

# Actuary and Professionalism

A silhouette of a person climbing a steep, dark mountain peak. The person is positioned on the right side of the image, leaning forward and using a rope or handhold. The background is a bright, hazy sky, suggesting a sunrise or sunset. The overall image is split vertically, with a solid blue background on the left and the mountain scene on the right.

**Sanjeeb Kumar**

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## Disclaimer

- Views and opinions expressed and conclusions drawn in this presentation are those of the author and not those of the employer of the author and/or of the President, IAI
- The material presented here may not be comprehensive enough to draw any firm conclusion. And hence an appropriate care must be taken before using it.

# What is an Actuary?

- **IAA** defines “Actuary” as a member of its member associations. Actuaries are
  - ❑ Highly qualified professionals who analyze the financial impact of risk for organizations like insurers; pensions fund managers, and more
  - ❑ Governed by rigorous standards of practice
  - ❑ They apply their mathematical expertise to forecast and minimize financial uncertainty
- Actuaries are member of actuarial bodies subject to code of conduct (and its implications)
- In **Indian Context**, [Section 2 (a) of the Actuaries Act 2006]
- "**Actuary**" means a person skilled in determining the present effects of future contingent events or in finance modelling and risk analysis in different areas of insurance, or calculating the value of life interests and insurance risks, or designing and pricing of policies, working out the benefits, recommending rates relating to insurance business, annuities, insurance and pension rates on the basis of empirically based tables and includes a statistician engaged in such technology, taxation, employees benefits and such other risk management and investments **and** who is a fellow member of the Institute;

# WHAT DOES AN ACTUARY DO?

- Actuaries design and develop ways in which to manage risk. This requires a combination of strong analytical skills, business knowledge, and understanding of human behaviour to manage the complex risks facing our society
- **“Actuarial Services”** means services based upon actuarial considerations provided to intended users that may include the rendering of advice, recommendations, findings, or opinions

# Requisites for an Actuary

## Technical Skills

- Expertise - tool kit that is current and can be used
- Having technical expertise is a necessary (*but not sufficient*) condition for providing actuarial advice or adding actuarial value

## Professional Attributes

- Experience - Application of tools and interpretation of results to users/ clients
- Actuarial Advice or Actuarial Value meets the Professional Standards of the profession.
- Exercise of Judgement, Independence, etc.
- Ethics

Professional Attributes are equally important as technical skills and makes the sufficient condition for adding actuarial value/ rendering actuarial advice.

Note that the requirement of the **technical skills** and Professional Attributes differentiates actuaries from others.

# Actuarial Value/ Advice

Actuarial Value or Advice is obtained by users of actuarial services and advice when such advice;

- enables the decision makers (client) to make better and more informed decisions
- addresses an issue of concern to them
- Is in a language they understand (*communication/ presentation is important!*)
- is received in a timely manner
- is trusted by the client

Such advice cannot provide guarantees of the outcome, but it should provide insight and inform about uncertainty

It may be noted that 'Actuarial Advice' or 'Actuarial Value' is **not just a compliance exercise** but much beyond that,

# Professionalism

As per the IAA, Professionalism for the actuarial profession means:

- The application of specialist actuarial knowledge and expertise;
- The demonstration of ethical behaviour, especially in doing actuarial work; and
- The actuary's accountability to the professional actuarial association or similar professional oversight organisation on the basis of a code of conduct.

The distinguishing feature of a profession that sets it apart from a trade, a craft, a guild or a syndicate is the **overriding interest of the individual professional in the public well-being.**

**Principles of professionalism:**

- A. Knowledge and expertise
- B. Values and behaviour
- C. Professional accountability

# Professional Actuarial Paradigms

- Business Acumen
- Independent and unbiased advice
- Consistent application of professional standards
- Ethics supported by the Professional Code of Conduct
- Public Interest
- Holistic approach
- Effective Communication to users
- Not to be influenced by the personal circumstances
- Effective interaction with other professionals wherever desirable

It's important to consider

- Review/ Peer Review
- Takes care of interest of the profession



# Professional Conduct/ Misconduct:

Key provisions governing the professional conduct/ misconduct are given below:

Section 31 of the Actuaries Act defines the professional or other misconduct as under:

*“For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission provided in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Disciplinary Committee or the Prosecution Director to inquire into the conduct of any member of the Institute under any other circumstances.”*

# Professional Conduct Standard (version 3.0)

Notwithstanding the provisions of section 31 together with its schedule, the PCS version 3.0 provides the guidance on the professional conduct.

