



RISK ALERT

Transitional risks for UK Trust-based Pre-paid Funeral Plans

KEY MESSAGE

Following the UK Government's decision that the Financial Conduct Authority (FCA) will assume responsibility for the regulation of funeral plan providers (including trust based pre-paid funeral plans that are not currently regulated by the FCA), there are transitional risks that have been identified for these trusts prior to the FCA regulation being implemented.

The purpose of this risk alert is to bring those transitional risks to the attention of actuaries involved in this area of work.

Actuaries' involved in determining, calculating and verifying the assets and liabilities of pre-paid funeral plans are encouraged to be aware of the transitional risks and carry out appropriate due diligence.

What are Risk Alerts?

A series of email alerts drawing Members' (and others') attention to specific issues where the IFoA asks Members to think carefully about the consequences of actions they are taking or not taking.

The information in the Risk Alert is published to support Members and to protect the public interest. The Risk Alert is not mandatory guidance.

This Alert is relevant for the following Members:

Members working for, or advising or involved with UK Trust-Based Pre-Paid Funeral plans.

Regulation of Trust Based funeral plans

In terms of current regulatory arrangements, funeral plan contracts are a specified activity under Article 59 of the UK Financial Services and Markets Act (Regulated Activities) Order 2001 (RAO). However, plans are excluded from Article 59 if they are provided through a contract of whole life insurance effected by an authorised insurer; or through a trust which meets the requirements of Article 60(1)(b) of the RAO.

The RAO requires a Fellow of the IFoA to determine, calculate and verify the assets and liabilities of the pre-paid funeral plan trust every three years. This gives Members of the IFoA an important role to play in assessing the financial viability of a trust and in helping trustees, and plan providers, to ensure that the requirements for exemption from regulation by the Financial Conduct Authority (the FCA) are met. These responsibilities are also clearly of considerable importance to the interests of holders of these plans.

Following a consultation which concluded in March 2020, the UK Government made the decision to amend the RAO to allow for all funeral plan providers to come within the remit of the FCA.

The Government and FCA are now working to put into place a framework for FCA regulation of the pre-paid funeral plans market. The Government are laying a statutory instrument before Parliament, and it is expected that the new regulatory framework will come fully into force 18 months after the statutory instrument is made.

The IFoA's Actuarial Profession Standard (APS) Z1 also sets out requirements for actuaries carrying out valuations of funeral plan trusts. This can be found on the IFoA website, [here](#). The IFoA also has non-mandatory guidance for [actuaries](#) and [trustees](#) in this area.

The Financial Reporting Council's (FRC) Technical Actuarial Standard (TAS) 400: Funeral plan trusts, applies to UK actuaries determining, calculating and verifying assets and liabilities of a funeral plan trust required by legislation or the rules of the Funeral Planning Authority. This can be found on the FRC's website, [here](#).

Transitional risks and considerations for actuaries

Prior to the FCA regulation coming into effect, there are some transitional risks which have been identified as potentially arising during the period before the new regulations come into effect and which could affect the interests of holders of these plans. These are:

- Due to potential FCA capital adequacy requirements, some trust providers may be unable to obtain FCA authorisation, or they may be unable or unwilling to get FCA authorisation during the transition period for other reasons. This could lead to some trusts being dissolved in the run up to the new arrangements coming into effect and holders of the plans receiving less back than they expected. If providers are unable to transfer their funeral plan contracts, this would mean that policyholders would be without a regulated provider to administer their funeral plans;
- Plan providers may, during this period before regulations are in place, seek to extract a surplus withdrawal of funds from the trust. This could also affect the amount given back to the plan holders; and
- The use of misleading advertising which could appear to promise greater certainty than the trusts may be in a position to deliver.

While actuaries' play a limited but important role in valuing the trusts (with primary responsibility resting with the plan trustees), this could raise public interest and reputational risks for actuaries, as well as for the actuarial profession as a whole.

Professional obligations

Members involved in this work are asked to be alert to these transitional risks and to remember their obligations under the Actuaries' Code ('the Code'), Actuarial Profession Standards (APSs) and, for actuaries carrying out UK technical actuarial work, the Technical Actuarial Standards (TASs) produced by the Financial Reporting Council.

Members are reminded, in particular, of the need to carefully consider their obligations under the Code, APS Z1 and TAS 400, discussed above.

Those include the specific requirements in the Code under Principle 5 Speaking up and Principle 6 Communication. Principle 5 states that Members should speak up if they believe, or have reasonable cause to believe, that a course of action is unethical or is unlawful. Principle 6.4 states that where Members identify that a user of their work has misunderstood or misinterpreted the information or advice provided by them in a way that could have material impact, they should draw the user's attention to this.

Members involved in this work are encouraged to be alert to these risks, the potential impacts on policyholders and carry out appropriate due diligence for example, when accepting an appointment and if recommending surplus measures. Members are also encouraged to promote awareness of these risks to relevant stakeholders, such as the plan trustees, and if appropriate, communicate and speak up about any concerns, particularly about adverse consequences, to policyholders.

Additionally, if Members are concerned about the use of misleading advertising which could be unethical or unlawful, they can consider speaking up and bringing this to the attention of trustees, plan providers, the Financial Conduct Authority (if appropriate), and the Advertising Standards Authority (ASA), the UK's independent advertising regulator.

Further information and support

Members who have specific professional questions or concerns should send those to the regulation team at regulation@actuaries.org.uk. Members can also get support on ethical or technical issues through the [Professional Support Service](#).

