

Institute and Faculty of Actuaries
Regulatory Board - Steer Report

Subject	Further steps in relation to pre-paid funeral plan trusts	
Regulatory Board meeting	26 April 2022	
Previous Board Discussions	Dec 2015	APS Z1 and accompanying guidance introduced following period of consultation
	June 2020	Issue of the regulation of funeral plans discussed at FRC Actuarial Council.
	November 2020	Chair, Executive and FRC facilitate meeting with actuaries involved in funeral plan trust work to discuss potential risks in the transition to FCA supervision. Board agreed to add a risk to its horizon scanning register and issue a Risk Alert.
	January 2021	Risk Alert published on the transitional risks for UK Trust based pre-paid funeral plans moving to FCA regulation.
	May 2021	Board provided input into the IFoA response to the FCA consultation on the regulation of the sale and administration of pre-paid funeral plans. Board Chair took part in discussions with FCA, FRC and Chair of the Funeral Plans MIG to discuss the proposed FCA requirements for actuaries.
	July 2021	Board updated on FCA publication of their final rules of the regulation of the sector. AMS Trust-based Funeral plans Thematic Review launched.
	February 2022	Board discussed the outputs of the AMS Funeral Plan Trusts thematic review and noted an update on regulatory actions arising out of the review.
International issues considered?	No – review UK issue only	
Author	IFoA Executive	
Reviewer	IFoA Executive	
Purpose	Steer	

A: EXECUTIVE SUMMARY

1. This paper seeks the Regulatory Board's (the Board) steer on potential regulatory steps it might take following the findings of the Actuarial Monitoring Scheme (AMS) Thematic Review on funeral plan trusts and in light of upcoming changes to the existing regulatory landscape for actuaries providing advice in this area.

B: BACKGROUND

2. The UK regulation of funeral plans is a developing area. The overall UK regulatory framework has not changed in substance since the (then Regulation) Board last looked at the regulation of actuaries involved in this work in 2015 when it introduced Actuarial Profession Standard (APS) Z1 on the Duties and Responsibilities of Actuaries Working for Trust-Based Pre-Paid Funeral Plans and accompanying guidance¹.
3. There are however upcoming changes to the regulation of funeral plan trust with a new regulatory framework overseen by the Financial Conduct Authority (FCA) coming into force on 29 July this year. In light of the upcoming changes, and because a scheduled review of APS Z1 is now due, there is a need to determine what steps should be taken by the Board in this area.
4. There is also the need for the Board to consider the findings of the recently published AMS Thematic Review Report and recommendations for areas that the Board (alongside other relevant regulators) might usefully consider.

Regulatory Landscape

5. Currently, funeral plan contracts are a specified activity under article 59 of the Financial Services and Markets (Regulated Activities) Order 2001 (RAO), which means they are a regulated activity for the purposes of the Financial Services and Markets Act 2000 and therefore subject to regulation by the FCA. 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.
6. Article 60(1)(b) of the RAO stipulates that an actuarial valuation of the pre-paid funeral plan trust must be carried out. This involves the determination, calculation and verification of the assets and liabilities of the pre-paid funeral plan trust. The valuation would normally be required at least every three years under legislation and the trust documents.
7. Funeral plan activities exempt from regulation under the RAO (plans backed by a trust or insurance product) are currently only subject to voluntary regulation by the Funeral Planning Authority (FPA).
8. As the Board will be aware, following a period of consultation in 2021², the FCA confirmed that it 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) from [29 July 2022](#)³.

¹ The consultation package introducing APS Z1 can be found on the [website](#).

² The Board was provided with an opportunity to input into the IFoA's response.

³ The consultation and new rules can be found [here](#).

9. Under the new FCA regulations, funeral plan trusts that fall into the regime will need to have an annual actuarial valuation, including a Solvency Assessment Report (SAR) that must be carried out by an actuary who is a Fellow of the IFoA.
10. There has been some discussion and debate around the need for guidance for actuaries in relation to SARs (discussed further below). The FCA, while recognising the need for clarity on how to carry out SARs, has indicated that it does not intend to issue any guidance to actuaries on this topic.