## Section 3 - Standards for Advice:

- An actuary is expected to use best judgment in formulating advice, whilst paying proper regard to any relevant professional guidance or other guidance. He must keep himself abreast with updated professional guidance and adhere to that.
- Many assignments offered to actuaries require considerable knowledge and experience for proper completion. Requisite knowledge includes methodology, relevant legislation and, in respect of work outside India local conditions and any professional code of practice in the country concerned.
- Actuaries must not give advice, unless: a) satisfied of personal competence in the relevant matters, or b) acting in co-operation with, or with the guidance of, someone (not necessarily an actuary) with the requisite knowledge and experience.
- An actuary may provide advice if the circumstances are such that, having regard to all the relevant factors, it would be contrary to the client's interests to decline to do so. However, the actuary must make clear to the recipient that, in the absence of the constraining circumstances, the actuary would have recommended referring the matter to someone with the relevant knowledge and experience.

## Contd. Section 3

- An actuary must consider the extent to which it is appropriate to carry out investigations to assess the accuracy and reasonableness of any data being used. The advice should normally include an explanation or qualification if the actuary has any reservations about the reliability of the data.
- Actuarial Advice should normally include sufficient information and discussion about each relevant factor and about the results of the actuary's investigations to enable the intended recipient of the advice to judge both the appropriateness of the recommendations and the implications of accepting them.
- Further, the actuary should, in communicating his professional findings, show clearly that he takes responsibility for them. He shall also indicate the extent to which he or other sources are available to provide the client or employer with supplementary information and explanations about the scope, data, methods and the findings.
- An actuary giving advice which is formulated in the interests of a particular client must ensure that the client is aware that the advice is not of broader applicability than intended by the actuary, nor is it necessarily the advice that would be given to another client or to third parties whose objectives and requirements may be different.
- An actuary shall, in communicating professional findings, identify the client for whom the findings are made and in what capacity the actuary serves.

## Section 4. BREACH OF PROFESSIONAL GUIDANCE

- A material breach of the PCS or Practice Standard or of the Act and Rules and Regulations made there under or Other Guidance, is of itself a ground for complaint under the disciplinary procedures and would amount to strong prima facie evidence of misconduct.
- A failure to comply with a Guidance Note classified as Recommended Practice is not of itself a ground for complaint under the disciplinary procedures. However the determination of a complaint under the disciplinary procedures would take into account any such failure.
- Action to be taken on discovering a breach of guidance by another member
  - On becoming aware of any event which appears to be a material breach by another member of any professional guidance or other guidance, a member must take appropriate action at the earliest opportunity.
  - Before taking any action, however, and before discussing the matter with the other member or with the professional body, the member will need to consider whether the matter is protected by confidentiality. In some circumstances, the member may be able to talk to the other member without breaching confidentiality, but will be prevented from taking the matter any further. - A matter which is protected by confidentiality at the time it becomes known to a member may cease to be confidential for many reasons, for example because it becomes a matter of public knowledge or because confidentiality is waived by the person to whom that confidentiality is owed. The member must take reasonable steps to secure such a waiver, but if one cannot be obtained, the member should keep sufficient information on the matter to enable appropriate action to be taken if the confidential status subsequently changes.

## Contd. Section 4

- In deciding whether a breach of guidance is material, the member may need to exercise judgment. A breach which has not led to a materially adverse outcome may be regarded as material if a repetition of it in future could lead to a materially adverse outcome. If the member is unsure whether or not a matter is material, the member must seek guidance from the professional body.
- If the member decides that the nature of the breach is such that action is called for, the member must, in the first instance, consider discussing the apparent breach with the other member. Possible objectives of having such a discussion include: - seeking more information about the matter, so as to form a view whether there has actually been a material breach; and/or - to explore whether the matter is one where the breach can either be mitigated or be rectified entirely by the other member taking remedial action.
- If the member does not consider a discussion to be appropriate, or if the matter is not resolved as a result of such discussions, the member must refer the matter to the professional body.
- A member found guilty of misconduct will be liable to disciplinary action as specified in sections 30, 37 and 38 of the Act.

## Section 5. CONFLICT OF INTEREST

- Clients are entitled to assume that advice given by an actuary is unaffected by interests other than those of the client, taking account of any identifiable professional or legal duty of care of the client in respect of a third party.
- If there is or might appear to be a conflict of interest between two or more clients of an actuary or of the actuary's firm, or a conflict between a client and the member or the actuary's firm, the actuary must consider the nature and extent of the conflict and whether it is such as to make it improper for the actuary to give advice to one or more of the clients involved in the conflict.
- In the event of any such conflict or apparent conflict of interest, the client or clients involved must be notified at the earliest opportunity and if any advice given to a client is, or will be, influenced by interests other than those of that client or by any constraint other than that imposed by professional guidance or other guidance, this must be disclosed in the advice.
- If there might be a conflict between the interests of different clients or previous clients of the actuary or of the actuary's firm, the actuary must have proper regard to their respective interests and in particular must not communicate information within the actuary's firm which the actuary has reason to believe might harm the interest of any client or previous client.



