



Institute
and Faculty
of Actuaries

Adjudication Panel Meeting

31 January, 2 and 4 February 2022

Institute and Faculty of Actuaries,

Held by Video Conference

Respondent: Alastair J R Lauder FIA

Category: Fellow since October 2007

Region: United Kingdom

Panel Members: Jules Griffiths (Chair/Lay member)
Navin Ghorawat FIA (Actuary member)
David Lane FIA (Actuary member)

Legal Adviser: Sharmistha Michaels

Judicial Committees Secretary: Julia Wanless

Allegation:

The allegation against Mr Lauder (the Respondent) is:

A1 While he was employed as an Actuary by Company 1, the Respondent co-wrote a Solvency II Capital Report dated 17 September 2019 for Syndicates A and B (the Capital Report) which was not compliant with the Reliability Objective within Technical Actuarial Standard 100 (TAS 100), in that:

- (a) adjustments made outside of the core capital model for Syndicate A were not communicated to users of the Capital Report;
- (b) the reason for the adjustments to Syndicate A not being applied to Syndicate B was not communicated to users of the Capital Report;
- (c) the reason for the one year Solvency Capital Requirement for Syndicate A being high relative to the ultimate Solvency Capital Requirement was not communicated to users of the Capital Report;
- (d) the Capital Report states that Currency Risk is explicitly modelled, but this did not contribute to the filed Solvency Capital Requirement.

A2 His actions at A1 (a) and/or (b) and/or (c) and/or (d) were in breach of paragraph(s) 1 and/or 3.2 and/or 3.3 and/or 3.4 and/or 3.5 and/or 5 of TAS 100.

A3 His actions at A1 (a) and/or (b) and/or (c) and/or (d) were in breach of the Competence and Care principle of the Actuaries' Code (version 3.0).

A4 His actions at A1 (a) and/or (b) and/or (c) and/or (d) were in breach of the Communication principle of the Actuaries' Code (version 3.0).

A5 His actions, in all or any of the above, constituted misconduct in terms of Rule 4.2 of the Disciplinary and Capacity for Membership Schemes of the Institute and Faculty of Actuaries (Effective 1 February 2018).

Panel's determination:

The Panel considered the Case Report and appendices submitted by the Case Manager and Investigation Actuary (a total of 393 pages) together with the Respondent's response to the Case Report, Statement of Facts and Response to Allegations Forms, and letter with comments for the Panel (a total of 19 pages). The Panel also considered the advice of the Legal Adviser.

For the reasons given below, the Panel determined that the Case Report disclosed a *prima facie* case of Misconduct. The Panel accordingly invited the Respondent to accept that there had been Misconduct and the following sanctions:

- Reprimand; and
- Period of education, training or supervised practice

Background:

The Respondent is a member of the Institute and Faculty of Actuaries (IFoA). He was employed as an Actuary by Company A, until the Company was acquired by Company B in November 2019. He was the Syndicate Actuary in Company A, where he was responsible for co-writing, and signing off, a Solvency II Capital Report, dated 17 September 2019. The Respondent reported to the Chief Actuary of Company A who had overall responsibility for actuarial work at Company A.

On 13 October 2020, the IFoA received information from a member of the Institute who was a user of the Report at Company B. The member raised concerns about Company A's Lloyds Capital Process for the 2020 Year of Account (YOA) for which the modelling and reporting was performed mainly in Q3 2019, before Company B took ownership. Specific issues raised included alleged inadequate disclosure and communication of important judgements, methodology and limitations to the users of reports produced by Company A. This included the Solvency II Capital Report, for which the Respondent was responsible, and which was said to be in breach of Technical Actuarial Standard 100 (TAS100).

These matters were considered through the IFoA's Executive Referral process and an allegation was referred to the Disciplinary Scheme by the General Counsel on 11 January 2021.

The Respondent has co-operated with the investigation that followed. He has provided explanations for his actions and has accepted the factual basis of Allegations A1(a) and A1(b). He disputes the other allegations.

Decision and Reasons on the Allegations:

Allegation 1

The Panel analysed each of the sub-allegations in turn, before turning to the stem of the allegation and considering the Respondent's actions against the "Reliability Objective" of TAS100.

For **Allegation A1(a)** the Case Report refers to four specific adjustments made outside the core capital model, which reduced the modelled number in relation to the number filed with Lloyds in the LCR forms by a total of 5% overall. The absolute value of the changes is said to be equivalent to 8.2%. The adjustments were detailed in the Case Report but not reproduced here to maintain confidentiality.