Professional regulation of actuaries in this area

11. There are also a number of IFoA and FRC requirements applying to actuaries involved in this area of work. This includes:
 - i) APS Z1; and
 - (ii) the Financial Reporting Council's (FRC) Technical Actuarial Standard 400 (TAS 400) on funeral plan trusts.
12. A more detailed summary of the existing regulatory framework (including standards and guidance) for actuaries working with funeral plan trusts can be found at page 22 of the [AMS Report](#).
13. The FRC has recently communicated its intention to review its TAS 400, in light of the upcoming regulatory changes. They have indicated that changes could be fast-tracked in advance of FCA regulation coming into force, and have expressed a desire to co-ordinate activities in this area with the FCA and IFoA. The FRC has not yet indicated whether it intends to develop technical guidance on SARs.
14. In light of the upcoming changes, and because the scheduled review is now due, there is also a need to review the existing APS Z1 and Non-Mandatory Guidance that are in place for members who carry out work on UK trust pre-paid funeral plans.
15. Currently, there is no requirement for actuaries working with pre-paid funeral plan trusts to hold a Practising Certificate. That was considered by this Board in May 2018 where it was agreed that there was not a basis for introducing such a certificate. In particular, the nature of PCs, being certificates that relate to ongoing actuarial roles that are required under legislation or regulation, wouldn't appear to be relevant to a 'one-off' valuation activity. It was also considered disproportionate given the relatively small number of actuaries engaged in this type of work (around 20 actuaries performing valuations under the existing rules to around 15-20 trusts).
16. Given that the substance of the actuary's involvement will not change under the new FCA rules (i.e. undertaking "one off" instructions rather than a formal ongoing 'role') it would appear there will continue to be no basis for introducing a Practising Certificate. The Board may however wish to instruct the Practising Certificates Committee to consider the matter and provides its view.
17. The regulation of funeral plan trusts, as well as the role of actuaries working in this area, was raised through the FRC's (now disbanded) Actuarial Council in 2020, including certain public interest concerns about the nature of funeral plan products and how they were advertised, as well as the future regulation of the FCA. A meeting was then held to discuss these issues with the Board Chair, FRC and Chair of the IFoA Funeral Plans Member Interest Group (MIG). As

a result, the Board issued a [Risk Alert](#) in January 2021 to alert members to the transitional risks prior to the FCA regulation coming into effect, as well as other considerations for actuaries including the use of misleading advertising.

18. Following this, there have been further discussions between the IFoA, FCA, FRC and members of the Funeral Plans MIG around the FCA's proposed requirements and expectations for actuaries in this area and in particular, on the proposed SARs.
19. The MIG hosted a roundtable on the new SARs in November 2021. The MIG and other practitioners in this area have made clear their desire for supporting guidance to be implemented in advance of FCA regulation coming into force, particularly in relation to FCA expectations around the requirements for SARs and how consistency in this area can be achieved. Given this is a technical area, the IFoA could only produce this guidance with the consent of the FRC. As mentioned above, the FRC are still to confirm whether they intend to provide technical guidance on the proposed SARs.
20. The upcoming FCA regulation was also discussed at a meeting of the Joint Forum on Actuarial Regulation⁴ (JFAR) in March this year and it was agreed that further development of actuarial standards and guidance in this area was likely to be required. That meeting was attended by the Chair of this Board as well as members of the IFoA's Actuarial Review Team (to present on the IFoA's Thematic Review on Funeral Plan Trusts). The next meeting of the JFAR will take place in June 2022.

