

Unapproved top-up policies were used to provide additional lump sum or dependants' pension in respect of an employee's earnings in excess of the statutory earnings cap. Following A Day the need to establish new Unapproved policies, and continue some existing Unapproved policies, generally ceased.

**WARNING: The information contained in this document is based upon Unum's current interpretation of the underlying legislation which may change. We do not accept any responsibility for any loss which may arise based upon reliance on the information enclosed.**

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## 1. Background

Lump sum Unapproved policies could either be in the form of Unapproved "Excepted" Group Life policies, that meet the criteria set out in Finance Act 2003, or Unapproved "Non-excepted" policies. Unapproved policies that provided Dependants' pension were always Non-excepted as the statutory criteria for Unapproved "Excepted" Group Life policies prevent them from providing a pension.

We believe most customers will, from A Day, choose to provide the old unapproved benefits within the tax privileged Registered scheme. This is now possible as:

- The statutory earnings cap is removed, and
- A Registered scheme is not limited in the amount of benefit it may provide, although tax-free lump sum payments are limited to the Lifetime Allowance (LTA).

However, some customers may wish to provide some lump sum benefits under a Non-registered scheme.

In most cases, this will be to avoid the Lifetime Allowance Charge (LTC) of 55% on the excess over the LTA on the payment of a lump sum benefit above the LTA from a Registered scheme.

This note provides information for advisers to assist in their consideration of how their clients may:

- Transfer Unapproved benefits into the Registered scheme, and
- Select the most appropriate policy option for providing lump sum benefits in a Non-registered scheme.

We have provided a transition grid to assist in this process. This grid has been created based on the assumption that there is no change in the overall benefit provision.

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### 2. Transfer of Unapproved benefits into the Registered Scheme

There are two options which are shown in further detail in the transition grid on pages 5 and 6. They should have been effected on A Day or at the very latest before any further premium was payable to the Unapproved policy. Failure to act means an Inheritance Tax liability may be generated if a death occurs.

#### Option 1

##### › Assignment of the current Unapproved policy.

We have developed a simple approach that avoids having to restructure existing policies and does not trigger a rate re-test. This involves the assignment of the current Unapproved policy from the trustees of the Unapproved scheme to the trustees of the Registered scheme.

All of the benefits provided by the Unapproved policy must be assigned in total to the Registered scheme. For some members this may result in a LTA charge on their death if at that time the lump sum benefit payable from the Registered scheme takes their crystallised benefits over the LTA.

To facilitate this assignment we provide the following generic documents:

1. Deed of assignment between the trustees of the current Unapproved scheme and the trustees of the Registered scheme.
2. Rule amendment to remove the statutory earnings cap and provide benefits on full salary.

A two stage process is involved:

**Stage 1:** The current Unapproved top-up is assigned by the policyholder to the trustees of the Registered scheme thereby moving the status of the policy from Unapproved to Registered. All other terms and conditions of the policy are retained until the expiry of the existing policy guarantee. The premium for the policy will be unaffected, including any additional premium payable in respect of members not accepted on normal rates.

**Stage 2:** At the next review date the Unapproved policy will terminate and the benefits **transferred on "no worse terms"** to the main Registered policy.

#### Option 2

##### › Terminate an Unapproved policy and insure an equal amount under a Registered policy.

Employers may terminate a current Unapproved policy and insure an equivalent amount under a Registered policy. The lump sum payable under the Registered scheme will result in a LTA change if it takes their crystallised benefits over the LTA. **This will require a rate retest.**

### 3. Policy options for providing lump sum benefit in a Non-registered Scheme

#### Option 3 - See transition grid on pages 5 and 6

##### › Employer Financed Retirement Benefit Scheme (EFRBS):

Unless a Non-registered policy meets all the criteria for a "Relevant Life Policy" it will become an EFRBS. The tax treatment of EFRBS (see 'Tax Table' on page 4) means they are unlikely to be popular.

In order not to be an EFRBS, life cover schemes that are not registered will need to provide only "excluded benefits" within the meaning of section 393B(3) of the Income Tax (Earnings and Pensions) Act 2003. Excluded benefits include, amongst other things, benefits under a "Relevant Life Policy" as defined in section 393B(4).

A Relevant Life Policy, in turn, covers an Unapproved "Excepted" Group Life policy, and an individual life policy which fulfils all the criteria for an Unapproved "Excepted" Group Life policy, with two exceptions which are naturally inapplicable to a single life policy.

In order for a Non-registered life cover scheme not to be an EFRBS, any policies it holds under which benefits are provided must be Relevant Life Policies.

