Advising on pension transfers – our expectations

This alert highlights our requirements when you provide advice on pension transfers, including advice in particular circumstances.

We are aware that some firms have been advising on pension transfers or switches without considering the assets in which their client's funds will be invested. We are concerned that consumers receiving this advice are at risk of transferring into unsuitable investments or – worse – being scammed.

Transferring pension benefits is usually irreversible. The merits or otherwise of the transfer may only become apparent years into the future. So it is particularly important that firms advising on pension transfers ensure that their clients understand fully the implications of a proposed transfer before deciding whether or not to proceed.

What we expect

We expect a firm advising on a pension transfer from a defined benefit (DB) scheme or other scheme with safeguarded benefits to consider the assets in which the client's funds will be invested as well as the specific receiving scheme. It is the responsibility of the firm advising on the transfer to take into account the characteristics of these assets.

Our rules set out what a firm must do in preparing and providing a transfer analysis. In particular, our rules (COBS 19.1.2R(1) [3]) require a comparison between the benefits likely (on reasonable assumptions) to be paid under a DB scheme or other scheme with safeguarded benefits and the benefits afforded by a personal pension scheme, stakeholder scheme or other pension scheme with flexible benefits.

The comparison should explain the rates of return that would have to be achieved to replicate the benefits being given up and should be illustrated on rates of return which take into account the likely expected returns of the assets in which the client's funds will be invested. Unless the advice has taken into account the likely expected returns of the assets, as well as the associated risks and all costs and charges that will be borne by the client, it is unlikely that the advice will meet our expectations (see guidance at COBS 19.1.2 and 19.1.6-19.1.8 [3]).

What this means for firms

A firm advising on a pension transfer should not undertake a comparison using generic assumptions for hypothetical receiving schemes. The firm must take into account the likely expected returns of the assets in which the client's funds will be invested as well as the specific receiving scheme.

Below are important considerations for firms providing pension transfer advice in specific circumstances.

Section 48 advice

Section 48 of the Pension Schemes Act 2015 requires that trustees or scheme managers check that advice has been taken before allowing a transfer to proceed, where the proposed transfer involves a DB pension or other safeguarded benefits worth more than £30,000. The advice must be provided by a firm with the FCA permission to advise on pension transfers. FCA rules apply to advice provided by FCA authorised firms and, in particular, we expect the firm to consider the assets in which their client's funds will be invested as well as the specific receiving scheme.

Recommendations based solely on critical yield

Our supervisory work has revealed that some firms have been recommending pension transfers based solely on whether or not the critical yield is below a certain rate set by the firm for assessing transfers generally. This does not meet our expectations. The critical yield is the rate of return that would have to be achieved in the defined contribution (DC) pension scheme to replicate the benefits of the DB benefit scheme. We would expect the firm to consider the likely expected returns of the assets in which the client's funds will be invested relative to the critical yield. The firm should also consider the personal circumstances of the client before making any personal recommendation, taking into account specific other factors as they apply to the client.

Permission and responsibility for the advice

Only firms with the FCA permission to advise on pension transfers may advise on pension transfers. It is not acceptable for a firm without the permission to outsource the transfer analysis to a pension transfer specialist or to a firm with the permission, and claim to be advising on the pension transfer.

A firm without the permission may refer a client needing pension transfer advice to a firm with the permission. However, it is not acceptable for that second firm to claim to be advising on the pension transfer without taking into account the assets in which the client's funds will be invested as well as the specific receiving scheme. Where both firms may be responsible for different elements of advice given to the client, firms are expected to liaise for consistency.

For a firm with the permission, our rules permit an individual who is not a pension transfer specialist to advise on pension transfers. However, the firm must ensure that the advice is checked by a pension transfer specialist. The firm advising on the transfer remains responsible for the advice, including the advice checked by the pension transfer specialist, even where the pension transfer specialist is not employed by the firm.

Insistent clients

An insistent client is a client who wishes to take a different course of action from the one you recommend and wants you to facilitate the transaction against your advice. Where clients are required to take advice (for example in relation to DB pensions and other safeguarded benefits) then some may decide to disregard that advice.

There are 3 key steps to take when advising an insistent client:

1. You must provide advice that is suitable for the individual client and this advice must be clear to the client. Advice on pension transfers should follow the normal advice process for pension transfers.
2. You should be clear with the client what the risks of the alternative course of action are.
3. You should be clear with the client that their actions are against your advice.

