

Guidance to Accompany Publication of Regulations Restricting Annuity Purchase

Purpose

The Government laid regulations in the House that temporarily restrict the purchase of annuities in relation to certain pension schemes that qualify for the Financial Assistance Scheme (FAS) unless either the trustees had already entered into a binding commitment to purchase the annuities, or approval for their purchase is provided by the FAS scheme manager. The following information is intended to assist trustees of those pension schemes to whom these regulations relate.

Background

The FAS was established in 2005 to provide assistance to members of certain defined benefit pension schemes which are winding-up (or which have wound-up) in circumstances of employer insolvency and are insufficiently funded to secure member benefits in full.

In March this year, the then Chancellor in his budget statement announced that all FAS qualifying members would receive assistance that would ensure that they receive 80% of their expected core pension from the age of 65 (subject to a cap). At that time a review was also announced into the use of FAS scheme assets led by Andrew Young of the Government Actuary's Department.

The interim report of the Young Review, published in July, found that it was probable that additional value for money could be secured through an alternative use of FAS scheme assets. The Government has committed to match the extra value that the review identifies.

Following the interim report of the Young Review and the Government's match-funding commitment, Parliament agreed that regulations should be brought forward to restrict the purchase of annuities, in order to help protect the assets available in FAS schemes.

The regulations, pursuant to section 19 of the Pensions Act 2007, have been laid before the House today and subject to Parliamentary procedure will come into force on 26 September 2007. The regulations prohibit the purchase of annuities for a period of 9 months starting on 26 September 2007 except in circumstances where either:

- trustees have entered into binding commitments to purchase annuities before that date; or

- trustees apply to the FAS scheme manager for approval to purchase annuities and the scheme manager approves such a purchase.

Guidance on the Application of the Regulations

Binding commitments to purchase annuities

Where trustees have entered into binding commitments to purchase annuities before 26 September 2007 those annuities may be purchased.

We will consider a binding commitment to be an agreement that can not be broken without legal consequences. Legal consequences might include financial penalty or legal action taken for breach of contract.

For trustees to justify purchase, we expect evidence of a binding commitment to be available.

Applications to purchase annuities on behalf of qualifying members

In general, when considering requests for the purchase of annuities we will be mindful of the intention to preserve the assets available in schemes to help increase benefits to FAS qualifying members and we will seek only to allow annuity purchase where individual members do not stand to benefit from FAS taking into account that FAS assistance may be enhanced following the findings of the Young Review. Therefore, while we will consider each application on a case-by-case basis, when considering specific requests for the purchase of annuities the relevant factors that we will consider will include (but will not be restricted to):

The type of benefits that trustees are seeking to secure

Money purchase benefits and certain benefits derived from the payment of additional voluntary contributions¹ are not considered by the FAS in assessing the assistance that may be paid to members. Therefore we would be minded to approve the purchase of annuities that secure such benefits alone.

¹Benefits that are derived from the payment of voluntary contributions where, on the winding up of the scheme, the assets of the scheme have first been applied to satisfy liabilities in respect of those benefits

The rate of core expected pension that is being secured for the member at the age of 65

Currently the Government is committed to paying assistance at rates of 80% of expected core pensions and hopes that the additional value extracted from scheme assets combined with the match-funding from Government will move assistance rates closer to 90% (subject to a cap).

- If a pension can be secured for a member of more than 90% of expected core pension at 65 then the purchase of an annuity that pays such a pension will likely be approved.
- If a pension of between 80% and 90% of expected core pension at 65 can be secured then the purchase of an annuity that pays such a pension may be approved. In considering whether such a purchase will be approved we are likely to consider:
 - The exact rate of pension that can be secured;
 - The position of the Young Review when approval is being considered - for example, the final report is expected in November, at that time the final rate of assistance that will be provided to FAS members may be more apparent; and
 - Any specific circumstances of the scheme that may be of relevance – for example, the purchase of annuities that secure less than 90% of expected core pension might be approved if terms offered by an insurer are dependent on annuities being purchased for all members of the scheme and annuities that secure more than 90% can be bought for the majority of members of the scheme
- The FAS cap will be raised to £26,000 by regulations which we hope will come into force by the end of this year. Annuities that will secure pensions of more than that amount may be approved for purchase.

Information requirements

We will expect documentary evidence to be provided in support of any request for annuities to be purchased. This evidence might include:

- insurance schedules that show the benefits that will be secured by way of annuity; and
- information from which members' expected core pensions can be calculated

We recognise that in circumstances where whole categories of qualifying members² stand to receive the same proportion of benefits by way of annuity it

² For example members who were pensioner members before the start of scheme wind-up

would not be efficient for evidence to be provided, or for decisions to be taken, on a member-by-member basis. In such circumstances we are likely to accept information on representative members (for example confirmation from the scheme actuary that there are sufficient funds to secure full scheme benefits for a group of members).

Submitting requests for the purchase of annuities

After Regulations come into force any requests for approval to purchase annuities should be addressed to:

FAS Operational Unit (FAS OU)
Financial Assistance Scheme
PO Box 702
York
YO32 9XR

General information on the FAS is available on the [FAS website](#), or by contacting the FAS OU on 0845 6019941.