

# Advising on pension transfers

## A summary of the FCA'S new guidance and proposals

As a result of the government's pension reforms, there has been an increase in demand for advice on pension transfers. This prompted the FCA to consult on changes to how advice is given to consumers about converting or transferring safeguarded benefits. Following this consultation (CP17/16), the FCA issued new guidance on this area in March 2018 (PS18/6) and most of the new rules came into force on 1 April 2018. They also announced a further consultation on improving the quality of pension transfer advice (CP18/7) and firms were invited to comment on these proposals up until 25 May 2018.

Here we briefly summarise the key points from both papers. We do not cover all the new policies/announcements or proposals and so we recommend that firms advising on pension transfers and those acting as pension transfer specialists read the full texts to see how they may be affected.

## Policy Statement 18/6: Advising on pension transfers

Key points announced in PS18/6:

### Giving advice and assessing suitability

- All advice on the transfer and conversion of safeguarded benefits should include a personal recommendation (including where the benefit is a guaranteed annuity rate)
- The 'starting assumption' should be that a transfer will be unsuitable (the FCA decided not to change this to a neutral starting point)
- When assessing suitability, advisers should consider:
  - a) The client's intentions for accessing pension benefits
  - b) The client's attitude to, and understanding of the risk of giving up safeguarded benefits for flexible benefits
  - c) The client's attitude to, and understanding of investment risk
  - d) The client's realistic retirement income needs including how they can be achieved, the role played by safeguarded benefits in achieving them and the consequent impact on those needs of a transfer, conversion or opt-out (including any trade-off)
  - e) Alternative ways to achieve the client's objectives instead of the transfer, conversion or opt-out (this may include only giving up some safeguarded benefits)
- If an adviser cannot get the necessary information to assess suitability, they must not make a personal recommendation. For example, this could be income needs in retirement for a younger client
- A Pension Transfer Specialist (PTS) should go beyond just checking the numerical analysis. They should:
  - a) Check the entire advice process and consider whether it is sufficiently complete
  - b) Confirm that the personal recommendation is suitable
  - c) Inform the firm in writing that they agree with the advice, including any recommendation, before the report is given to the client. This means that any disagreements between the PTS and the adviser must be settled before the client is given the suitability report
- A consultation (CP18/7) is being held on the qualification requirements and the Appropriate Examination Standards (AES) for a Pension Transfer Specialist (please see below)
- CP18/7 is also consulting on how two advisers should effectively work together (when outsourcing of pension transfer advice takes place)

## Analysis to support advice

- Transfer Value Analysis (TVA) is to be replaced by an Appropriate Pension Transfer Analysis (APTA) from 1 October 2018. The FCA believe the pension environment has shifted significantly in recent years and this new minimum analysis requirement is designed to address this. They also believe that too much focus has been on the TVAS critical yield figure in the past and a more rounded assessment of suitability is required
- The FCA do not intend to provide detailed rules on the elements of an APTA. However, they set out the following as a minimum expectation within the original Consultation Paper (CP17/16):
  - a) An assessment of the client's outgoings and therefore potential income needs throughout retirement
  - b) The role of the ceding and receiving scheme in meeting those income needs, in addition to any other means available to the client
  - c) Consideration of death benefits on a fair and consistent basis
  - d) A mandatory Transfer Value Comparator (TVC)
- Handbook changes confirmed by the FCA in relation to the APTA:
  - a) A new rule requiring advisers to consider the impact of tax and access to state benefits
  - b) A new rule stating that the APTA must consider a reasonable period beyond average life expectancy
  - c) A revised rule requiring advisers to consider trade-offs more broadly
  - d) New guidance on considering safety nets (the Pension Protection Fund and Financial Services Compensation Scheme) that cover both the current and receiving schemes in a balanced and objective way
  - e) New guidance that if information is provided on scheme funding or employer covenants, it should be balanced and objective
- A mandatory Transfer Value Comparator, which replaces the TVAS critical yield, will be required for all transfers (except those where the client has less than 12 months to their normal retirement date or the safeguarded benefits are guaranteed annuity rates only)
- The TVA should show in graphical form:
  - a) The cash equivalent transfer value (CETV) offered by the DB scheme
  - b) The estimated value needed to replace the client's DB income in a DC environment assuming investment returns that are consistent with the client's attitude to investment risk and that they purchase an annuity
- The calculation of the TVA will include:
  - a) Where relevant, a projection of the ceding scheme benefits to normal retirement age
  - b) The estimated cost of purchasing those benefits using an annuity
  - c) Discounting the figure in (b) by the appropriate rate of return and charges to determine the estimated value at the calculation date
- The FCA have confirmed/amended the assumptions to be used when calculating a TVC:
  - a) The annuity cost should be determined in accordance with COBS assumptions (with a 4% annuity charge)
  - b) The investment growth/discount rate will be based on a risk-free return using gilt yields (UK FTSE Actuaries Indices). Firms should assume product charges during accumulation of 0.75%
- Confirmation was given on a number of financial and demographic assumptions to be used when preparing an APTA or a TVC, such as the annuity interest rate, mortality rates and growth rates, and that charges should be incorporated into the analysis (except where an adviser charge is payable by an employer or if the advisers charge is non-contingent on the outcome i.e. still payable whether the transfer proceeds or not)
- Where third-party software is used, the adviser is still responsible for the recommendations they provide and the supporting analysis. Firms therefore need to ensure that any third-party software is fit for purpose. Regarding free software offered by providers, the FCA have stated "we consider it is unlikely that providing or accepting free TVA or APTA software would fall within the narrower definition (acceptable inducements under MiFID II) and so should not be used"