The member who had raised concerns acknowledged that it was not possible to say whether, if known, these issues would have made a material difference, and that the outcome might well have been the same. However, the member alleged that these adjustments were not documented, and there was no evidence that they had been independently reviewed by a member of Company A's Actuarial Function, or were known to Lloyds or the Board/Risk Committee of Company A.

The Panel noted that the Respondent has accepted that this was the case. During the investigation he stated that the judgements were unlikely to have a material effect on the users of the report, were of low materiality and were not key or important relative to the other judgements made in the capital model. He had also pointed out that, when Lloyds became aware of the adjustments they accepted them and did not require a model resubmission.

The Panel carefully considered the nature of the adjustments, and in particular whether they could be assessed as material. The Panel had regard to the “Framework for FRC Technical Actuarial Standards” which states (sections 5.8 and 5.9) that “*Assessing whether a matter is material is a matter for judgement which requires consideration of the users and the context in which the work is performed and reported..... Matters are material if they could, individually or collectively, influence the decisions to be taken by users of the related actuarial information.*” The Panel observed that the users of the Report included Company A’s Model Validation Team, Lloyds, and Company B. The Panel concluded that any of these *could* have reached different conclusions if the judgements made had been documented and communicated appropriately.

The Panel therefore concluded that the Case Report contained *prima facie* evidence to support this allegation, and that the adjustments collectively could have been material.

Allegation A1(b) arises from the relationship between Syndicate A, and Syndicate B, which took a proportionate share of Syndicate A’s recent underwriting years. The Report states that the underlying methodology and assumptions for Syndicate A and B are consistent but failed to communicate that the adjustments applied to Syndicate A’s SCR were not applied to Syndicate B’s SCR, even though they might be relevant to Syndicate B as well.

The Respondent did not respond to this allegation during the investigation but has subsequently accepted it. The Panel noted that the Capital Report specifically said that the methodology used for each Syndicate are consistent. However, the Panel found this was incorrect as the four adjustments stated above only applied to Syndicate A and were not applied to Syndicate B.

The Panel concluded that, given the overlap in risk exposure for both Syndicates, it was reasonable to expect that the assumptions for both would be consistent, or that the Report would contain an explanation of the difference in approach. The Panel therefore concluded that the Case Report contained *prima facie* evidence to support this allegation.

In considering **Allegation A1(c)** the Panel noted that neither the member who had raised concerns, nor the Case Report, provided any detailed analysis to support the assertion that the SCR for Syndicate A was high relative to the ultimate SCR. The Panel accepted the Respondent’s statement that the ratio of the one-year SCR to the ultimate SCR was similar

to the Lloyds market benchmarks for 2019. The Panel therefore concluded that the evidence in the Case Report did not support this allegation.

Allegation A1(d) refers to the Capital Report section that states currency risk was explicitly modelled but the filed SCR did not seem to be impacted by this. The Panel considered the response from the Respondent that stated “the ESG returns include FX Risk on the assets side of the balance sheet and so this is explicitly modelled as stated in the report”. The Respondent further said “on the liability side Lloyds guidance from 2018 explicitly states that FX Risk does not have to be included if the FAL is currency matched.” The Panel noted that the Capital Report mentioned this limitation. The Panel therefore accepted the Respondent’s explanation, which was reasonable in the circumstances, and concluded this allegation was not capable of proof.

Having concluded that there is *prima facie* evidence to support allegations A1(a) and A1(b), the Panel concluded that by failing to communicate both the adjustments made, and the reasons for the lack of consistency in the treatment of Syndicates A and B, the Report was not compliant with the Reliability Objective of TAS100, which requires that “*users for whom actuarial information is created should be able to place a high degree of reliance on that information’s relevance, transparency of assumptions, completeness and comprehensibility, including the communication of any uncertainty inherent in the information*”.

While the Panel noted there was no allegation regarding failure to include a statement confirming compliance with TAS 100 (as required by TAS 100) it nonetheless observed that the Capital Report did not contain such a statement.

Allegation 2

The Panel also concluded that by failing to document and communicate the adjustments made and the reasons for the lack of consistency, the Respondent’s actions were in breach of the following provisions of TAS100: paragraph 1 (“material judgements shall be communicated to users so that they are able to make informed decisions understanding the matters relevant to the actuarial information”); paragraph 3.2 (“Assumptions used in technical actuarial work shall be documented”); paragraph 3.3 (“Communications shall state the material assumptions and describe their rationale.”); and paragraph 5

("Communications shall be clear, comprehensive and comprehensible so that users are able to make informed decisions understanding the matters relevant to the actuarial information")

The Panel was not satisfied that it had evidence from which it could conclude that paragraphs 3.4 and 3.5 had been breached as they relate to comparisons with previous years and assumptions set by users or third parties.