Advice on pension transfers to overseas schemes

We acknowledge that non-UK residents considering a pension transfer are likely to need to seek advice from both an overseas adviser for investment advice and a UK adviser for advice on the proposed transfer. In order to advise on the merits of the proposed transfer, the UK adviser should take into account the specific receiving scheme, including:

- the likely expected returns of the assets in which their client's funds will be invested
- the associated risks, and
- all costs and charges that would be borne by their client

This means liaising with the overseas adviser where necessary.

Other advice on pension transfers

Advice may be provided on pension transfers where there is no requirement that advice be taken, for example where the value of the safeguarded benefits is £30,000 or less. Regardless, FCA rules apply to the advice that is provided and, in particular, we expect the firm to consider the assets in which the client's funds will be invested as well as the specific receiving scheme.

Personal recommendations

Advice to a person that is presented as suitable for the person to whom it is made, or is based on a consideration of the circumstances of that person, constitutes a personal recommendation. In making personal recommendations, the firm will need to comply with our requirements regarding the suitability of the advice provided. The firm should make clear the loss of any safeguarded benefits and the consequent transfer of risk to the client, including:

- investment risk
- longevity risk, and
- the risk that products may not be available or cost effective to meet the client's needs in retirement

Our guidance on the suitability of pension transfers (COBS 19.1.7(G) [3]) clearly states that when a firm advises a retail client on a pension transfer it should consider the client's attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up.

Advice on pension switches

Where no safeguarded benefits are involved, we call a transaction moving pension benefits from one personal pension scheme to another personal pension scheme a 'pension switch'. There is no requirement to take advice.

However, where advice is provided and the advice is either to proceed or not to proceed with a proposed switch, taking into account the client's personal circumstances, the firm is making a personal recommendation. The firm will need to comply with our requirements regarding the suitability of the advice provided, as noted above. Where the firm recommends a pension scheme knowing that the client will switch from a current pension arrangement to release funds to invest through the scheme, then the suitability of the assets in which the client's funds will be invested must form part of the advice given to the client.

Pension scams – your firm is at risk

If your advice processes are not robust, there is a risk that you may become involved in an illegal scheme. Our intelligence and supervisory activities on pension scams co-ordinate with our Project Bloom [4] partners and other agencies, and we will take action as necessary.

All authorised firms should contact us [5] to report concerns about investments offered to, or taken up by, scheme members.

If you are aware of money being lost to an investment fraud, you should also report it to Action Fraud on:

- **0300 123 2040**
- www.actionfraud.police.uk [6]

You should also consider whether suspicious activity reports – and, if appropriate, consent applications to transfer monies – should be submitted to the National Crime Agency [7].

Further information and related bulletins

Pension scheme operators are at risk from smarter scams [8]

Advising on pension transfers with a view to investing pension monies into unregulated products through a SIPP [9]

Pension transfers or switches with a view to investing pension monies into unregulated products through SIPPs – Further alert [10]

Investment advisers' and authorised firms' responsibilities when accepting business from unauthorised introducers or lead generators [11]

Improper delegation of authorised activities - a notice for financial adviser firms and their advisers [12]

Pension reforms and insistent clients [13]

Pension scams (link is to the Pensions Regulator) [14]

ScamSmart [15]

Source URL: https://www.fca.org.uk/node/41431
News stories | Published: 24/01/2017 | Last updated: 24/01/2017

Links

- [1] https://www.fca.org.uk/print/news/news-stories/advising-pension-transfers-our-expectations
- [3] https://www.handbook.fca.org.uk/handbook/COBS/19/1.html
- [4] https://www.gov.uk/government/news/government-warning-arm-yourself-with-the-facts-dont-lose-your-pension-to-scammers
- [5] https://www.fca.org.uk/contact
- [6] http://www.actionfraud.police.uk
- [7] http://www.nationalcrimeagency.gov.uk/contact-us
- [8] https://www.fca.org.uk/news/news-stories/pension-scheme-operators-risk-smarter-scams
- [9] https://www.fca.org.uk/publication/archive/alert-pension-transfers.pdf
- [10] https://www.fca.org.uk/news/sipps-further-alert
- [11] https://www.fca.org.uk/news/news-stories/investment-advisers%E2%80%99-and-authorised-firms%E2%80%99-responsibilities-when-accepting
- [12] https://www.fca.org.uk/news/firms/improper-delegation-of-authorised-activities-financial-adviser-firms
- [13] https://www.fca.org.uk/firms/pension-reforms-insistent-clients

- [14] http://www.thepensionsregulator.gov.uk/pension-scams.aspx
- [15] http://scamsmart.fca.org.uk/