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WORKING ABROAD: DIFFERENCES IN CODES OF PROFESSIONAL CONDUCT

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As North American companies move into international markets, actuaries are more and more involved in operations abroad, often joining other countries' actuarial organizations. This session will discuss the codes of professional conduct and standards of practice (SOPs) in various other countries.

MR. SAM GUTTERMAN: We have assembled a panel for this subject from across the Atlantic, across the Pacific and from Canada, that will be able to address this topic from several aspects, covering codes of professional conduct and SOPs. First, some definitions. A code of conduct is a *minimum SOP behavior* and includes general guidance as to how to practice as an actuary.

SOPs are methods of applying these codes to a specific practice area. The code thus provides an overall description of how an actuary, as a professional, should behave. A standard is then a general description of how that code should be applied in practice.

The SOA has a code of professional conduct, but has not developed its own SOP. Instead, it relies on standards that are developed by national organizations, such as the Actuarial Standards Board (ASB), for the 70% of its members practicing in the U.S. For the 20% of its members practicing in Canada, it utilizes standards developed by the CIA. For the remainder practicing outside these two countries, it relies upon the SOPs in the applicable country.

Typically, our discussions of codes and standards are very nation- and culture-specific. The purpose of this session is to discuss what happens in a situation where there may be multiple codes or SOPs that could come into play. Malcolm Murray works for the Scottish Life Assurance Company in Edinburgh and is currently serving as the president of the Faculty of Actuaries in Scotland. Jim Balfe, a pension actuary by trade, has worked in pensions for the last five years at Meiji Mutual Life Insurance Company in Tokyo. Mo Chambers is vice president and corporate actuary of London Life Insurance Company. He is also a past president of the CIA and is currently a member of the Board of Governors of the SOA.

My first question to the panel regarding practice beyond the Canadian/U.S. border is: What are most significant problems that you have seen in following or interpreting either codes of conduct or SOPs?

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MR. JAMES C. BALFE: Being a North American actuary working for a Japanese company in Japan, I have observed situations where adherence to the Society's code of professional conduct can be problematic. Most actuaries from North America in Japan are working for subsidiaries of North American life insurance companies or consulting firms. For them, a code of conduct is something their company understands. However, working for a Japanese employer, it is an individual matter.

The differences in business practices between North America and Japan are quite substantial. I find, at times, that what I'm expected to do may not be entirely consistent with the code of ethics that a North American actuary is expected to follow.

MR. MORRIS W. CHAMBERS: I have not personally run into specific problems, even though I practice in both Canada and the U.S. However, I am concerned that most U.S. actuaries are not aware that they are subject to Canadian codes of conduct and SOPs if they are practicing in Canada. For instance, actuaries at Prudential in New Jersey who work on the Canadian operation of Prudential are subject to the code of conduct and SOP of the CIA, even if they haven't crossed the border and even if they're not members of the CIA. This approach came about as a result of an agreement by the Council of Presidents about three years ago. Although this has been published, I don't believe that it's widely known. I expect there will be further discussion of this issue.

MR. G. MALCOLM MURRAY: In the U.K., we have two recognized bodies, the Faculty of Actuaries and the Institute of Actuaries, each with its own codes of conduct and disciplinary procedures. This does have some legal significance in the sense that the law in Scotland, in spite of the single government for the U.K., is different from the law in England. There are also marginal differences in how the law is administered between the two countries. However, as we develop an increasingly litigious society, and since we have Fellows of the Faculty and Fellows of the Institute working together in single practices, it would be very embarrassing if a situation arose wherein a single complaint involved two Fellows, one of the Institute and one of the Faculty, and, due to the separate procedures involved, were dealt with differently. As a result, at the current time, the Faculty and the Institute are working very closely together to try to ensure that their codes of conduct and discipline rules are as close as possible, so that sort of conflict will not arise.

We are also affected by being in the European community, as qualifications have to be recognized across borders. For example, you will be automatically granted Fellowship in the Institute or the Faculty if you're an actuary from one of the European Union countries, if you're recognized as a professional in your country of origin, and if you have worked in the U.K. for 12 months under an appropriate level of supervision. You would then be subject to the codes of conduct and discipline of the Faculty and the Institute while practicing in the U.K. The reverse is also true for a U.K. actuary practicing elsewhere in the European Union.