Allegations 3 and 4.

The Panel concluded that the Respondent's actions were in breach of the Actuaries Code, both the Competence and Care principle (which requires members to act competently and with care) and the Communication principle (which requires members to ensure that any communication for which they are responsible is accurate and not misleading, and contains an appropriate level of information).

Decision and Reasons on Misconduct:

The Panel then considered whether there was a *prima facie* case that the Respondent's actions under allegations A1(a) and A1(b) amounted to Misconduct.

For the purposes of the Disciplinary and Capacity for Membership Schemes, Misconduct is defined as any conduct by a Member, whether committed in the United Kingdom or elsewhere, in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Bye-laws of the Institute and Faculty of Actuaries and/or to any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or, for so long as there is a relevant Memorandum of Understanding in force, by the FRC (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances.

The Panel concluded that by his actions, which had been found to be a material breach of both technical standards and the Actuaries' Code, the Respondent had fallen below the standards which might reasonably be expected by a member of the profession.

The Panel therefore determined that there was a *prima facie* case that the Respondent's actions were sufficiently serious as to constitute Misconduct under the Disciplinary and Capacity for Membership Schemes.

Decision and Reasons on Sanction:

In reaching its decision, the Panel had regard to the Indicative Sanctions Guidance (November 2021). The exercise of its powers in the imposition of any sanction is a matter solely for the Panel to determine and it is not bound by the Indicative Sanctions Guidance.

The Panel was aware that the purpose of sanction is not to be punitive although it may have that effect. Rather, the purpose of sanction is to protect the public, maintain the reputation of the profession and declare and uphold proper standards of conduct and competence. The Panel is mindful that it should impose a sanction, or combination of sanctions necessary to achieve those objectives and in so doing it must balance the public interest with the Respondent's own interests.

In considering sanction, the Panel took into account the following factors: The Panel acknowledged that the Respondent is an experienced actuary who took the lead on an important piece of work, and who was responsible for signing it off. It was also mindful that he was absent from work for an extended period, during which the work was supervised by another senior colleague, and had returned in sufficient time to complete and sign off the Report. Whilst his actions had no long-term material impact and did not lead to a financial loss, they risk harm to the reputation of the profession. There are no other disciplinary matters recorded against the Respondent, and this case does not involve dishonesty, lack of integrity or criminal behaviour, and was not done for financial gain; however it does involve a breach of the technical actuarial standards which in itself is serious.

The Panel noted that the Respondent had shown some insight and had accepted that there was room for improvement. However the Panel was concerned that the Respondent had not provided any information about steps taken to improve his awareness and understanding of

TAS100 and the associated guidance; the Panel was unable to conclude that there was no risk of repetition.

The Panel considered whether this was a case that warranted no sanction, or whether a Reprimand alone would be sufficient to mark the Misconduct, and concluded that the risk of repetition made both of those inappropriate.

The Panel was concerned that the Respondent's failings suggested a lack of understanding of the application in practice of a number of the requirements of TAS100. In addition to breaches found, the Panel was not satisfied that there was sufficient documentation recording peer review and compliance with TAS100.

The Panel consulted the IFoA's Guidance Note on Sanctions involving education, re-training and/or supervised practice. The Panel considered whether the Respondent's failings were so serious that a period of supervised practice was necessary to maintain standards and protect the public. The Panel concluded that, in the circumstances of this case, that was not required. The Panel therefore concluded that the Respondent should undertake the following education and/or re-training:

- Review TAS100, the Actuaries Code, APS X2 Review of Actuarial Work, and any other relevant professional guidance;
- Consider carefully how they should be applied in practice to all stages of his work, including planning, undertaking, documenting, peer reviewing and reporting.
- The Respondent is encouraged to utilise the professional skills training available from the IFoA website.
- He should undertake reflective discussion with peers on best practice regarding how professional standards and guidance should be applied to his work.
- The Respondent must undertake a minimum of 7 hours of training, separate and additional to his normal continuous professional development activities, and complete this by 31 August 2022.
- No later than 31 August 2022, the Respondent must advise the IFoA's Head of Legal Services that he has complied with these requirements, including the ways in which he will incorporate this in his work.

The Panel considered whether a Fine or more onerous sanction would be appropriate but concluded that it was not needed.

Publication:

Having taken account of the Disciplinary Board's Publication Guidance Policy (May 2019), the Panel determined that, if the Respondent accepted the findings of the Panel, this determination will be published and remain on the IFoA's website for a period of five years from the date of publication. A brief summary will also be published in the next available edition of *The Actuary Magazine*.

That concludes this determination.