ~~appointed-actuary~~ with sufficient experience in the areas of business to be conducted by the *firm* (*COND* 2.5.7G(11)).

4.2.6 G In making appointments under this chapter and in allocating duties to actuaries, firms are reminded of their obligation under SYSC 2.1.1R to maintain a clear and appropriate apportionment of significant responsibilities so that it is clear who has which of those responsibilities and that the business and affairs of the firm can be adequately monitored and controlled by the directors, relevant senior managers and governing body of the firm.

### 4.3 Appointedment of actuaries

#### Appointment by firms

4.3.1 R A *firm* to which this section applies (see *SUP* 4.1) must:

(1) appoint ~~one or more~~ an actuaries (the "*appointed actuary*") to perform:

(a) the actuarial function (see *SUP* 4.3.13R) in respect of all classes of its *long-term insurance business*; and

(b) the with-profits actuary function (see *SUP* 4.3.16AR) in respect of all classes of its *with-profits business* (if any);

(2) notify the *FSA*, without delay, when it is aware that a vacancy in the office of any such appointed-actuary will arise or has arisen, giving the reason for the vacancy;

(3) appoint an *actuary* to fill any such vacancy ~~in the office of appointed actuary~~ that has arisen; and

(4) ensure ~~the~~ a replacement actuary can take up office at the time the vacancy arises or as soon as is reasonably practicable after that.

4.3.2 G The provisions relating to the duties of an the appointed-actuary appointed

to perform these functions are set out in *SUP 4.3.13R* to *SUP 4.3.1824G*. The functions performed by *actuaries* appointed ~~Acting in the capacity of appointed-actuary~~ of by a firm under *SUP 4.3.1R* ~~is~~ are specified as a controlled functions (CF 12, the ~~appointed-actuarial~~ function, and CF 12A, the with-profits actuary function) in *SUP 10 (Approved persons)*. As a result, an application must be made to the *FSA* under section 60 of the *Act* (Applications for approval) for approval of the *person* proposing to take up such an appointment as an appointed-actuary. Section 61(3) of the *Act* (Determination of applications) gives the *FSA* three months to grant its approval or give a *warning notice* that it proposes to refuse the application. A *firm* should not appoint an *actuary* until the *FSA* has approved the *actuary*. In order to comply with *SUP 4.3.1R*, a *firm* should ensure it applies to the *FSA* as soon as practicable before the date when it needs the *actuary* to take office. The *FSA* will need time to consider the application before deciding whether to grant approval. See *SUP 10 (Approved persons)*.

#### Appointment by the FSA

- 4.3.3 R If a *firm*, which is required to appoint one or more actuaries ~~an actuary~~ under *SUP 4.3.1R*, fails to do so within 28 days of a vacancy arising, the *FSA* may appoint one or more actuaries ~~an actuary~~ to perform the any function corresponding to the actuarial function or the with-profits actuary function ~~of appointed-actuary~~ on the following terms:
- (1) the *actuary* to be remunerated by the *firm* on the basis agreed between the *actuary* and the *firm* or, in the absence of agreement, on a reasonable basis; and
  - (2) the *actuary* to hold office until he resigns or the *firm* appoints another *actuary*.
- 4.3.4 G *SUP 4.3.3R* allows but does not require the *FSA* to appoint an *actuary* if the *firm* has failed to do so within the 28 day period. When it considers whether to use this power, the *FSA* will take into account the likely delay until the *firm* can make an appointment and the urgency of any pending duties of the ~~appointed-actuary~~.
- ...
- 4.3.7 G If the *FSA* appoints an *actuary* under *SUP 4.3.3R*, he will not be an ~~appointed-actuary~~ approved person (not being appointed under *SUP 4.3.1R*) ~~and will not therefore need to be an approved person~~. However, the *firm* is still under an obligation to appoint an *actuary* under *SUP 4.3.1R* and will need to seek prior approval of that *person* (even if the individual it proposes to appoint is the *person* who has been appointed by the *FSA* under *SUP 4.3.3R*).

#### ~~Appointed-actuary's~~ Actuaries' qualifications

- 4.3.8 G The *FSA* is concerned to ensure that every the appointed-actuary appointed by a firm under this section has the necessary skill and experience to provide

the *firm* with appropriate actuarial advice. *SUP 4.3.9R* to *SUP 4.3.10G* set out the *FSA's rules* and *guidance* aimed at achieving this.