A common code of conduct has been adopted by the European Union by a group called the Group Consultatif. Basically, the rules that govern your practice are those of whatever country you happen to work in. In addition, your home professional body is supposed to discipline you as well. You should not have the situation where you could be disciplined in one country and get off without disciplinary action in the other. If you're disciplined for not behaving, let's say, in one country, then that in itself is a disciplinary action in our code.

Interestingly enough, I understand that for purposes of the probable establishment of an international federation of actuarial associations, which the Japanese want to be members of, they have just adopted what is effectively the Group Consultatif's code of conduct.

MR. GUTTERMAN: It is important to remember that there still are cultural or legal differences. One difference is what some people call the tattletale or snitch rule. In Canada, for example, there is a specific requirement for an actuary to provide information to the CIA if that actuary is aware of a significant breach. In the U.S. that specific language is not included. Mo, could you describe this difference?

MR. CHAMBERS: I don't think that there are conflicts between the codes of conduct between the U.S. actuarial organizations and those of the CIA. There was an initiative in 1992 or 1993 to ensure that there would be relative commonality. The initial intention was to have a completely common code of conduct throughout Canada and the U.S. In the actual implementation of these codes, it was found that there couldn't be absolute universality, for a couple of reasons. One is the different cultures in the two countries; the other is the different legal systems in the two countries. In the case of the CIA, its federal act of incorporation by an act of Parliament in 1965 allowed it to make rules and regulations, but it didn't allow it to make a code. Consequently, the CIA has to call its code of conduct Rules of Professional Conduct. The principal difference, although not a conflict, between the rules in Canada and the code in the U.S. is what many have referred to as a snitch rule—we prefer to call it the selfpolicing rule. In that, there is placed upon the actuary, the professional requirement that if one becomes aware of material unprofessional conduct on the part of another actuary one must report it, unless one is in an adversarial situation, or unless, because of one's position, he or she is required to maintain confidentiality.

For instance, the President of the CIA learns many things on a confidential basis. In that circumstance, he or she is not required to inform the disciplinary process. You shouldn't presume, though, that if in Canada one finds that there has been a breach, one has to go running off to the Discipline Committee. That's not how it works. The first responsibility is to speak to the actuary whom you feel has made a material breach, and try to rectify the situation between the two actuaries. It is only if you are unable or it is not possible to rectify the situation, that the individual has a responsibility to inform the President or the Chair of the Discipline Committee. If he or she doesn't, then that actuary has com-mitted a breach of the rules of professional conduct.

MR. GUTTERMAN: Are there any other examples of sources of conflict between either codes or practice?

MR. BALFE: In this area there is a large cultural difference. In Japanese organizations, loyalty is extremely important. Most people work for one organization for their entire professional life and work with the same people. Communications between a life insurance company and a customer is not carried out in the name of an individual, but rather through the name of a department. So, responsibility for actions is based with the department more than the individual.

The code of conduct which has been adopted by the Institute of Actuaries of Japan does not explicitly require an actuary who is aware of misbehavior to report it. In practice, due to the emphasis on loyalty inside an organization, I doubt it would occur often.

MR. MURRAY: The situation is similar in the U.K. There's no obligation on Fellows to report misconduct if they come across it. They do, of course, naturally, have the right to complain, if they wish to. But on the other hand, we are approaching an interesting situation within our new draft pensions legislation, in which there is a requirement for everyone, professionals in particular, involved in pension scheme work to inform if they come across some maladministration. We are calling it whistle-blowing, and this is the first time that we've really faced this in a professional sense. We are very concerned at the moment, because it's not quite known just how this is going to be defined, and what it constitutes. It is not yet clear that you will be given a chance to correct such an error, even if it is just an oversight. The current version does not allow it to be corrected first before it is reported and there is an obligation to report. So, we are entering a whole new ballgame. But, this proposal is specific only to pension work, but not specific to actuarial work.

MR. GUTTERMAN: Culture may be significant, in terms of forms of behavior, whether it be by professionals or other individuals. Certainly the culture between east and west, I suspect, may represent significant challenges to the individual actuary who practices in both areas. Jim, do you see things affected by culture?

