Financial Conduct Authority

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: PS15/12: Proposed changes to our pension transfer rules, feedback on CP15/7 and final rules

Lead regulator: FCA

Date of assessment: 8 December 2016

Commencement date: 8 June 2015

Origin: EU

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? UK Investment Managers

Brief outline of proposed new or amended regulatory activity

Background

Since 6 April 2015, the Government's new flexible pension regime – 'pension freedoms' - has allowed Defined Contribution (DC) pension schemes to offer pension savers aged 55 and over immediate access to their pension savings.

Members of Defined Benefit (DB) schemes do not have this flexibility. It was, therefore expected, that more DB scheme members would seek to transfer their benefits to DC schemes for early and more flexible access to their pension savings.

New regulatory activity

To protect consumers who might otherwise lose valuable DB benefits, the Government introduced, through legislation[1], a requirement that individual scheme members take advice from an adviser authorised by the Financial Conduct Authority (FCA) before a transfer is allowed to proceed. They achieved this by amending the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO) to make advising on the conversion or transfer of safeguarded pension benefits into flexible benefits a regulated activity (www.legislation.gov.uk/ukdsi/2015/9780111128237/pdfs/ukdsi_9780111128237_en.pdf).

At that point our rules required that all those seeking to advise on wishing to the conversion or transfer of pension benefits must:

1. apply for and obtain special permission to carry out that activity;

[1] The Pension Schemes Bill 2014-15

2. any advice must be provided or signed-off by a Pension Transfer Specialist; and

3. a Transfer Value Analysis[2] (TVA) must be completed in each instance.

However, in 2011, the FSA (our predecessor regulator) issued a factsheet for financial advisers which sought to summarise the pension transfer provisions contained in our rules and highlighted the need for the advice of a Pension Transfer Specialist prior to a transfer from a Defined Benefit (DB) to a Defined Contribution (DC) pension arrangement.

The document also indicated that this requirement did not apply where there was evidence that the transfer was for the purpose of immediately crystallising benefits.

Our consultation

We concluded that the pension freedoms make advising on pension transfers significantly more complex and that we should, therefore, require the Pension Transfer Specialist qualification for advice on all transfers from DB schemes to DC arrangements, regardless of when the transferred benefits are being crystallised. However, we also removed the requirement for a TVA where immediate benefit crystallisation happens at the DB scheme's normal retirement age (NRA).

The proposed changes to our rules were set out in our Consultation Paper *CP15/7: Proposed changes to our pension transfer rules, published on 4 April 2015.*

The final rules were set out in our subsequent Policy Statement *PS15/12: Proposed changes to our pension transfer rules, feedback on CP15/7 and final rules*, published on 8 June 2015 (https://www.fca.org.uk/publication/policy/ps15-12.pdf). The new requirement applied from that date.

Which type of business will be affected? How many are estimated to be affected?

At the time of implementation of the new rule we suggested the change would not have an adverse impact on the market as both EEA and US investment managers were already disclosing at the 5% threshold. We did not anticipate that widening the exemption to all investment managers would lead to a significant decrease in the number of notifications we receive. The FCA currently regulates 2,000 UK investment managers who might be affected by the rule change.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	2016	10	£7.3m	-£0.8m	-£4.0m

Please set out the impact to business clearly with a breakdown of costs and benefits

Whilst the administrative burden for investment managers has been lessened with the rule change, the monetary impact is not significant. The cost of making a notification is not substantial enough for the reduction in notifications to lead to large savings.

The impact of the rule change is to create a level playing field, allowing all investment managers to disclose their vote holdings at the EU minimum threshold.

[2] The advisory process of comparing the benefits being given up from a Defined Benefit (DB) pension scheme with those that could be offered by a Defined Contribution (DC) pension scheme.

Whilst we do not know how many investment managers were affected by the rule change, we do know the FCA regulate 2,000 UK investment managers who might now make less vote holder notifications. The US investment managers were not affected by the rule change as they could already disclose at the EU minimum thresholds.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

The new requirement applies to all those seeking to advise on the conversion or transfer of pension benefits.

We estimated that our new requirement would generate a potential need for approximately 130 additional Pension Transfer Specialists.