

FAQs for insurers on sovereign annuities

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1. What is a sovereign annuity?

A sovereign annuity is:

- (a) a policy or contract of assurance (policy),
- (b) the specimen form of which has been certified by the Pensions Authority (the Authority) under section 53B of the Pensions Act, 1990, as amended (the Act), and
- (c) payments under which can be reduced due to an event of non-performance (see questions 14 and 15) and restored due to an event of recovery (see question 21), occurring in relation to bonds, issued by Ireland or any other Member State of the European Union (EU), to which that policy is referenced (reference bond).

2. Who can purchase sovereign annuities?

Sovereign annuities can only be purchased by the trustees of an occupational pension scheme (as defined in the Act). Broadly, this encompasses Revenue approved defined benefit and defined contribution pension schemes.

3. When can trustees purchase sovereign annuities?

Trustees of a scheme can purchase sovereign annuities at any time notwithstanding anything contained in the rules of the scheme. However, sovereign annuities can only be purchased by trustees:

- (a) to provide sums payable to a scheme in respect of a person who is receiving benefits under the scheme or has reached normal pensionable age, or
- (b) to discharge the liability of a scheme for some or all of the benefits payable in respect of a person who is receiving benefits under the scheme or has reached normal pensionable age.

Sovereign annuities cannot be used for any other scheme liabilities.

4. Who can issue sovereign annuities?

Only an insurance company within the meaning of the Insurance Act, 1989 can issue sovereign annuities.

5. What type of bonds can a sovereign annuity be referenced to?

Sovereign annuities can only be referenced to bonds issued by either Ireland and/or another Member State of the EU.

6. Must all payments under sovereign annuities be capable of reduction?

No. This is a matter of policy design for the insurer. 100% of the payments can be reduced or a lesser percentage. The percentage must be set out in the policy at the time it is issued. That percentage cannot be changed after the policy has been issued. Where the percentage is less than 100% the balance payable would not be capable of reduction and would be similar to a traditional annuity.

7. Can payments under a sovereign annuity be referenced to more than one bond?

Yes, a sovereign annuity can be referenced to either a single bond or more than one bond so long as each such bond is issued by Ireland and/or another Member State of the EU. Details of the specific bond(s) must be set out in the policy. Where there is more than one reference bond and an event of non-performance occurs in relation to one of the bonds, in any time period the percentage of the payments due under the sovereign annuity which can be reduced is a maximum of the percentage which applies to that time period for that bond as set out in the policy.

8. Must a specific basis be used to calculate reductions and restorations in payments under the policy?

The standard wording in the sovereign annuity appendix (see question 29) prepared by the Authority assumes that the specimen policy submitted to the Authority for certification will operate on the cashflow basis. If an insurance company wishes to apply for certification of a specimen policy which operates on a basis other than the cashflow basis, they should, in the first instance, contact the Authority. These FAQs assume the cashflow basis is being used.

Cashflow basis

9. What is the cashflow basis?

This is the basis of reducing payments under a sovereign annuity where a payment due under a reference bond has not been received in full by its due date and the reduction will only reflect the payment not so received (and, in particular, not any anticipated failure to receive future payments).

10. How does the cashflow basis work?

The policy will set out the bond(s) to which the policy is referenced. These are called original reference securities in the sovereign annuity appendix. Each payment due under an original reference security is known as an expected payment. If an expected payment is not received in full by its due date (allowing for any grace period), there is an event of non-performance (see questions 14 and 15) and payments under the policy can be reduced to reflect that event of non-performance.

Any payment received that is not an expected payment (and it does not matter if that payment is received during the life of the original reference security or after its maturity date e.g., through a replacement security) is an event of recovery (see question 21) and there must be a restoration of payments under the policy to reflect that payment.

11. Can new reference bonds be substituted for existing reference bonds during the term of the policy?

No. A reference bond set out in the policy, an original reference security (see question 10 above), cannot be changed. It is the anchor both in terms of whether expected payments are received and in determining the period during which reductions can occur due to an event of non-performance. That will be the case even if in reality that bond ceases to exist, for example as part of a restructuring following an event of non-performance.

12. What happens after maturity of the only or last reference bond?

Once the only or, if there is more than one, last reference bond set out in the policy has matured, payments under the policy cannot thereafter be reduced except in limited circumstances. Those limited circumstances are, where so provided in the policy and only for a maximum period of 15 months after the maturity date, to the extent necessary to reflect:

- (a) payments made under the policy in anticipation of an expected payment which is not subsequently received or received in full, or
- (b) to allow for the period after an event of non-performance during which no reduction is permitted (see question 19).

It should be clear in the policy whether this extension of up to 15 months applies.

