FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

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About Insurance

Licensed Representatives Listings

Enforcement Actions

Publications & Resources

Charitable or Gift Annuities

Bulletin

No. G-05/92

- General

[bulletinToTheAttentionOf]

We have received several inquiries concerning our position on charitable (or gift) annuities. This bulletin is directed toward organizations that may be considering these annuities and to licensed insurers.

Annuities are generally understood to be a series of periodic payments - fixed or determinable in amount (annuity payments) - that, to a recipient (annuitant) for a fixed period or for life in exchange for a premium paid by the annuitant or some other person. The premium can be paid in a lump sum or in instalments before the annuity payment begin.

There is not a uniform definition of a charitable annuity. Basically, these arrangements involve an individual (donor) desiring to make a donation to a charity and at the same time provide for annuity payments to the donor or another person. The charitable donation comes from the annuitant receiving a reduced income stream or leaving a residual amount of the principal to the charity. There may also be income tax benefits to the donor or annuitant depending on the form of such an arrangement.

The Insurance Act does not provide an explicit definition of an annuity. However, certain types of activities relating to the provision of annuities are considered life insurance and organizations engaged in those activities are required to be licensed under the act. While it may also be possible for financial institutions other than insurers to issue products with characteristics similar to annuities, it is our opinion that in the absence of legislative authority to permit an organization to issue annuities, annuities are subject to regulation under the *Insurance Act.*

Contravention of the Insurance Act can result in penalties.

The provisions of the Insurance Act address three fundamental policy questions concerning annuities.

1. Are the funds properly managed so they will continue to make payments to the annuitant even if the charity folds or has claims against it?
2. Is expertise available to administer the annuity so annuitants receive the funds to which they are entitled?
3. Are purchasers of insurance products given good advice?

In arranging a program of charitable annuities, a charitable institution should ensure that its role and that of any insurance company is clearly defined. Annuitants may be relying on their annuities for their retirement security and should receive advice from qualified and licensed agents. While the charitable institution can promote the idea to potential donors, it must not act as an agent soliciting annuity business.

The charitable annuity plans that have been discussed with us seem to be designed with these principles in mind. However, depending on how it is structured, a charitable annuity could be in contravention of the Insurance Act. Any charitable annuity should be designed in accordance with the principles set out in this bulletin.

If you have any questions please contact Grant Swanson, Director, Corporate Licensing and Project Analysis at 416 590-7120.

Donald C. Scott
Commissioner