MR. BALFE: It goes back to a strong sense of loyalty to an organization. In Japan, an actuary is viewed less as being a member of a profession and more as belonging to the company which employs him or her on a lifetime basis. He or she should work towards accomplishing the goals of the organization. It is not that the life insurance company says actuaries should be dishonest with customers, but when you work with sales people, there may be pressures to go along with things.

In one pension related case, I was asked to meet with a subsidiary of a U.S. multinational that was considering expanding its pension plan to contract out a portion of the social security pension. This expanded pension plan would be funded by means of a deposit administration contract with the insurer where I worked. I was to meet with the customer and explain the implications of such an arrangement with respect to *Financial Accounting Statement (FAS) No. 87*. Although the statement itself does not specifically address contracted out arrangements, the notes on the Financial Accounting Standards Board's (FASB) basis of conclusions clearly indicate that the contracted out benefits are a liability of the company and, thus, should be included on the company's financial statement. I was asked to take the position that the liability would not have to be recognized under *FAS 87*. When I declined to do so, another actuary was found to meet with the customer. This is a case, I think, where I was being asked to render professional advice on the basis of what was perceived to be in the best interests of the organization, not on the basis of professional evaluation.

MR. GUTTERMAN: Another aspect of culture is the legal system. Historically, significant differences between practice in the U.S. and in other countries have been due to the degree of potential liability in the court system, referred to as malpractice or errors and omissions. This has created a very different environment for the U.S. actuary. However, this difference appears to be gradually disappearing as more and more countries are copying us in the legal area, in terms of trying to place blame for certain financial situations. Other comments on culture?

MR. MURRAY: I will mention a slightly amusing aside that, in some ways, reflects on legal differences in this area. I mentioned earlier that the Faculty and the Institute were trying to bring their disciplinary rules and codes into line. Under the Faculty's current rules, which should be changed at our upcoming annual general meeting, misconduct is expressed as "unprofessional conduct." The Institute refers to it as "professional misconduct." Now, this may seem a small point, but it is that very difference that lawyers may sink their teeth into.

Since you can have two Fellows (one from the Institute and the other from the Faculty) involved in the same complaint, that inconsistency could cause problems. We asked our legal advisors what the difference was. According to the Scottish interpretation, as far as they were aware, there was no difference between unprofessional conduct and professional misconduct. On that basis, we are changing our rules to "professional misconduct." It would have been interesting if they had come up with a difference; we would probably have debated long and hard, as to whether we should make a change. This may seem a small thing, but such a difference could become significant, unexpectedly, in the future.

I'm not sure that it's cultural difference, but one difference I am aware of is whether a public reprimand constitutes a method of discipline. In the U.K., the Institute just eliminated a public reprimand without penalty. Whereas the Faculty has decided to maintain the power to deprecate conduct, but not make that conclusion public. This conclusion will be entered into the Faculty's record, and can be taken account of should there be further misconduct. We feel that we can continue to operate in this way, having this power to deprecate and having it on record, but not having it be public knowledge. Thus, there is a difference in this interpretation. Again, we were told by our legal advisors, that this power to deprecate was useful, based on their experience with complaints by the legal profession.

I have to admit that I am not really well qualified to talk about this area because although we are now changing our rules, we have not yet had a disciplinary case. Thus, my discussion is largely based on theory. In addition, the Institute has not had many disciplinary cases as yet. But it is quite obvious that the number of such cases will grow. As such, we have to make sure that our rules are strong.

MR. GUTTERMAN: May your experience continue. One item I would like to mention is the probable formation this fall of the International Federation of Actuarial Associations [Note: When formed in September the name was modified to be "International Forum of Actuarial Associations" (IFAA)]. This has been an effort that has taken several years to come to fruition. It had its origin with discussions of the English-speaking actuarial organizations. Now it is a worldwide movement. But one of the significant objectives of the formation of this entity, hopefully to be a section of the International Actuarial Association, is to encourage national actuarial organizations to put in place codes of professional conduct and SOPs, in order to internationally raise the standards of the actuarial community to a common level. Malcolm has been involved in this effort; please describe it in more detail.

