

Chapter 3

Structure Provisions - arrangements underpinning a funeral plan contract

3.2 Trusts: solvency assessment, remediation and other requirements

Application

- 3.2.1 **R** This section applies to a *funeral plan provider* in relation to *funeral plan contracts* (including *subsisting funeral plans*) under which sums paid by the *customer* are held on trust for the purpose of providing the funeral.

Annual preparation of solvency assessment report

- 3.2.2 **R** A *funeral plan provider* must arrange for a *solvency assessment report* to be produced at least once every 12 *months* by an actuary who is a fellow of the Institute and Faculty of Actuaries.

Contents of solvency assessment report

- 3.2.3 **R** The *solvency assessment report* must:
- (1) within 12 *months* of the:
 - (a) last report obtained by the *funeral plan provider*; or
 - (b) trust being established,determine, calculate and verify the assets and liabilities of the trust by applying a *best estimate* basis;
 - (2) include, as a minimum, the following information:
 - (a) the actuarial valuation date;
 - (b) an actuarial valuation of the assets and liabilities of the trust;
 - (c) the solvency level of the trust (ratio of trust assets over trust liabilities as a percentage) on a *best estimate* basis;
 - (d) the assumptions adopted with respect to the valuation of the trust assets and trust liabilities;
 - (e) the number of undrawn or live plans categorised by payment method;
 - (f) the total plan values in relation to undrawn or live plans categorised by payment method;
 - (g) the average plan value categorised by payment method;
 - (h) the investment of trust assets at fair value by asset class at the actuarial valuation date;

- (i) the investment of trust assets at fair value by investment manager at the actuarial valuation date;
 - (j) the level of all monies deducted from the trust over the period and identification of how the deductions have been spent; and
 - (k) the details of any liability sub-contracted to funeral services providers;
- (3) be produced taking account of any relevant actuarial professional and technical standards, guidance and codes;
- (4) be published by the *funeral plan provider* on its website within 30 days of the date on which the actuary completes the valuation and, in any case, no later than 6 weeks from the date an actuary is appointed to produce a *solvency assessment report*; and
- (5) be made available free of charge on request.

3.2.4

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- (1) For the purposes of ■ FPCOB 3.2.3R(2)(b), the liabilities of the trust should be assessed against ■ FPCOB 3.1.6R(2).
- (2) For the purposes of ■ FPCOB 3.2.3R(2)(e), (f) and (g), the payment method should be categorised into:
- (i) single payments;
 - (ii) instalment payments fully paid; and
 - (iii) instalment payments not fully paid.
- (3) For the purposes of ■ FPCOB 3.2.3R(2)(k), details of any liability sub-contracted to funeral services providers may include inflation.

Sending the solvency assessment report to the FCA

3.2.5

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- (1) A *funeral plan provider* must send a copy of the *solvency assessment report* to the FCA within 7 days of it being received by the *funeral plan provider*.
- (2) If the *solvency assessment report* concludes that the assets of the trust are not sufficient to cover the liabilities of the trust, the *funeral plan provider* must provide a notification of that fact with the *solvency assessment report* at the same time as providing a copy of the *solvency assessment report*, in accordance with ■ SUP 15.7.1R.

When a remediation plan is required

3.2.6

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If a *solvency assessment report* concludes that the assets of the trust are not sufficient to cover the liabilities of the trust, a *funeral plan provider* must prepare a *remediation plan* that is approved by an actuary who is a fellow of the Institute and Faculty of Actuaries.

Contents of the remediation plan

3.2.7

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The *funeral plan provider* must ensure the *remediation plan* sets out the following:

- (1) how the deficit in the trust that has been identified by the *solvency assessment report* will be remedied before the next annual *solvency assessment report* is due; and
- (2) any assumptions that have been made in relation to any of the remedial steps or actions that the *funeral plan provider* intends to implement to remedy the deficit in the trust.

Sending the remediation plan to the FCA

- 3.2.8 **R** The *funeral plan provider* must submit the *remediation plan* to the *FCA* for review, in accordance with ■ SUP 15.7.1R, as soon as possible and no later than 30 days from the submission date of the relevant *solvency assessment report* to the *FCA*.

Implementing the remediation plan

- 3.2.9 **R** The *funeral plan provider* must begin to implement the *remediation plan*:
- (1) as soon as possible and in any event within 30 days of submitting it to the *FCA*;
 - (2) in accordance with the terms of the *remediation plan* (or any amendments agreed with the *FCA* or imposed by the *FCA* by requirement).

Failure of remediation plan: notification to the FCA

- 3.2.10 **R** A *funeral plan provider* that is in the process of implementing a *remediation plan* must:
- (1) notify the *FCA*, in accordance with ■ SUP 15.7.1R, as soon as it suspects that it will not be able to fully implement the *remediation plan* in accordance with its terms; and
 - (2) notify the *FCA*, in accordance with ■ SUP 15.7.1R, immediately if the solvency level of the trust remains below 100% following the expiration of the *remediation plan*, which is the time at which the next *solvency assessment report* is due.

Obligation to remedy a trust deficit

- 3.2.11 **R**
- (1) If, following the expiration of the *remediation plan*, the assets of the trust remain insufficient to cover the liabilities of the trust, the *funeral plan provider* must remedy any shortfall using its own resources so that the solvency level of the trust is returned to 100% or more (when assessed on a *best estimate* basis).
 - (2) The obligation in (1) must be fulfilled as soon as practicable and in any case within 3 months of the date the expiration of the *remediation plan*.
 - (3) The *funeral plan provider* must notify the *FCA*, in accordance with ■ SUP 15.7.1R, when the shortfall has been remedied.

Prohibition on the withdrawal of monies from a trust

3.2.12 **R** *A funeral plan provider must not withdraw any surpluses from the trust except and only to the extent that:*

- (1) the solvency level of the trust is above 110% when calculated on a *best estimate* basis; and
- (2) the withdrawal has been approved by an actuary who is a fellow of the Institute and Faculty of Actuaries.

Sending trust accounts to the FCA

3.2.13 **R** *A funeral plan provider must send a copy of the annual accounts of the trust to the FCA as part of its next financial report.*