- 4.3.9 R Before a *firm* applies for approval of its ~~proposed~~ the person it proposes to appoint as an ~~appointed~~ *actuary* under *SUP 4.3.1R*, 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 4.3.9R* and *Principle 3*, before an ~~appointed~~ *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 ~~Appointed Actuaries Practising Certificate~~ 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 *SUP 4.3.1R* as ~~appointed~~ *actuary* an *actuary* who is disqualified by the *FSA* under section 345 of the *Act* (Disqualification) 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 *FSA* that an ~~appointed~~ *actuary* has failed to comply with a duty imposed on him under the *Act*, it may disqualify him under section 345 of the *Act*. For more detail about what happens when the disqualification of an *actuary* is being considered or put into effect, see *ENF 17 (Disqualification of auditors and actuaries)*. A list of *actuaries* who are disqualified by the *FSA* may be found on the *FSA* website ([www.fsa.gov.uk](http://www.fsa.gov.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 *SUP 4.3.1R*:
- (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 4.3.17R(2).

The actuarial function ~~Rights and duties of the appointed actuary~~

- 4.3.13 R An ~~appointed~~ 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) ~~identify and monitor~~ 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 ~~inadequate terms contrary to IPRU(INS) 3.5A or IPRU(FSOC) 4.13 [number to be inserted later]~~ as applicable; 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 investigations required by IPRU(INS) 9.4R or IPRU(FSOC) 5.1R and the calculation of the with-profits insurance capital component under PRU 7.4 as applicable; perform actuarial investigations and prepare abstracts of those investigations as required by IPRU(INS) 9.4R or IPRU(FSOC) [number to be inserted later] as applicable;
- (4) perform those investigations and calculations in (3), in accordance with the methods and assumptions determined by the firm's governing body; request from the firm such information and explanations as are reasonably considered necessary to enable him to properly perform the duties described in SUP 4.3.13R(1) to (3); and
- (5) report to the firm's governing body on the results of those investigations and calculations in (3); and advise the firm as to the data and systems reasonably needing to be kept and maintained to provide such information and explanations.
- (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 IPRU(INS) 9.4R and IPRU(FSOC) 5.1R require 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. PRU 7.4 requires realistic basis life firms to calculate the with-profits insurance component as part of their capital resources requirements. 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). A liability to a policyholder is defined in the Glossary as any liability or obligation of an insurer to, or in respect of, a policyholder. It includes policyholder's reasonable expectations as to discretionary benefits and charges.

4.3.15 G The appointed actuary's duty to request information does not necessarily require him to undertake continuous monitoring. This depends on the firm's size, financial position, future plans and other circumstances, including the robustness of its systems and controls. If a periodic update or review is sufficient, it should be carried out as often as is reasonably necessary. An annual update may suffice for small, financially sound, well run insurers. Such periodic reviews might also usefully be supplemented by desk based monitoring to identify circumstances where the timing of the next review

~~might need to be brought forward.~~ SUP 4.3.13R 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 ~~If a *firm* also carries out general insurance contracts, the appointed actuary should consider the general insurance business to the extent, if any, that this might have an impact on the long term insurance business.~~ ~~[deleted]~~

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) where the *firm* is a realistic basis life firm advise the *firm's* governing body as to whether the assumptions used to calculate the *with-profits insurance component* under PRU 7.4 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, in respect of each financial year commencing on or after 1 January 2005, 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 commencing on or after 1 January 2005, make a written report addressed to the relevant classes of the firm's with-profits policyholders, to accompany the firm's annual report under COB 6.11.9R, as to whether, in his opinion and based on the information and explanations provided to him by the firm, 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, their interests 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.

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 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 the 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) communication with policyholders or potential policyholders on the

\* See Addendum 29 July 2005 on p. 24

issues in (1) to (7).

- 4.3.16C G The report in SUP 4.3.16AR(3) 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 ~~its appointed~~ *actuary* appointed to perform the *with-profits actuary function* to perform his duties and, in particular 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 *with-profits policyholders* rights and reasonable expectations of *policyholders* in respect of long term insurance contracts; and
  - (5) pay due regard to his advice, whether provided in response to a request under (4) or on the ~~*appointed 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).
- 4.3.18 G A *firm's* duty to keep an ~~its appointed~~ *actuary* appointed to perform the *with-profits actuary function* informed includes providing relevant information, even where the ~~*appointed actuary*~~ does not ask for it. The *firm* needs to appreciate that the ~~*appointed actuary*~~ may be unaware of certain business developments and so unable to request relevant information.
- 4.3.19 G ~~Section 341 of the Act (Access to books etc.) provides that an *appointed actuary*:~~
- (1) ~~has a right of access at all times to the *firm's* books, accounts and vouchers; and~~
  - (2) ~~is entitled to require from the *firm's* officers such information and explanations as he reasonably considers necessary to perform his~~

\* See Addendum 29 July 2005 on p. 24



~~duties as *appointed actuary*.~~[deleted]

4.3.20 R ~~When carrying out his duties, an *appointed actuary* must pay due regard to generally accepted actuarial best practice.~~[deleted]

4.3.21 G ~~The standards and guidance issued from time to time by the Institute of Actuaries and the Faculty of Actuaries are important sources of actuarial best practice.~~[deleted]

4.4 Appropriate actuaries

...

