Advising on the conversion or transfer of pension benefits - checklist

Does the advice relate to the merits of a member (or member's survivor) requiring the trustee / pension scheme manager to convert any safeguarded benefits, or make a transfer payment or out an uncrystallised funds pension lump sum (UFPLS) in respect of safeguarded benefits?

Yes

Is the person carrying out the activity in the UK?

Yes

Yes

No

No

No

Yes

No

Yes

Is an exclusion available?

Does the activity involve the giving of advice on subsisting rights under a pension scheme that provides safeguarded benefits?

Yes

Is the advice given to a pension scheme member or a survivor of a pension scheme member?

No

Yes

Is the person carrying out the activity by way of business?

No

Is the person an exempt person?

No

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| The person is carrying out the activity of advising on the conversion or transfer of  safeguarded pension benefits | The person is not carrying on, or is exempt from carrying on a conversion or  transfer of safeguarded benefits |

Glossary and Notes

Waivers: Subsisting rights means

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| The above checklist represents our interpretation of the rules and regulations | In relation to a member of a pension scheme, any right that has accrued to or  in respect of the member to future benefits under the scheme |
| Readers should make their own interpretations of rules and regulations | In relation to a survivor of a member, any right to future benefits or  entitlement to benefits |
| We are not responsible for any actions taken by readers as a result of the use of  this checklist |  |

Safeguarded benefits means

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| Benefits other than money purchase benefits and cash balance benefits. | **Examples of safeguarded benefits** |
|  | Defined benefit scheme benefits |
| Guaranteed annuity rates |
| Guaranteed annuities |
| Guaranteed minimum pensions (GMP) (See exception below) |

Examples of benefits that are not safeguarded Cash balance benefits mean

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| Protected tax free cash | Money purchase benefits usually from occupational schemes with guarantees  provided by the employer ensuring minimum levels of pension and / or growth |
| Guaranteed rate of investment growth |  |
| Guaranteed future value of a pension pot |
| Payment of TFC in respect of safeguarded benefits and taking a pension at the  same time |
| Taking an OMO rather than a GAR |

Position of employers Flexible benefits mean

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| Where employers / administrators, as *part of services to members* , provide advice on the merits of requiring a trustee or manager to convert, transfer or pay out safeguarded benefits, the FCA's view is that the employer *may* be advising. The situation is complicated however and readers are referred to the FCA  handbook at PERG10.5 for further guidance. | A money purchase benefit or |
|  | A cash balance benefit or |
| Any other benefit that is not a money purchase or cash balance benefit, that  is calculated by reference to the amount available for the provision of benefits to or in respect of the member |

When is a GAR not a safeguarded benefit? What is regulated

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| There is a currently a conflict between the FCA and DWP regarding policies with GARS held by trustees of OPSs where the scheme rules do not contain GAR provisions, with the former viewing them as safeguarded benefits and the latter,  not. | Transfers from trust (OPSs) to contract (PPs) based schemes |
|  | Transfers from trust (OPSs) to trust (OPSs) based schemes |

What is the stage of the advice process for needing the permission to carry on

'advising on pension transfers and opt outs'? Exclusions

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| It is at the point where the adviser / firm *agrees* to advise | Advice given in publications, news and information services if the principle  service does not either lead or enable people to |
|  | convert safeguarded to flexible rights |
| make a transfer to flexible benefits |
| pay a lump sum that amounts to a UFPLS |

Useful references:

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| DWP factsheet: Pension benefits with a guarantee and the advice requirement |
| Regulated Activities Order: Articles 53, 53E, 64 |
| FA Handbook PERG10.5 |