momentum

Reviewed June 2020	**Living Annuity**	**Conventional Life Annuity**
Legislation	Governed by the Income Tax Act, the Long Term Insurance Act and section 37A and B of the Pension Funds Act, various Practice Notes and Directives	
Description	It is a compulsory purchase annuity offered by insurers and retirement funds, under which the income (or annuity amount) is not guaranteed but is dependent on the performance of the underlying investments. It allows the client to select an income level that ranges between a pre-defined minimum and maximum level.	It is a compulsory annuity policy offered by insurers and retirement funds in respect of which an income is payable for the duration of the annuitant's lifetime or one or more dependants or nominees after the death of the annuitant.
Which funds can be invested?	Compulsory funds originating from a retirement fund where the member formally retires from that fund. Nominated beneficiaries on a living annuity upon the death of the annuitant. The retirement fund's rules must allow for a transfer to a living annuity. If the fund rules do not provide for this transfer, the living annuity cannot be used.	Compulsory funds originating from a retirement fund where the member formally retires from that fund. The retirement fund rules must allow for a transfer to a life annuity. If the fund rules do not provide for this transfer, the life annuity cannot be used.
Multiple fund sources?	Yes, more than one retirement fund's retirement benefit can be transferred into the same living annuity. Rules regarding anniversary dates and income escalations must be noted (see Living Annuity ASAP for details).	Yes, the life annuity can facilitate more than one fund source as long as all the funds are added at inception. No additional fund sources can be added after the inception date.
Income rate payable	The rate is prescribed by legislation and published in the Government Gazette. Current income rates may vary between 2.5% and 17.5% per annum of the investment value.	The income rate is determined by the insurer based on bond yields, guarantees selected, the age and life expectancy of the annuitant at inception and it is fixed for the duration of the life annuity. The income will be paid in terms of the contractual obligation, irrespective of market conditions and its impact on the underlying capital investment.

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Income escalation	Changes to the income rate can be made on the annual anniversary of the living annuity. Adjustments can be made within the prescribed income rate limits. If the income rate exceeds the investment return, it can deplete the capital which can result in reduction of income.	Income escalations will be determined and set at inception of the life annuity and is fixed for the term of the life annuity.
Income tax on income	The income is fully taxable. Pay as you earn (PAYE) will be deducted from the income by the administrator. If an annuitant had disallowed contributions to retirement funds during his lifetime, the section 10C exemption could result in some or all of the income being exempt from income tax during any given year of assessment (Please consult the ASAP on section 10C for more information).	
Guarantees	No guarantees apply in respect of investment return and the underlying capital is not guaranteed.	The income rate is guaranteed for the duration of the life annuity. The annuitant can select a guaranteed term at inception that results in the income being payable for at least that number of years, irrespective of whether the annuitant dies during that time. If the annuitant dies within the guaranteed term, the income will continue to the beneficiary for the duration of the guaranteed term. No commutation is possible. In some instances, the annuitant can also select a spousal guarantee resulting in the income being guaranteed for the lifetime of the annuitant and their spouse. The guarantees will impact the initial income rate provided and the more extensive the guarantee, the lower the initial income rate.

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Investment risk	The investor bears the investment risk and the risk associated with their life expectancy. If the underlying funds perform well, the annuitant will enjoy the benefits of the capital appreciation and the positive impact on the income. If the funds perform poorly, the financial losses will have a direct impact on the annuitant and the underlying capital can depreciate which in turn will reduce the income.	The administrator or insurer bears the investment risk as well as the risk associated with the life expectancy of the annuitant. The insurer is bound to the income rates and the contractual guarantees provided, irrespective of poor market conditions. The insurer or administrator also carries the mortality risk associated with the life expectancy of the annuitant
Investment decisions	The annuitant makes the investment decision and decides which underlying funds to invest in.	The insurer invests the underlying funds as per their investment principles and mandates. It has no impact on the annuitant's income.
Transferability	The living annuity can be transferred to another living annuity at another administrator or insurer subject to the agreements in place between those companies. It can also be transferred to a traditional life annuity.	The life annuity cannot be transferred.
Protection of benefits	As the funds originate from a retirement fund, it is protected in terms of section 37A and B of the Pension Funds Act. The funds are also not accessible by the annuitant or their creditors.	
Division upon divorce	The funds in the living annuity and life annuity cannot be divided amongst spouses due to divorce. The funds are not accessible by the annuitant during their lifetime (except for exception below). The income payable can be considered when negotiating the maintenance to be payable.	
Access to funds prior to death	If the fund value falls below R125 000, the annuitant can withdraw the fund value. The lump sum will be taxable in terms of the retirement fund tax table.	No access is possible.

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Access to funds upon emigration	No access is possible, except for the access prior to death as discussed above. Income can be remitted offshore.	No access is possible. Income can be remitted offshore.
What happens upon the death of the original annuitant?	The annuitant can nominate beneficiaries. If no beneficiaries are nominated, the fund value will be payable to the annuitant's estate as a lump sum. The lump sum will be taxed in the hands of the deceased annuitant in terms of the retirement tax table. The net amount is paid to the beneficiaries.	If there is no pre-selected guaranteed term or no second annuitant added at inception, the income will cease and any capital that remains will be the sole property of the insurer. If the annuitant selected a guaranteed term, the income will continue to be payable for the duration of that guaranteed term, if the annuitant dies prior to the expiry of that term. The annuitant can select a beneficiary for this income. If the annuitant dies after the guaranteed term has lapsed, no benefit is available and the income will cease and the capital will remain the property of the insurer, if any remains. The annuitant can also select a joint life option at inception, in which case the income will continue until the death of the last survivor of them.
What options do the beneficiaries have?	The beneficiaries can either transfer the funds to their own living annuity or they can take the cash as a lump sum, or a combination of the two. If the living annuity option is selected the income will be payable to the beneficiary and it will be subject to tax in the hands of the beneficiary. If a lump sum is selected the lump sum will be taxed in the hands of the deceased annuitant in terms of the retirement fund lump sum tax table.	If the guaranteed term is still available, the beneficiary will continue to receive the income. There is no other alternative.
Estate duty implications	As the funds originated from a retirement fund, it is not included in the dutiable estate of the annuitant and therefore not subject to estate duty. Any remaining disallowed contributions made to retirement funds during the lifetime of the annuitant will be included in the estate for estate duty purposes.	