AMS Report findings

21. The Board considered the findings of the AMS funeral plan trusts Thematic Review at its February 2022 meeting. The full [AMS Report](#) was published on 28 March.
22. The AMS Report makes a number of findings that aim to help improve the quality of advice given by actuaries in relation to funeral plan trusts along with some recommendations for areas that relevant regulators (including the Board) might usefully consider.
23. A webinar sharing the findings of the AMS Report with practitioner Members was held on 6 April 2022.
24. The findings and recommendations of the AMS Report included the following:
 - Actuaries use inconsistent terminology in funeral plan trust valuations. The potential resulting risks could be mitigated if actuaries used consistent terminology for key terms so that different valuation measures can be compared.
 - Actuaries do not always explain clearly why they have chosen particular assumptions and how these may have changed since the previous funeral plan trust valuation. Additional guidance in this area might help actuaries.
 - Existing guidance on conflicts of interests could be updated to assist actuaries who currently provide valuations for trustees and are expecting to be engaged to also prepare the newly required SARs for funeral plan providers.

⁴ Comprising the FRC, IFoA, FCA, the Pensions Regulator and the Prudential Regulation Authority

- Voluntary compliance with APS Z1 and TAS 400 could be encouraged by actuaries carrying out work for burial societies.
25. The Board agreed at its February meeting to accept the findings contained within the AMS Report and that it would look separately at any steps it would take in response
26. An overview of the Board's role in relation to the AMS Thematic Review Programme and the range of options available to it in terms of possible responses to findings was provided at the Board's February meeting. An extract from a paper presented at that meeting showing possible Board responses is provided at **Appendix 1**.

C: POTENTIAL FURTHER STEPS

27. The Board is asked to consider the following possible further steps to progress.
28. The table below sets out a number of potential options.

Potential next steps	Indicative timings
<p>1. Review of APS Z1 and accompanying guidance in light of upcoming FCA regulation and AMS review findings, as well as general review to ensure it is up to date and there are no issues. Input from relevant stakeholders as required, including FCA, FRC and members. Consultation likely to be required if changes are substantive.</p>	<p>Executive Team review of APS Z1 and accompanying guidance – Starts May/June 2022</p> <p>Practitioner input to identify/clarify areas for amendment to APS Z1 and accompanying guidance – Starts June/July 2022</p> <p>Draft revised APS Z1 and guidance shared with key stakeholders/groups for comment (FRC, FCA, MIG) – July 2022</p> <p>Proposals shared with the Regulatory Board for approval – late summer 2022</p> <p>Revised APS Z1 and guidance published either with opportunity for members to object/raise concerns (if minor changes) or full consultation on draft documents (if substantive changes are proposed to APS Z1) – autumn 2022</p>
<p>2. Explore the option of professionalism and case-study materials by the Board's Professional Skills Sub Committee to provide members with additional support and guidance in this area.</p>	<p>Autumn 2022</p>
<p>3. Board to write a formal letter to the FRC:</p>	<p>May/June 2022</p>

	<ul style="list-style-type: none"> - sharing and endorsing the findings of the AMS Report; - highlighting those areas where it may be appropriate to consider amending the TASs (TAS 100 & TAS 400) to help address the findings; and - highlighting practitioner demand for supporting technical guidance on the requirements for SARs and seeking confirmation on whether the FRC intends to develop its own guidance in this area or whether it would consent to the IFoA doing so. 	
4.	Engagement with the FRC on any relevant changes to the TASs (TAS 100 and TAS400).	Dependant on FRC timeline
5.	Share review feedback with the IFoA's education and lifelong learning team to support their consideration of ways to incorporate this area into the pre-qualification syllabus.	May/June 2022
6.	Ask MIG to carry out further work where findings of AMS Report touch on technical matters e.g. developing standard terminology for describing different types of funeral plan trust valuation and other common terms to help make valuations (including SARs) easier to compare.	May/June 2022

D: CONCLUSION

29. The Board is asked to provide a steer on the proposed direction of travel and timescales and otherwise provide suggestions for any further potential steps.

Appendices

Appendix 1 – Extract from paper on AMS Thematic Review Programme