4.4.5 G If it appears to the *FSA* that an *appropriate actuary* has failed to comply with a duty imposed on him under the *Act*, it may disqualify him under section 345 of the *Act*. For more detail about what happens when the disqualification of an *actuary* is being considered or put into effect, see *ENF 17 (Disqualification of auditors and actuaries)*. A list of *actuaries* who have been disqualified by the *FSA* may be found on the *FSA* website ([www.fsa.gov.uk](http://www.fsa.gov.uk)).

#### Specific Rights and duties of the appropriate actuary

4.4.6 R An *appropriate actuary* must carry out the triennial investigation and prepare an abstract of the report as required by *IPRU(FSOC) 5.2(2)* and provide the interim certificate or statement as required by *IPRU(FSOC) 5.2(3)*.

4.4.7 G ~~Section 341 of the *Act* (Access to books etc.) provides that an *appropriate actuary*:~~

(1) ~~has a right of access at all times to the *firm's* books, accounts and vouchers; and~~

(2) ~~is entitled to require from the *firm's* officers such information and explanations as he reasonably considers necessary for the performance of his duties as *appropriate actuary*.~~[deleted]

4.4.8 R ~~In carrying out his duties an *appropriate actuary* must pay due regard to generally accepted actuarial best practice.~~[deleted]

4.4.9 G ~~The standards and guidance issued by the Institute of Actuaries and the Faculty of Actuaries are important sources of actuarial best practice.~~[deleted]

4.5 Provisions applicable to ~~both appointed and appropriate~~ all actuaries

#### Objectivity

4.5.1 R An ~~*appointed actuary* or *appropriate actuary*~~ appointed under this chapter must be objective in performing his duties.

- 4.5.2 G Objectivity requires the ~~appointed actuary or appropriate actuary~~ to perform his duties in such a manner that he can have an honest belief in his work and does not compromise the quality of his work or his judgment. An ~~appointed actuary or appropriate actuary~~ should not allow himself to be placed in situations where he feels unable to make objective professional judgments.
- 4.5.3 R An ~~appointed actuary or appropriate actuary~~ appointed under this chapter must take reasonable steps to satisfy himself that he is free from bias, or from any conflict of interest from which bias may reasonably be inferred. He must take appropriate action where this is not the case.
- 4.5.4 G The appropriate action may include asking the *firm's governing body* to re-assign temporarily some or all of his duties to another competent *actuary*. Where this is insufficient, the ~~appointed actuary or appropriate actuary~~ should resign his office.
- 4.5.5 G If the ~~appointed actuary or appropriate actuary~~ is an *employee* of the *firm*, the ordinary incentives of employment, including profit-related pay, *share options* or other financial interests in the *firm* or any *associate*, give rise to a conflict of interest only where they are disproportionate, or exceptional, relative to those of other employees of equivalent seniority.

...

#### ~~Appointed and appropriate a~~Actuaries' statutory duty to report

- 4.5.7 G ~~Appointed actuaries and appropriate a~~Actuaries appointed under this chapter are subject to regulations made by the Treasury under section 342(5) and 343(5) of the *Act* (Information given by *auditor* or *actuary* to the Authority). These regulations oblige *actuaries* to report certain matters to the *FSA*. Sections 342(3) and 343(3) of the *Act* provide that an *actuary* does not contravene any duty by giving information or expressing an opinion to the *FSA*, if he is acting in good faith and he reasonably believes that the information or opinion is relevant to any functions of the *FSA*. These provisions continue to have effect after the end of the *actuary's* term of appointment.

#### Termination of term of office

- 4.5.8 G *SUP* 4.5.9R to *SUP* 4.5.11G apply to a *person* who is or has been an ~~appointed actuary or appropriate actuary~~ appointed under this chapter.
- 4.5.9 R An ~~appointed actuary or appropriate actuary~~ appointed under this chapter must notify the *FSA* without delay if he:
- (1) is removed from office by a *firm*; or
  - (2) resigns before his term of office expires; or
  - (3) is not reappointed by a *firm*.