MR. MURRAY: Well, it is very much as the name implies, an international federation of actuarial associations. Its purpose is to try to work towards common standards worldwide. The idea, at the outset, will be that there will be three classes of membership:

- Full membership will be those that, from day one, or within a very short period, can comply with what I will call the Group Consultatif's code of conduct, because it is quite similar to the one that has been adopted in North America and in Japan. Next will come common disciplinary rules. It is fair to say that now within Europe, although we have made a lot of progress, or at least apparent progress, our discipline rules are still far from common. In addition, we do not yet have any experience as to how discipline will be applied in these situations. Nevertheless, the rules of the IFAA are such that disciplinary rules should be in place as well.
- The second category are those national organizations who have every intention to get there, but will take slightly longer to do so.
- Then there is observer status for everybody else. This status is important because we want as many associations as possible to know what is going on. We do not want anybody frightened off, feeling that they were second-class citizens just because it was not appropriate for them to adopt or comply with these rules at the outset. So, people can listen in and hopefully they will want to join the club.

There is hope that fairly soon after this gets going we'll work towards common educational standards as well. The Group Consultatif is currently working hard on this effort to try to insure that actuarial qualifications are consistent, so we can recognize actuaries across borders. And I think the idea of the IFAA is certainly to have something similar on a wider scale and, presumably, in due course towards recognition of each association's qualifications.

MR. GUTTERMAN: By the way, if adopted by the International Association of Actuaries (IAA), the IFAA will be implemented in September. It should help the international actuarial profession.

MR. ROBERT M. KATZ: I am glad to hear about the progress on the IFAA. I think one of the concerns in its formation is the different qualification standards for the national organizations. If you have not solved this problem, it makes me wonder how common standards and codes can be addressed. And then there is the issue of whether to apply your own standards or qualifications to practices in other countries, if the association of the country in which you are practicing says that you have to follow its standards or code in order to practice there. Has this issue been addressed successfully?

MR. CHAMBERS: I disagree with an assumption you have made that the qualification issue is not going to be the most difficult. That's why it's not on the table at the moment. The codes of conduct are essentially the first element being addressed by the IFAA, because many of the organizations have already established the minimum that will apply in the IFAA, that is, the Group Consultatif code, which was designed after the U.S.-Canada common code with some modification. With the relatively pervasive application of a minimum code of conduct, it is not that big a deal to establish that as the minimum. I think relatively few SOPs will apply across national borders. SOPs tend to be nation-specific, and applicable to a certain political and legal environment. There will be minimum educational requirements in order to become members or remain members of the IFAA possibly by 2005. We hope that we will have established minimum educational standards that will apply throughout the world. By the way, organizations can establish more stringent requirements. They will have identified not the method of education that has to be used, but rather the topics that will have to be known by all actuaries.

MR. MURRAY: These educational requirements are only those of the basic level, not those for qualifications to practice. Even here, this is something that will be worked towards by 2005. It will be a kind of a club, as I think the associations have found that they want to share experiences, and there hasn't been a satisfactory forum for this purpose to date, because the IAA is very much intended as an organization for individual actuaries. The IAA's principal function has been to organize congresses every three or four years at which scientific papers are discussed. It became apparent that there was a real need and desire to share current experiences, initially expressed by the English-speaking associations. Hence, the IFAA got going. There have been some difficulties with certain associations, as some of the non-English speaking associations have not been organized in quite the same way as the English-speaking ones.

But, international recognition of qualifications is not going to be its prime focus, at least initially. I personally am somewhat disappointed, in the sense that I would like to see some of the "mature" professional bodies make more effort to mutually recognize qualifications. I don't understand why we're as defensive as we are toward this area. Governments can impose labor and mobility rules, and that will always be their role. But I'm not sure why we are not willing to recognize the senior qualifications, especially when we have strong codes of conduct and disciplinary procedures.

MR. BALFE: My understanding is that the Institute of Actuaries of Japan intends to become a full member of the IFAA. I believe that this will enhance the profession and the individual actuary's standing in the community. Traditionally in Japan there has been limited recognition of the individual as a professional. However, a code of conduct may mean something different in practice in Japan than in some other countries. To have a code of conduct on paper is one thing, how it works in practice, however, may be different in different cultures.