13. Will the specimen policy contain information on the reference bonds and percentage reduction which can be applied and other information relating to individual policies?

No. Information on reference bonds and the percentage of payments capable of being reduced will be included in the individual policies but not in the specimen policy. The following matters can vary between individual policies issued under a specimen policy and therefore will not be set out in the specimen policy:

- (a) The bond(s) which the sovereign annuity is referenced to.
- (b) The percentage of the payments under the sovereign annuity which can be reduced due to an event of non-performance in any given time period.
- (c) Where there is more than one reference bond, the percentage reduction which relates to each bond for each time period.

Consequently, Part 2 of the sovereign annuity appendix in the specimen policy only provides a template for this information, and the specific information will be set out in individual policies. The Authority will not have sight of individual policies.

Event of non-performance/reduction in payments

14. What is an event of non-performance?

This is an event where the payments due under a reference bond (known as expected payments) are not paid, or are not paid in full, by their due date (after any grace period allowed for under the terms of that bond).

15. What is not an event of non-performance?

Only the event outlined in the response to question 14 is an event of non-performance.

An event such as:

- (a) the issuer of the bond declaring an intention not to make payments due under a bond,
- (b) maturity of the bond,
- (c) early redemption of the bond in accordance with its terms, or
- (d) any anticipated failure by the issuer of the bond to make payments due under a bond

does not amount to an event of non-performance.

16. How is the reduction in payments calculated following an event of non-performance?

The reduction in payments under the policy for any time period can only be such amount as is necessary to reflect the payment not received (subject always to a maximum of the percentage of payments set out in the policy and capable of reduction for that time period in relation to that reference bond).

17. What other requirements are there when an insurer is determining the reduction to be applied following an event of non-performance?

The insurer must:

- (a) take and have due regard to actuarial advice,

- (b) have due regard to the policyholder's reasonable expectations (such expectations to be consistent with the nature of the policy),
- (c) take no account of any charges, expenses or indirect costs incurred by the insurer arising out of the event of non-performance, and
- (d) comply with any guidance issued by the Authority.

18. Can a reduction, suspension or cessation in payments occur in any other circumstances?

Where so provided in the policy, payments can cease or be suspended where the annuitant dies or fails to provide satisfactory evidence of survival. Payments can also be reduced, where so provided in the policy, to take account of any change in the tax treatment of the policy or the insurer. However, in such circumstances, the reduction must be calculated in a manner consistent with how the reduction under all policies of the insurer affected by the change in tax treatment is calculated.

19. What are the time limits and notification obligations where there is an event of non-performance?

On an insurer becoming aware of an event of non-performance which may lead to a reduction in payments under a sovereign annuity:

- (a) the insurer must notify the Authority in writing, no later than 14 days before the notice referred to in (b) below, of the occurrence of the event and provide the Authority with the information specified in the undertakings given to the Authority,
- (b) the insurer must, within one month of becoming so aware, notify the trustees (if the sovereign annuity is purchased in the name of a scheme) or the policyholder (where it is purchased in the member's name) in writing of the event and explain, in a clear and comprehensible manner, what impact the event may have on payments under the sovereign annuity (but this notice does not need to include the amount of any reduction),
- (c) the insurer cannot make a reduction until at least three months have elapsed after the notice referred to in (b) above, and
- (d) not less than one month before payments under the sovereign annuity are reduced, the insurer must notify the trustees or the policyholder in writing of the amount by, and manner in, which payments under the policy will be reduced.

Where, following an initial event of non-performance, the insurer can reasonably anticipate that further events of non-performance will occur, the above obligations do not need to be complied with by the insurer so long as the notices referred to above have explained the impact of the anticipated further events of non-performance on payments under the sovereign annuity.

20. What are the time limits and notification obligations where there are recurring events of non-performance?

Where:

- (a) an event of non-performance has occurred, and the insurer reasonably anticipates that further events of non-performance will occur,
- (b) the insurer has complied with the obligations referred to in question 19, and
- (c) the notices referred to in question 19 in relation to the initial event of non-performance explain the impact which anticipated further events of non-performance will have on future payments under the policy

then for so long as the notices referred to in paragraph (c) continue to be accurate and complete, the requirements set out in question 19 do not need to be complied with.

Event of recovery/restoration in payments

21. What is an event of recovery?

An event of recovery is where, following an event of non-performance, any payment is received other than an expected payment. It does not matter if the payment is received before or after the maturity date of the reference bond.

22. Does the insurer have discretion as to whether to increase payments where an event of recovery occurs?

No. Once a reduction has been made following an event of non-performance, the insurer must restore payments to take full account of a subsequent event of recovery.

23. How must the restoration be calculated and applied?

The restoration must be calculated and applied in the same manner as the reduction was calculated and applied following the event of non-performance.