## Section 6. FINANCIAL INTERESTS

- An actuary must make full and timely disclosure to the client of any financial interest, which the actuary or the actuary's firm may have in any assignment that the member undertakes for that client or in its outcome. Financial interest includes direct remuneration, direct and indirect benefits, commission and introductory fees paid by or to the actuary or the actuary's firm.
- Financial rewards which are large in relation to the professional time spent, including success related or contingency fees, can threaten objectivity and thus contravene the general requirements of the PCS. Accordingly, actuaries are advised to exercise extreme care in determining whether to accept such rewards or fees and must ensure that they are appropriate in the circumstances of the advice given and that there is no conflict with the requirements for professional objectivity.

## **Section 40: Unqualified person not to sign documents. –**

- No person other than a fellow member of the Institute of Actuaries of India shall sign any document on behalf of an Actuary in practice or a firm of such Actuaries in his or its professional capacity.
- Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to fifty thousand rupees, and on any subsequent conviction with imprisonment which may extend to one year, or with fine which may extend to one lakh rupees, or with both.

## **Section 50. Maintenance of more than one offices by Actuary. –**

- (1) Where an Actuary in practice or a firm of such Actuaries has more than one offices within or outside India, each one of such offices shall be in the separate charge of a fellow member of the Institute: Provided that the Council may in suitable cases exempt any Actuary in practice or firm of such Actuaries from the operation of this sub-section.
- (2) Every Actuary in practice or a firm of such Actuaries maintaining more than one office shall send to the Council a list of offices and the person in charge thereof and shall keep the Council informed of any changes in relation thereto.



## THE SCHEDULE (link with section 31)

### **PART I** Professional misconduct in relation to members of the Institute in practice

An Actuary in practice shall be deemed to be guilty of professional misconduct, if he

- (1) allows any person to practice in his name as an actuary unless such person is also an actuary in practice and is in partnership with or employed by himself; or
- (2) pays by way of remuneration to an employee, pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner; or
- (3) enters into partnership with any person other than an Actuary in practice or a person resident outside India who but for his residence abroad would be entitled to be admitted as a member under clause (c) of sub-section (1) of section 6 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnership, provided the Actuary shares in the fees or profits of the business of the partnership both within and outside of India; or
- (4) secures either through the services of a person who is not an employee of such Actuary or who is not qualified to be his partner or by means which are not open to an Actuary, any professional business; or
- (5) accepts an assignment as Actuary previously held by another Actuary without first communicating with him in writing; or

## Contd. Section 31

- (6) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profit or which are contingent upon the findings or results of such employment, except as permitted under any regulation made under this Act; or
- (7) engages in any business or occupation other than the profession of Actuaries unless permitted by the Council so to engage: Provided that nothing contained herein shall disentitle an Actuary from being a director of a company; or
- (8) accepts a position as an actuary previously held by some other Actuary in practice in such conditions as to constitute undercutting; or
- (9) allows a person not being a member of the Institute in practice, or a member not being his partner to sign on his behalf or on behalf of his firm, any valuation report or financial statement; or
- (10)discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force; or
- (11)certifies or submits in his name, or in the name of his firm, a valuation report or a financial statement unless the examination of such statement and the related records has been made by him or by a partner or an employee in his firm or by another Actuary in practice; or
- (12)expresses his opinion or valuation reports or financial statements of any business or any enterprise in which he, his firm, or a partner in his firm has a substantial interest, unless he has disclosed the interest also in his report; or

## Contd. Section 31

- (13) fails to disclose a material fact known to him in a valuation report or a financial statement, but disclosures of which is necessary to make the valuation report or the financial statement not misleading where he is concerned with such valuation report or the financial statement in a professional capacity; or
- (14) fails to report a material misstatement known to him to appear in a valuation report or financial statement with which he is concerned in a professional capacity; or
- (15) is grossly negligent in the conduct of his professional duties; or
- (16) fails to obtain sufficient information to warrant the formation of an opinion in regard to any matter contained in any valuation report or financial statement prepared by him or on his behalf; or
- (17) fails to invite attention to any material departure from the generally accepted procedure or professional work applicable to the circumstances, in any valuation report or financial statement prepared by him or on his behalf.

## **PART II Professional misconduct in relation to the members of the Institute in service**

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person, -

- (1) pays or allows or agrees to pay directly or indirectly to any person any share in the emoluments of the employment undertaken by him; or
- (2) accepts or agrees to accept any part of fees, profits or gains by way of commission or gratification; or
- (3) discloses confidential information acquired in the course of his employment except as and when required by law or except as permitted by his employer.

## **PART III Professional misconduct in relation to members of the Institute generally**

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he

- (1) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false; or
- (2) not being a fellow member of the Institute acts himself as a fellow member of the Institute; or
- (3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees; or
- (4) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council under clause (i) of sub-section (2) of section 19; or
- (5) is guilty of such other act or omission as may be specified by the Council.

#### **PART IV Other misconduct in relation to member of the Institute generally**

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if (A)

(1) he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;

(2) in the opinion of the Council, he brings disrepute to the profession or the Institute as result of his action whether or not related to his professional work;

Or (B)

he is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months.

THANK YOU