MR. GUTTERMAN: The Mexican actuarial profession has joined together with the actuarial bodies in Canada and the U.S. in discussions of these issues. It has instituted its own code of professional conduct and is currently developing its own set of professional standards. Mexican participants believe that this has benefitted the profession significantly in Mexico. They are very positive about the implication of moving toward more common standards and more common recognition.

MR. CHAMBERS: Actually, the Mexican actuarial profession has had a code of conduct, but is considering changing it to become more similar to the U.S./Canadian ones. But the initiative with respect to SOPs is very much there.

FROM THE FLOOR: How do we apply our codes of conduct in a different country when that country's actuarial association does not have a code or standards, or when they are inconsistent with ours?

MR. CHAMBERS: My understanding is that members of the SOA are required to follow the code of conduct of the SOA unless that is superseded by a formal code of conduct in the jurisdiction in which they are practicing that has been established by an actuarial organization there.

FROM THE FLOOR: In a restaurant, there may be a dress code. However, if you translate that dress code into Latin terms, it may take on a totally different meaning. Similarly, how do we know what our codes imply in another language when we practice in another country?

MR. GUTTERMAN: The same issues arise as a result of cultural differences or legal systems; for example, the Napoleonic type of legal code of the Latins and certain parts of Europe, compared with the English tort system used in much of the English-speaking world.

MR. CHAMBERS: You don't have to go very far to find differences—look at the differences between Canada and the U.S. In a discussion with Lauren Bloom, General Counsel of the AAA, the topic came up about our disciplinary experience in Canada. In Canada, an actuary had been charged with professional misconduct and had pled guilty. Lauren Bloom was very upset about the fact that it was described in terms of guilt, as that is not the proper term to use in the U.S. We spoke in terms of pleading guilty; she didn't know whether you could have an American actuary actually pleading guilty, rather the actuary would admit to a breach of conduct. So, there's a language problem even between our two countries.

By the way, a U.S. actuary practicing in Canada is subject to the same disciplinary process, which is quite public in Canada, once charges have been laid. There's a public tribunal, and anybody can go.

MR. MURRAY: We will apply our codes of conduct and discipline to those practicing in a country without its own. In a fairly developed country, such as South Africa, with its own actuarial association, code of conduct and disciplinary rules, we are satisfied if it administers them. But technically, since virtually all the actuaries in South Africa are either members of the Institute or the Faculty, they could pass a case on to either association for discipline. Now in practice, since the associations want to look after their own members, they tend to do it themselves. At the same time, we would keep an eye on what occurred and take whatever action we felt appropriate with our own Fellow if he was disciplined by the other association.

However, in an area where there is a less-developed association, say in Singapore or Thailand, it is possible that the actuary may be less likely to be reported for misconduct because it is a less-developed professional situation. But if a Faculty Fellow was involved, we would have to try it and apply the codes as we felt appropriate. You may be subject to the codes of conduct and discipline involving multiple sets of qualifications, wherever you are practicing.

MR. CHAMBERS: An interesting, though rather simplistic, example involved a controversy involving the element of the code of conduct with respect to being charged with a criminal offense. I think the SOA current code says that if you are found guilty in the courts of a criminal offense, you are essentially guilty of misconduct if the criminal offense is associated with some financial transaction.

The following case arose prior to the current wording being in place, and involved an individual in Saudi Arabia who was caught drinking, which is a criminal act in Saudi

Arabia. Did that constitute professional misconduct on the part of the actuary? At the time that this was being discussed, it was a real issue. I believe wording has been adopted in the code now which makes it pretty obvious that this person's action would not represent professional misconduct to the Actuarial Board for Counseling and Discipline (ABCD) in the U.S. However, if it constituted a felony, it could serve as an assumed misconduct.

MR. GUTTERMAN: I believe it may serve as prima facie evidence. It is presumed that the person is guilty until further information is obtained.

MR. CHAMBERS: This is another difference between Canada and the U.S. In the U.S., it is presumed that the person is guilty. In Canada, the wording is such that the person is only subject to the discipline process, and the discipline process right at the beginning might find that it is not applicable.