- 4.5.10 R An ~~actuary~~ *actuary* who has ceased to be appointed under this chapter ~~the appointed actuary or appropriate actuary~~, or who has been formally notified that he will cease to be so appointed, ~~the appointed actuary or appropriate actuary~~, of a *firm* must notify the *FSA* without delay:
- (1) of any matter connected with the cessation which he thinks ought to be drawn to the *FSA*'s attention; or
  - (2) that there is no such matter.
- 4.5.11 G When an ~~appointed actuary~~ *appointed* under *SUP* 4.3.1R ceases to hold office, he ceases to perform a controlled function ~~the appointed actuary function~~. A *firm* is therefore required under *SUP* 10.13.6R to tell the *FSA* within seven *business days* of its ~~appointed actuary~~ ceasing to hold office and to complete a withdrawal form (Form C, *SUP* 10 Ann 6R). Note also the requirement of *SUP* 10.13.7R in relation to qualified withdrawals.

Rights and duties

- 4.5.12 G Section 341 of the Act (Access to books etc.) provides that an actuary appointed under or as a result of the Act:
- (1) has a right of access at all times to the firm's books, accounts and vouchers; and
  - (2) is entitled to require from the firm's officers such information and explanations as he reasonably considers necessary to perform his duties as actuary.
- 4.5.13 R When carrying out his duties, an actuary appointed under this chapter must pay due regard to generally accepted actuarial best practice.
- 4.5.14 G The standards and guidance issued from time to time by the Institute of Actuaries and the Faculty of Actuaries are important sources of actuarial best practice.

...

- 10.4.5 R Table: Controlled functions

Type	CF	Description of controlled function
...		
<i>Required functions*</i>	8	<i>Apportionment and oversight</i>
	...	
	12	<del>Appointed actuary</del> <i>Actuarial function</i>
	12A	<i>With-profits actuary function</i>
...		

...

Appointed-actuary Actuarial function (CF12) and With-profits actuary function (CF12A)

- 10.7.17 R The ~~appointed-actuary actuarial function~~ is the function of acting in the capacity of ~~the an appointed-actuary appointed by~~ of a firm under SUP 4.3.1R to perform the duties set out in SUP 4.3.13R.
- 10.7.17A R The with-profits actuary function is the function of acting in the capacity of an actuary appointed by a firm under SUP 4.3.1R to perform the duties set out in SUP 4.3.16AR.
- 10.7.18 G The effect of SUP 4.1.1R (Application) and SUP 4.3.1R (Appointment of an actuary) is that a *long-term insurer* (unless it is a certain kind of *friendly society*) must appoint ~~an actuary~~ one or more actuaries to perform the actuarial function in respect of all classes of its long-term insurance business and the with-profits actuary function in respect of all classes of its with-profits business, defined in SUP 4.3.1R as an appointed-actuary. The kinds of *friendly society* to which the provisions do not apply are:
- (1) a *registered friendly society* which is a *non-directive friendly society*; and
  - (2) an *incorporated friendly society* that is a *flat rate benefits business friendly society*.
- 10.7.19 G The appointment of an actuary to perform either of these functions appointed-actuary is a personal appointment and the appointee is typically either typically is an employee of the firm. However, in many cases or a partner or employee in a firm of actuaries is appointed.
- 10.7.20 G The ~~appointed-actuary actuarial function~~ and the *with-profits actuary function* does not extend to the giving of actuarial advice to a *firm* by an *actuary* who has not been appointed to perform these functions is acting outside the capacity of appointed-actuary. A *person* who gives actuarial advice, whether occasionally or regularly, other than in his capacity the course of his duties as an appointed-actuary appointed to perform these functions would not be performing a controlled-the appointed-actuary function.
- 10.7.21 G The *rules and guidance* concerning the rights and duties of ~~anthe appointed actuary~~ appointed to perform either of these functions are set out in SUP 4.3.130R to SUP 4.3.1817G.

...

18.2.58\* G ...

\* See Addendum 29 July 2005 on p. 25

## SUP Schedule 2 Notification requirements

...