➤ **“Excepted” Group Life policy:** Originally introduced by the Finance Act 2003, this policy is now defined in section 480 of Income Tax (Trading and Other Income ) Act 2005. The lump sum benefit provided by this policy does not count towards a member's LTA. This policy has to meet the following criteria:

- (i) There must be a minimum of two members at inception.
- (ii) The policy must provide a capital sum payable on death before age 75. The policy may contain exclusions which apply to all insured individuals e.g. suicide exclusion.
- (iii) The same method for calculation of the capital sum and any limitations e.g. stated fixed benefit or multiple of earnings, must be applied to all lives insured.
- (iv) The policy must not provide a surrender value other than a refund of “unused” premiums.
- (v) Only the benefits set out above may be provided by the policy.
- (vi) Benefits payable under the policy must be paid to either an individual entitled to them (or a charity), or a trustee for payment to individuals.
- (vii) No person whose life is insured under the policy may receive any death benefit in respect of another group member.
- (viii) The policy must not be taken out with the main purpose of avoiding payment of tax.

➤ **Single member Supplementary Relevant Life policy:** These policies must fulfil the same criteria as an “Excepted” Group Life policy, as set out above, with the exception of (i) and (iii) which are naturally inapplicable to a single member policy. The lump sum benefit provided by this policy does not count towards a member's LTA.

## 4. Transition of Unapproved policies to Non-registered policies

Many Unapproved policies will meet the criteria for either an “Excepted” Group Life or a single member Supplementary Relevant Life policy.

The following Unapproved policies will have automatically become EFRBS:

- Lump sum policies that cover more than one member with different methods of benefit calculation.
- Dependants' pension policies, as Relevant Life policies must only provide lump sum benefits.

Customers will need to take action to avoid the policies above from being EFRBS.

The options for lump sum benefits would be to move the benefit into the Registered policy with the potential to incur a LTA charge on death or effect a Supplementary Relevant Life policy for each Unapproved policy member.

The benefits provided under an Unapproved Dependants' pension policies should be assigned to a Registered scheme.

**Whatever action you wish to take, we will require a letter of instruction to evidence the change from Unapproved status.**

## 5. Transfer of benefit from an Unapproved top-up policy currently insured with another provider

There are a number of cases where Unum currently insures the Registered scheme benefits and another provider insures associated Unapproved benefits. Where a customer wishes Unum to consider offering terms to include the Unapproved benefits, a formal policy review will be required.

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## 6. Tax table

The following table summarises the tax position for both Registered and Non-registered policies.

	<b>Registered Group Life</b>	<b>Registered Group Dependants' Pensions</b>	<b>Employer Financed Retirement Benefit Scheme (EFRBS)</b>	<b>"Excepted" Group Life &amp; Supplementary Relevant Life policy</b>
<b>Premiums</b>	Employer pays the premium and claims as a business expense (v).  Not a Benefit-in-Kind (P11D).	Employer pays the premium and claims as a business expense (v).  Not a Benefit-in-Kind (P11D).	The employer does not get tax relief on premiums paid until benefits are paid.  Not a Benefit-in-Kind (P11D).	No specific provision for employer premium being treated as a business expense. Local inspector considers under "wholly and exclusively" provisions. Not a Benefit-in-Kind (P11D).
<b>Benefit</b>	Lump sum with no limit.  Tax-free upto LTA/PLTA (i), (ii) & (iii).  Excess of LTA/PLTA is taxed at 55% (iv).	Pension with no limit.  All pension taxed as earned income.	May provide lump sum or pension benefits.  There will be a tax charge at the recipient's marginal rate of income tax for both lump sum and pension benefits.	Not a pension scheme so unaffected by A Day. Lump sum benefit only. Does not count towards LTA (i). Lump sum free of income tax, potential IHT liability on trust (vi).

**Notes:**

- I. Lifetime Allowance (LTA) set at £1.6m (for the 2007/8 tax year) and increases annually.
- II. Some pre 06/04/2006 members may have primary transitional protection and have their own (higher) Personal Lifetime Allowance (PLTA).
- III. Lump sums from all Registered schemes count against the LTA/PLTA. Retirement benefits already received will have used part (or all) of the LTA/PLTA.
- IV. The LTA tax charge falls solely on the recipients of the lump sum death benefits. The personal representatives of the member are responsible for ascertaining any charge.
- V. Employer premiums to Defined Benefit Group Life policies do not count towards the Annual Allowance.
- VI. Where the only assets held on trust for the member(s) are life policies, the chances of a charge to IHT actually being triggered are relatively small. On an exit (i.e. death) within 10 years of the policy being taken out, the applicable rate for IHT would be calculated based on the initial value of the policy (nil or close to it) and the value of any added property (premiums paid). Provided this total, when combined with any other chargeable transfers, did not exceed the IHT nil-rate threshold, then the IHT nil-rate band will apply. If death occurs over 10 years after the policy is taken out, the IHT rate will be based on the surrender value of the policy at the most recent 10-year anniversary of the policy (again this will be nil or close to it), assuming no other chargeable transfers have been made.

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7. Transition grid for Unum  
Unapproved Policies at A Day

This transition grid applies to lump sum policies only.

It is assumed that there is no change to the pre A Day benefit structure – if there is a change, then a policy review will be required.