MR. HOBSON D. CARROLL: Prior to coming to this meeting I wasn't aware that all these exciting and dangerous situations were issues for actuaries. Is this a much bigger deal than I've been led to believe? So much time and effort seems to have been spent on it. Or is it because we've spent so much time that we don't see or hear about so many examples. It seems that everybody has a few stories about the actuary who did this, or the actuary that did that.

MR. CHAMBERS: I think any actuary who has learned his or her profession in a particular jurisdiction and moves to another jurisdiction, even for a temporary period, is putting his or her livelihood on the line if he or she doesn't make oneself aware of the SOPs and the codes of conduct in that jurisdiction. Chances are that those are the standards that individual must follow. The SOA and the other U.S. organizations have established formally in their bylaws or code that when practicing in Canada, you follow the Canadian standards, and you don't have to physically cross the border to be practicing in Canada. Similarly, any Canadian who practices in the U.S., and there are many of them, may never leave Bloor Street in Toronto. However, if they're working in the U.S. division, they're practicing in the U.S., and therefore they have to follow the standards and codes of conduct in the U.S. And soon, I hope, that will apply to Mexico as well. We've been working for upwards of a year and a half on developing a report with respect to the tripartite agreements between the three countries under the North American Free Trade Agreement (NAFTA). I'm hopeful that in another six months, we'll have it finished.

MR. MURRAY: Other than the point that was made earlier about what I'll call whistle-blowing, which may be developing in the U.K. to a greater extent than in most other countries, it still requires a complaint to be made before any disciplinary action is taken. There is as yet no policing as such by the profession in terms of looking over the shoulder of an actuary, wherever practicing. But, in the more developed countries, we are entering into a more litigious society. Therefore, you've got to make sure that your codes of conduct and disciplinary rules are strong enough and can cope with such a situation. Otherwise, your reputation in the public domain will diminish. So we are obliged to make sure we have robust rules, we can apply a disciplinary process, and we are effective in looking after the public interest which is such a major issue at the moment. And so, I don't think the vast majority of our members have anything to fear. It is always the small percentage of people who eventually do not practice in a manner consistent with our

standards. They will have to be dealt with properly, because they will try to wriggle free of enforcement, if possible.

MR. GUTTERMAN: I also believe that this is what makes a profession, in terms of concern for codes of conduct, and the way that those professionals practice. So, everything else aside, I think that having an effective disciplinary process is the right thing to do. In addition, I think that the trend is towards a strong self-regulatory process in many professions, and if the professions don't do it, government will. Many people in the professions prefer self-policing, rather than government imposed rules of conduct and practice and monitoring.

MR. CARROLL: Is it possible someone could give me an example of a significant difference in codes or standards between the U.S. and Canadian actuarial organizations, and then, say, between the SOA and the Institute or the Faculty?

MR. CHAMBERS: Between Canada and the U.S., there are no significant differences in the codes of conduct, with the exception of what has been referred to as the snitch rule, which is much stronger in Canada, as there has been much more responsibility placed on the actuary who finds something out than is the case in the U.S. But that aside, the attempt in 1991–92 to have a universal code, across all six organizations, was successful. The differences are minimal. And the obvious reason for that was that many of our members are members of several organizations. I'm a member of three of them. Sam's a member of four. And we have a couple of people who are members of all six. The reason we undertook this initiative was because you couldn't have an individual in a catch-22 situation. If there were a conflict in the codes between two of those organizations, individuals could be put in a position where they're damned if they do or they're damned if they don't. They'd be in an untenable situation if there was a conflict. Whatever they did, they'd be in trouble with somebody. And so, that was the real impetus behind establishing an essentially common code of conduct. Now, SOPs is another story. As I said, the SOPs in the U.S. can be quite different from the SOPs in Canada because of the different legislative, regulatory, and legal systems.

MR. PAUL F. TURNER: Could you clarify the code of professional conduct? It says, any actuary who pleads guilty or is found guilty of any misdemeanor related to financial matters, or any felony. So, I guess having a beer in Saudi Arabia is enough to get you in trouble with the SOA back here, if that's a felony.

MR. CHAMBERS: Maybe, but I wouldn't think so. Even though I'm not a drinker, I don't think that is so bad.

