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FCA takes steps to improve pension transfer advice

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Safeguarding pensions and retirement income have been high on the FCA's agenda for a while now. In the FCA Business Plan for 2018/19 it said:

"*We want to ensure that consumers are equipped to make good decisions to fund their retirement such as through appropriate advice or guidance, and can access good quality, value for money retirement products. We also want to ensure consumers know how to avoid pensions' scams and poor deals*"

The FCA has been particularly active in trying to tackle poor quality pension transfer advice as a risk to its consumer protection objective. We have seen significant supervisory and enforcement activity in the area in 2018. There have been high profile issues around transfers from some defined benefit ("DB") schemes such as the British Steel pension scheme.

On 4 October the FCA published a Policy Statement (PS18/20) on "*Improving the quality of pension transfer advice*". The PS takes forward a range of policy proposals on which the FCA had consulted in CP18/7 to address perceived failings in the pension transfer advice market.

What will the new rules change?

The new rules seek to improve the quality of pension transfer advice given by advisors, especially as consumers usually end up losing safeguarded benefits in a DB scheme on a transfer out to a defined contribution ("DC") scheme. They concern:

- Amending the pension transfer specialist ("PTS") qualification so that all PTSs must hold additional qualifications for providing advice in this area.
- Introducing guidance on how a PTS should work with another advisor in a two advisor model. The FCA has said that transfer advice must take account of both the proposed scheme and the proposed investments into which a transfer is being considered. Some firms have done this by having a PTS and an investment adviser work together to give advice.
- Guidance on the boundary between advice and providing generic information when offering "triage" services to prospective clients. Triage must not contain personalised advice based on the customer's circumstances but can only be made up of generic, balanced information on the negatives and positives of a pensions transfer.
- Guidance on assessing consumer's attitudes towards risk so as to include longevity and investment risks.
- Requiring suitability advice in writing even when the recommendation is that a transfer should not be made by a customer.
- Amending valuation assumptions previously in place regarding inflationary pension increases in a DB scheme.

When will the changes take place?

The FCA has published final rules and guidance that will be incorporated into the FCA Handbook. These will come into force variously between now and 6 April 2019. The changes with regard to PTS qualifications come into force on 1 October 2020.

Contingent charging

One of the most potentially significant issues flagged in CP18/7 was whether the FCA should tackle the common practice of advisers charging only those customers for whom the advice was to transfer their pensions. This contingent charging model has the obvious potential to create conflicts of interest. It also means customers who do transfer their pensions are effectively cross-subsidising the advice given to those who do not. On the other hand preventing contingent charging could jeopardize access to advice. The FCA acknowledged that this is a complex area and decided not to make any changes in PS18/20. It accepted that it currently does not have any clear evidence that contingent charging is a driver of poor outcomes for customers.

The FCA is undertaking more work in this area and will consult on any new proposals in the first half of 2019.

What are the practical implications?

The FCA believes the new rules should over time improve the pension transfer advice that people get. It also believes that an improvement in standards will facilitate access to professional indemnity insurance for IFAs who advise on pensions transfers. This has become an issue for firms since pension transfer advice began to give rise to significant volumes of complaints.

Some advisors will have to obtain additional qualifications by October 2020 if they want to continue to advise or check pension transfer advice. That may lead to some IFAs leaving the market. The tightening of the rules around the triage process in pension transfer advice has met with criticism by some advisors who said that it showed a lack of understanding between advice and guidance.

These latest rules changes should be seen in the context of an ongoing wider push by the FCA to improve financial advice in this area and drive less capable advisors to either improve or leave the market. We expect more FCA rulemaking, supervisory, and enforcement activity going forward.

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