24. What are the time limits and notification obligations where there is an event of recovery?

The insurer must:

- (a) notify the Authority in writing, no later than 14 days before the notice in (b) below, of the occurrence of the event and provide the Authority with the information specified in the undertakings given to the Authority,
- (b) within one month of becoming aware of the event of recovery, notify the trustees (if the sovereign annuity is purchased in the name of the scheme) or the policyholder (where it is purchased in the member's name) in writing of the event and explain, clearly and comprehensively, what impact it may have on payments under the policy, and
- (c) within three months of the event, make the restoration and notify the trustees or the policyholder in writing of the amount by, and manner in, which payments have been restored.

25. What are the time limits and notification obligations where there are recurring events of recovery?

Where:

- (a) an event of recovery has occurred, and the insurer reasonably anticipates that further events of recovery will occur, and
- (b) the insurer has complied with the obligations referred to in question 24, and
- (c) the notices referred to in question 24 in relation to the initial event of recovery explain the impact which anticipated further events of recovery will have on future payments under the policy

then for so long as the notices referred to in paragraph (c) continue to be accurate and complete, the requirements set out in question 24 do not need to be complied with.

Application/certification process

26. How does an insurer apply to the Pensions Authority for certification of a specimen policy?

- (a) The insurer must complete the application form (which is only suitable where the cashflow basis is to be used) which is available [here](#) and which must be signed by two directors of the insurer.
- (b) The specimen policy for which certification is sought must be appended to the application form.
- (c) The insurer must also provide evidence that it is an undertaking within the meaning of the Insurance Act, 1989. This should take the form of a copy of the insurer's letter of authorisation from the Central Bank of Ireland and it must also be appended to the application form.

The original completed and signed application form and the documents outlined at paragraphs (b) and (c) must be scanned and emailed in PDF format to the Authority at sovereignannuities@pensionsauthority.ie. In addition, the original completed and signed application form and appendices in hard copy must be sent (posted or delivered) to The Pensions Authority, Verschoyle House, 28/30 Lower Mount Street, Dublin 2 D02 KX27.

The insurer must also provide such additional information and documentation as the Authority may require from time to time. To avoid unnecessary delays, it is recommended that insurers applying for certification provide worked examples of how the policy will operate if an event of non-performance, and subsequent events of recovery, occur.

27. What happens if false or misleading statements or information is provided under the application or if any of the undertakings given by the insurer are breached?

- (a) The directors who sign the application form may be subject to prosecution if it contains false or misleading statements or false or misleading information is provided.
- (b) If any of the undertakings by the insurer in the application form are breached (and the insurer is under an obligation to notify the Authority within seven days of any such breach), legal action due to that non-compliance may be taken.

(c) Certification by the Authority of the specimen policy may be withdrawn.

28. Does the Pensions Authority certify individual policies?

No. The Authority certifies a form of specimen policy only. All individual policies issued by the insurer must be in the form of the specimen policy.

29. What must the specimen policy contain?

The Authority has prepared standard wording which all sovereign annuities must contain. This takes the form of an operative clause and appendix (called the sovereign annuity appendix). All specimen policies submitted for certification must contain these provisions. In addition, the application form requires the insurer to:

- (a) identify where the operative clause and sovereign annuity appendix can be found in the specimen policy;
- (b) highlight in the specimen policy any provision of the specimen policy that may conflict with the operative clause and sovereign annuity appendix. Any such provision must contain a clear statement that such provision is overridden to the extent of any conflict with the operative clause/sovereign annuity appendix.

30. Can the specimen policy be amended after it has been certified?

In the normal course of events, the Authority does not envisage a specimen policy being amended after it has been certified. The Authority would expect an insurer, if it wishes to amend the specimen policy, to apply to have a new specimen policy certified. The only amendment which the Authority will normally consider to a specimen policy is where, due to unforeseen circumstances after the specimen policy is certified, it proves necessary to agree an amendment with the insurer to the sovereign annuity appendix contained in the specimen policy.

31. Can the sovereign annuity appendix under an individual policy be amended after a policy has been issued?

It can only be amended where so required by law or where the Authority, in its absolute discretion, so agrees in writing with the insurer to reflect an amendment to the specimen policy (as outlined in question 30).

32. Can an application form cover more than one specimen policy?

No. A separate application must be made for each specimen policy for which

certification is sought.

33. How will an insurer know that an application for certification has been accepted?

The Authority will notify the insurer in writing quoting the registration number of the specimen policy. That number must be quoted on each individual policy issued under the specimen policy and in all correspondence with the Authority in relation to the specimen policy.