## Other issues

- Pension opt-outs:
  - a) There is a requirement for advice to be given or checked by a Pension Transfer Specialist
  - b) Record keeping should be consistent with the provisions of COBS 19.1
  - c) The APTA and TVC requirement will not be extended to opt-outs of safeguarded benefits. Opt-outs that do not involve safeguarded benefits will also be excluded from these provisions

- Overseas transfers – the FCA consider that their guidance (the need for a personal recommendation, an APTA, etc.) can accommodate overseas transfers
- Streamlined advice – the FCA stated that this is unlikely to be appropriate for pension transfers

## Consultation Paper 18/7: Improving the quality of pension transfer advice

The FCA was asking for comments by 25 May 2018 on a number of proposals and we have summarised/ highlighted the main ones below. A Policy Statement is expected to be issued in Autumn 2018.

### Standards to meet before giving advice

- All Pension Transfer Specialists (PTSs) must hold the Level 4 RDR qualifications for advising on investments before they can advise on or check pension transfer advice (the FCA are proposing that this requirement must be met by October 2020)
- Updating the Appropriate Exam Standards for the PTS qualification itself (ApEX 21)

### Preparing to give advice

- Taking account of the proposed destination of a client's transfer funds, including the proposed arrangement and investment portfolio:
  - a) Proposals have been issued for advisers working together (where all or part of the process is outsourced to another firm). The detailed proposals can be viewed within CP18/7
  - b) The FCA believe that no rule changes are needed to specifically address advising 'self-investors' (typically these are clients who choose their own scheme and investments) but rather self-investors will need to provide the adviser with sufficient information so that the proposed scheme and investments can be taken into account within their analysis
- Proposed guidance has been issued on triage (where a firm provides information and holds an initial conversation with a potential client so that the customer can decide whether they want to take advice)

### Providing advice

- When considering a client's attitude and understanding of giving up safeguarded benefits for flexible benefits, an adviser should take the following into account:
  - a) The risks and benefits of both staying in the safeguarded benefit scheme and transferring to a flexible benefits scheme

- b) The client's attitude to certainty of income throughout retirement
  - c) Whether the client is likely to access funds in flexible benefits in an unplanned way and the impact this would have on sustainability of the funds over time
  - d) The client's attitude to any restrictions on their ability to access funds in a safeguarded benefits scheme
  - e) The client's attitude to and experience of managing investments themselves or paying for them to be managed in a flexible benefit scheme
- Firms should consider a client's attitude to transfer risk in a way which is fair, clear and not misleading and irrespective of whether or not relevant factors are included within risk profiling tools or software
  - Firms should provide a suitability report regardless of the outcome of the advice (one should be issued even where the recommendation is not to transfer or convert)
  - An advice confirmation should be provided for both positive and negative recommendations as per S.48 of the Pension Schemes Act 2015

### Charging structures associated with advising on pension transfers

The FCA are seeking views on a number of questions relating to different charging structures used in pension transfer advice (a particular focus is on contingent charging). They are not proposing rule changes as yet but may do so following the response to their questions.

- The FCA believe contingent charging, where the adviser is only paid if a transfer takes place or where they receive a significantly higher amount where a transfer takes place, increases the likelihood of unsuitable advice
- Given the potential harm to consumers, the FCA are considering whether it is necessary to intervene in the way charges are levied for pension transfer advice. This could mean a ban on contingent charging (although the FCA recognise there are a number of complexities in determining how a ban might work). Other options are also being considered.

**For more insights and analysis relating to pensions and the wider retirement landscape, visit the 'Technical matters' area of [fundsnetwork.co.uk](https://www.fundsnetwork.co.uk)**

### **Important information**

This document provides information and is only intended to provide an overview of the current law in this area and does not constitute financial advice, tax advice or legal advice, or provide any recommendations.

The value of benefits depends on individual circumstances. Withdrawals from a pension will not normally be possible until age 55.

Different options may have different effects for tax purposes, different implications for pension provision and different impacts on other assets and financial planning.