MR. TURNER: Jim, now that you are working in Japan and have made the difficult decision to follow U.S. rules, you didn't blow the whistle on this other actuary because the Society can't do anything about a Japanese actuary. What does it do to your personal relationship with those whom you work with, to be known as a stickler for professional rules in a country like Japan, where I assume you are expected to be a team player.

MR. BALFE: It is a delicate area, and it takes constant negotiation. However, within the group of companies with which I work, primarily units of foreign multinationals, they appreciate the honesty. It has actually brought in some business. We have sold some

contracts, competing against other life insurance companies, because we have provided both the advantages and the potential drawbacks of different contract choices. Another example: there are two types of tax-favored pension schemes in Japan, one administered by the Ministry of Health and Welfare, and another by the Ministry of Finance. There are pros and cons every employer should consider in choosing which one, or neither, to adopt. We were competing for business with a unit in Japan of a large U.S. multinational. I suggested we give a comparison, showing the advantages and disadvantages each one of these schemes had for this particular company. I was asked not to do this (partially based on concern for the possible negative reaction from the respective ministry for criticism of the scheme it sponsored). After considerable discussion, the decision was made to proceed with a balanced presentation of the respective schemes. Evidently, the other life insurance companies with whom we were competing concentrated only on the advantages of the scheme they favored. In the end we brought in the business, at least partially, on the basis of having provided better advice. This gave me some credibility and some leverage to decline to do some things I felt uncomfortable doing. In the earlier example, the individual who asked me to take the position that contracted out liability was not a corporate liability did not press the matter.

MR. GUTTERMAN: So good guys can finish first after all.

MR. BALFE: I would like to add a comment to an earlier question. Another area that affects multiple countries is *FAS 87*. Foreign companies that issue securities in the U.S., and most U.S. multinationals, include pension liabilities of subsidiaries located in various countries in their consolidated financial statements. While the U.S. code of conduct and SOPs would pertain to liabilities associated with a U.S. subsidiary, the liabilities for a foreign subsidiary may be calculated by an actuary not subject to the same standards.

FROM THE FLOOR: Given the orientation towards being a company person in Japan, what fallout is there in the event of financial calamity? What type of internal pressure on reserves are there? Who is held accountable?

MR. BALFE: Up to now it would not be an individual. There is currently a movement to change this, to establish a position similar to an appointed actuary. Until now, if something significant occurred, it would be a department head, or possibly the president of the company, who would symbolically resign. Possibly inside the company, some people would no longer advance along the seniority scale at the normal rate, or would not be given positions of responsibility. But there would be no strong repercussions on an individual, other than that his or her career advancement inside the company may be impeded.

MR. CHAMBERS: I'm not that familiar with Japan, but my impression is that you don't have a lot of choice with respect to the assumptions and methods that you use in valuing life insurance in Japan, as it is pretty much dictated. My guess is something fairly conservative, similar to the net level premium method is used.

MR. GUTTERMAN: Jim, as a hypothetical case, let's take your situation. An actuary who is a member of the SOA works for a multinational firm in another country with a subsidiary in yet a third country. Which standards apply? This can get confusing. What type of guidance, or thoughts do you have for such a situation? Or is there any such guidance?

MR. BALFE: I believe that it would be the standards of the third country if he or she is a member of a professional body in that country, as well as those of the actuary's own country. Both sets of standards should be considered.

MR. CHAMBERS: This question is similar to a current dilemma we have in front on us in Canada. It particularly affects Canadians who are members of the CIA—many of them are members of the SOA, but a few are members of the Faculty and the Institute. The hypothetical—well, maybe not so hypothetical—situation, involves Canadian actuaries who are FSAs and FCIAs and practice in Australia. Do they follow Canadian standards, or do they follow SOA standards? Well, in this circumstance, they don't follow either. They follow Australian standards because Australia has well-established standards.

In another situation, the same individuals are practicing in Tobago, which has no standards, and then the issue is which of the two organizations to which they belong are they held accountable with respect to following standards: Canada or the U.S.? We have been wrestling with just such a situation for about three years. One response has been, where their usual residence is. But if they are actually living in Tobago, then such a rule is of little help. The latest suggestion, which is not written down anywhere yet, is that the individual declares, when they go to that jurisdiction, which standard they're going to follow, and then they follow it. If they don't, they're in trouble.