SUP Table:

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>SUP</i> 4.3.1R(2)	Vacancy in the office of <i>appointed actuary</i>	The fact of the vacancy and the reason for it	Vacancy in the office of <i>appointed actuary</i> will arise or has arisen	Without delay
<i>SUP</i> 4.3.1R(3) and <i>SUP</i> 4.3.2G	Appointment of <i>appointed actuary</i>	Matters specified in <i>SUP</i> 10 (because <u>the actuarial function and the with-profits actuary function</u> are specified as <del>acting as an appointed actuary</del> is specified as a controlled functions)	Appointment of <i>appointed actuary</i>	Before appointment
...				
<i>SUP</i> 4.5.11G	<i>Appointed actuary</i> : ceasing to hold office	Matters specified in <i>SUP</i> 10.13.6R and <i>SUP</i> 10.13.7R (because <u>the actuarial function and the with-profits actuary function</u> are <del>acting as an appointed actuary</del> is specified as a controlled functions)	<i>Appointed actuary</i> ceasing to hold office	Seven business days; or, if approved persons Form C is qualified, as soon as reasonably practicable

## Annex E

### Amendments to the Enforcement manual

In this Annex underlining indicates new text and striking through indicates deleted text.

- 17.4.2 G ~~Appointed actuaries appointed by~~ of firms under SUP 4.3.1R ~~who are approved persons~~ and as such will be subject to the *Statements of Principle* and *Code of Practice for Approved Persons*. When deciding whether to exercise its power to disqualify an ~~appointed~~ actuary who is an approved person, the *FSA* will consider whether the particular breach of duty can be adequately addressed by the exercise of its disciplinary powers in relation to *approved persons*. These powers and the factors that the *FSA* will take into account when deciding whether to exercise them are set out in *ENF 11* (Discipline of authorised firms and approved persons: the *FSA*'s general approach), *ENF 12* (Discipline of firms and approved persons: public censures and public statements) and *ENF 13* (Discipline of firms and approved persons: financial penalties).

...

## Annex F

### Amendments to the Glossary

In this Annex, underlining indicates new text and striking through indicates deleted text.

Insert or delete the following definitions in the appropriate alphabetical position.

<u>actuarial function</u>	<u>controlled function CF12 in the table of controlled functions, described more fully in SUP 4.3.13R and SUP 10.7.17R.</u>
<del>appointed actuary</del>	<del>an actuary appointed under SUP 4.3.1R (Appointment by firms).</del>
<del>appointed actuary function</del>	<del>controlled function CF12 in the table of controlled functions, described more fully in SUP 10.7.17R.</del>
<u>established surplus</u>	<u>has the meaning in IPRU(INS) 3.3(4).</u>
<u>with-profits actuary function</u>	<u>controlled function CF12A in the table of controlled functions, described more fully in SUP 4.3.16AR and SUP 10.7.17AR.</u>
<u>with-profits actuary</u>	<u>an actuary appointed to perform the with-profits actuary function.</u>

## ADDENDUM

### SUPERVISION MANUAL (ACTUARIES) INSTRUMENT 2004

In this Addendum, the text shown is that which results following the making of this instrument, and all other instruments that have taken effect on or before 25 July 2005. That text is then amended. Underlining indicates new text and striking through indicates deleted text. These amendments make the effect and purpose of the rules clearer, so the position and obligations of the with-profits actuary is clearer.

This Addendum contains amendments to SUP 4.3.16AR(4), SUP 4.3.16BG, SUP 4.3.17R(4) and to SUP 18.2.58G.

Annex D (Supervision manual (SUP)) of this instrument is amended as follows:

- 4.3.16A R An *actuary* appointed to perform the *with-profits actuary function* must:
- ...
- (4) in respect of each financial year commencing on or after 1 January 2005, make a written report addressed to the relevant classes of the *firm's with-profits policyholders*, to accompany the *firm's* annual report under COB 6.11.9R, 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 COB 6.12, 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, ~~their~~ interests of the relevant classes of the *firm's with-profits policyholders* into account in a reasonable and proportionate manner;
- ...
- 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:
- ...
- ...
- 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:
- ...
- (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; and*

...

...

- 18.2.58 G For *long-term insurance business*, the affidavit evidence to the court would normally include copies of reports on the transfer by the *appointed actuaries* of both *firms*, which should be provided to the *FSA* at an early stage. *SUP* 4.3.17R(4) requires a *firm* to consult its *appointed actuary* about the likely effect of material changes in its business plans on rights and reasonable expectations of ~~*long-term insurance business*~~ the relevant classes of its *with-profits* policyholders. A transfer would be material unless the liabilities transferred were not material relative to the total liabilities of the *firm*. The advice on a transfer would normally be in the form of a formal report by the *appointed actuary*.

...

Addendum  
29 July 2005