Approved Group Life (GL) plus Unapproved Group Life (Unapproved GL) Highest total lump sum benefit is <b>LESS THAN</b> the LTA			
Scenario	Option 1	Option 2	Option 3
<b>One life in Unapproved GL policy.</b>	<ul style="list-style-type: none"> <li>Assign Unapproved GL policy to the Registered Scheme.</li> <li>At next Review – Terminate the Unapproved GL policy and cost full benefits in the Registered GL policy.</li> </ul>	<ul style="list-style-type: none"> <li>Terminate the Unapproved GL policy. Review and cost full benefits in the Registered GL policy.</li> </ul>	<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an individual Relevant Life Policy.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>Two or more lives in Unapproved GL policy - All on same benefit basis.</b>			<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an 'Excepted' GL policy.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>Two or more lives in Unapproved GL policy - More than one benefit basis.</b>			<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an EFRBS. Cannot be treated as a Relevant Life policy due to variable benefit structure.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>GL benefits subject to Earnings Cap and Unapproved Group Life insured by another provider.</b>		<ul style="list-style-type: none"> <li>Review and cost all benefits in the Registered GL policy.</li> </ul>	<p><b>Key</b></p> <ul style="list-style-type: none"> <li><span style="color: green;">■</span> No policy review required</li> <li><span style="color: orange;">■</span> Policy review required – immediately</li> </ul>

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Approved Group Life (GL) plus Unapproved Group Life (Unapproved GL) Highest total lump sum benefit is <b>GREATER THAN</b> the LTA			
Scenario	Option 1	Option 2	Option 3
<b>One life in Unapproved GL policy.</b>	<ul style="list-style-type: none"> <li>Assign Unapproved GL policy to the Registered Scheme.</li> <li>At next Review – Terminate the Unapproved GL policy and cost full benefits in the Registered GL policy.</li> </ul> <p><b>NB – 55% LTA tax charge on lump sum benefit over the LTA/PLTA.</b></p>	<ul style="list-style-type: none"> <li>Terminate Unapproved GL policy and either:               <ol style="list-style-type: none"> <li>Review and cost Registered GL policy up to the LTA and set up Supplementary Relevant Life policies for benefits over LTA, (or %LTA), or</li> <li>Review and cost full benefits in the Registered GL policy.</li> </ol> </li> </ul> <p><b>NB – 55% LTA tax charge on lump sum benefit over the LTA/PLTA.</b></p>	<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an individual Relevant Life Policy.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>Two or more lives in Unapproved GL policy - All on same benefit basis.</b>			<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an 'Excepted' GL policy.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>Two or more lives in Unapproved GL policy - More than one benefit basis.</b>			<ul style="list-style-type: none"> <li>Leave Unapproved GL policy as it is.</li> <li>From A Day policy is treated by HMRC as an EFRBS. Cannot be treated as a Relevant Life policy due to variable benefit structure.</li> <li>Carry this structure forward through reviews until change requested.</li> </ul>
<b>GL benefits subject to Earnings Cap and Unapproved Group Life insured by another provider.</b>		<p>There are two possibilities:</p> <ol style="list-style-type: none"> <li>Cost Registered Group Life policy up to the LTA and set up Supplementary Relevant Life policies for benefits over LTA, (or %LTA), or</li> <li>Review and cost full benefits in the Registered GL policy</li> </ol> <p><b>NB – 55% LTA tax charge on lump sum benefit over the LTA/PLTA.</b></p>	<p><b>Key</b></p> <ul style="list-style-type: none"> <li><span style="color: green;">■</span> No policy review required</li> <li><span style="color: red;">■</span> Policy review required – immediately</li> </ul>

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#### 8. What do you need to do?

Please use the Unum contact and support available. You should read "The impact of Pensions Simplification on Approved Group Life and Dependants' Pension policies" (UP1087), to find out about the impact on Approved policies. This document is available on our website. Follow the instructions detailed for Approved policies, and the steps below for Unapproved policies.

- Step 1 - Contact your clients.** To discuss the alternatives available.
- Step 2 - If you have decided upon the assignment approach, Option 1.** You must confirm to us that this is the action you wish to take. You can find the revised documentation you need on our web site.
- Step 3 - For Option 2 a policy review will be required.** Use the information above to confirm that this is the action you wish to take. Our Financial Underwriting department will then be dealing with your query.
- Step 4 - For Option 3 a letter of instruction is required.** This is needed to confirm and evidence the change from an Unapproved status to a new Non-registered status.
- Step 5 - If you require a completely new scheme design.** You can discuss your options with our Sales Consultants located in our Regional Sales Offices. Once you have an agreed scheme design you should then submit a quotation request to your Regional Sales Office using the e-mail information detailed overleaf. We will treat this quote as though it is new business.

#### 9. Unum contact and support

##### Unum web site

You can access more information regarding Pensions Simplification on the Adviser section of our web site at [www.unum.co.uk](http://www.unum.co.uk).

##### Unum Sales Consultants

Your usual Unum Sales Consultant can discuss with you any changes to scheme design you wish to make. We have almost 40 consultants in the UK who can talk to you about the impact of Pensions Simplification or any of your other requirements regarding Group Risk. Full details of our Regional Sales Offices are shown overleaf.

## Regional Sales Offices

### South of England

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