FROM THE FLOOR: That is what I tried to ask. If you are practicing in a country without a standard, and you're from a different country, shouldn't you consider where the complaint comes from in such a case? Is the complaint coming from a client that is in that country? The client is probably searching for sources it can blame. The client will try to make its own interpretations of your code.

MR. CHAMBERS: In a discipline circumstance, it's the organization that applies the code and interprets it, not the client. A client may well lay a complaint. But it is the organization that deals with the disciplinary process and determines whether there has been an actual transgression.

FROM THE FLOOR: I understand that, but in a developing country, in which laws are developing and where it is desirable to be in that market, then the client's perspective would put pressure to permit various interpretations, or to clarify those interpretations so that market does not shrink.

MR. CHAMBERS: I think it boils down to integrity. You either establish a level of integrity and ethics and stick by it, or, if that's going to give you trouble, then you'd better not practice.

MR. GUTTERMAN: If a U.S. practicing actuary commits something that may be a possible problem in a country without any specific code, the ABCD has agreed to investigate such a complaint. I believe that for a Canadian actuary, the CIA would investigate such a complaint, even if it wasn't in Canada's jurisdiction. I don't believe that this has been tested yet, in terms of its practicality, and I hope it never has to be tested.

MR. CHAMBERS: It is hypothetical, because, as somebody here has pointed out, who is going to complain in that environment?

MR. GUTTERMAN: I can see it happening. Now for the panelist's final comments.

MR. BALFE: I would like to mention one other practical consideration. Under U.S. standards, when an actuary relies on work performed by someone else, the actuary is obligated to insure that the work is performed at an acceptable level. This can be difficult in a foreign country, where you may not speak the same language as the person doing the work.

When preparing reports on pension liabilities under *FAS 87*, I rely on other people to do much of the programming, data work and so on. I can't communicate with some of these people very well, so at times it is difficult to verify the quality of work being performed. This can be another consideration for an actuary practicing in a foreign country.

MR. CHAMBERS: My closing comment is pretty much the same as my opening comment. Just for your own safety and peace of mind, if you are going to practice in another jurisdiction, make absolutely sure you know how things are done in that jurisdiction and know what the standards are. You can get into a lot of trouble if you presume that your home jurisdiction standards apply in the other jurisdiction.

MR. MURRAY: I will reemphasize two major issues. One is ensuring that the disciplinary procedures are up-to-date for your own legislative situation. These have to be reviewed continuously, to make sure that they remain robust.

One topic we could have discussed is that there are interesting differences among countries in terms of composition of an investigation group (either investigation committees, discipline tribunals, and appeal boards) and in the number of lay people or professionals on such a group. I find these quite interesting in the sense that different countries have taken different approaches. We at the Faculty take the view that we require quite a large number on our committee, because we need to have a hearing by a broad spectrum of peers, whereas the Institute of Actuaries, and I think the Canadians, have relatively small numbers on investigation committees and on disciplinary tribunals. On your appeal boards, I don't think you have any other professionals, whereas we do have a significant proportion of other professionals. That is an interesting kind of difference in terms of approach to the law and to justice.

Going back to the area we spent most of our time on, cross-border situations. This issue arises primarily where different qualification standards exist in areas in which you are allowed to practice freely. This is where it is necessary, then, to have some sort of coordinated discipline codes, and know what the others are. The European Union forced it on us, and it's a major issue to discuss and debate, because of the problems that could arise in interpretation and discipline process. Your NAFTA area between Canada and the U.S. has been in effect for some time, but it is being further extended and so is faced with the same problem. A separate issue is when you practice in a third country. You have to be mindful of what practice is in that country. But, as Mo said, it's personal integrity and the standards you've worked by that should be followed, if there is no other standard to go by. You have to apply your own intelligence and use what is proper for that country. The bottom line is a question of professional integrity.

MR. GUTTERMAN: Personal integrity is the most significant characteristic we have, something that each of us has to guard jealously. Each of us should thoroughly understand the area in which we practice and understand the rules because in some cases, cultural differences do exist and those differences must be understood. Overall, and most importantly, you must be responsible to yourself.