34. How long does the certification process take?

This depends on whether the Authority has any queries or questions on the application. In general, the time taken will depend on the specific features of the application. However, the Authority expects that the certification process will normally take no longer than four weeks if the Authority has no material queries or questions. This could be considerably longer if a basis other than the cashflow basis is proposed.

35. Can a specimen policy cease to be certified for the purposes of section 53B of the Pensions Act?

It is open to an insurer at any time to request the Authority to withdraw certification of a specimen policy. The Authority may also withdraw its certification of a specimen policy by notice in writing to the insurer. If certification is withdrawn, no further individual policies can be issued under it. However, policies issued prior to the withdrawal of certification are unaffected by that withdrawal.

36. Are there any other circumstances in which an insurer must cease to issue policies?

An insurer must cease to issue individual policies if it ceases to be an undertaking within the meaning of the Insurance Act, 1989.

37. Is there a register of specimen policies certified by the Pensions Authority?

Yes, the Authority maintains a publicly available register of all specimen policies which it has certified and is available [here](#).

Insurer's reporting obligations to the Pensions Authority

38. Must an insurer notify the Pensions Authority of an event of non-performance/event of recovery?

Yes. Within one month of the insurer becoming aware of an event of non-performance or an event of recovery in relation to individual policies issued under a specimen policy certified by the Authority (but in any event no later than 14 days before policyholders are notified), the insurer must notify the Authority in writing of the occurrence of the event quoting the registration number of the specimen policy.

That notification must also include a general description of the event, the number of individual policies issued pursuant to the specimen policy affected by the event, the aggregate amount of the annual pension payable under those policies capable of being reduced or restored due to that event, information on the options which the insurer is considering in respect of a reduction or restoration and such other information or documentation as the Authority may specify from time to time. The Authority may vary these requirements where there are recurring events of non-performance or recurring events of recovery (see questions 20 and 25).

39. Must an insurer provide other information to the Pensions Authority in relation to a specimen policy which has been certified by the Pensions Authority?

Yes, the insurer must on an annual basis provide a report containing the following information:

- (a) the registration number of the specimen policy,
- (b) the number of individual policies issued pursuant to the specimen policy since the later of the date the specimen policy was certified and the effective date of the last report (if any),
- (c) the aggregate value of the annual pension payable under those policies and the maximum amount of that aggregate value which is capable of being reduced due to an event of non-performance,
- (d) such other information or documentation as the Authority may specify from time to time.

The effective date of the first report will be 1 January immediately following certification of the specimen policy. The effective date of each subsequent annual report shall be each 1 January thereafter. Annual reports must be submitted to the Authority within 28 days of 1 January to which they relate.

40. Must any other information be provided to the Pensions Authority?

- (a) The insurer must notify the Authority immediately if it ceases to be an undertaking within the meaning of the Insurance Act, 1989.
- (b) The insurer must also notify the Authority if any of the details set out in Part A of the application form change and this notification must be made within 21 days of the change occurring.
- (c) If any of the agreements, confirmations and undertakings made or given by the insurer under Part B of the application form are breached, the insurer must notify the Authority within seven days of becoming aware of that breach.
- (d) The insurer must also promptly provide the Authority with such other information and documentation in relation to the specimen policy and any individual policies issued under it as the Authority may request from time to time.

Insurer's treatment of policyholders

41. Must an insurer provide a copy of the policy to the policyholder?

Yes, the insurer must provide a copy of the policy to the policyholder within ten business days of the date of issue of the policy. The policyholder will be the trustees where the payments under the policy are to the scheme and will be the individual scheme member where the scheme is discharging its liability in respect of that member.

42. Are there any obligations on an insurer in terms of its dealings with policyholders over and above existing legal/regulatory requirements?

The regulatory disclosure statement, terms of business disclosures and errors and complaints resolution requirements of the Central Bank's Consumer Protection Code must be applied to the insurer's dealings with the policyholder even if that Code may not otherwise apply to the policyholder. However, this does not require any cooling-off period to be applied where the trustees purchase a policy in the name of a member if that is not a legal/regulatory requirement.

43. What is the Risk Disclosure Statement?

Part 3 of the sovereign annuity appendix contains a plain English statement of the risk of reduction associated with sovereign annuities. This statement must be brought to the obvious attention of the policyholder when the policyholder is being provided with the policy.

44. What happens if a policyholder has any questions or complaints?

The policy, either in the sovereign annuity appendix or elsewhere, must contain information on who a policyholder should contact in the event of any queries or complaints in relation to the policy or its administration/operation. In particular, it must provide the title/position of the point of contact for complaints and details of any procedure for complaints up to the point at which the complaint cannot be progressed further by the insurer. The policy will also notify the policyholder of their right to make a complaint to the Financial Services and Pensions Ombudsman and contain the contact details of the Ombudsman.