Regulatory Update

INTRODUCTION

In this regulatory update we review PS 19/01 and CP 19/05, both of which were published at the end of January 2019 and are a result of the FCA's Retirement Outcome Review which was launched in June 2016.

PS 19/01 imposes additional issuance of 'wake-up' packs, which will include risk warnings in a format prescribed by the FCA. Whilst the process is relatively straightforward, it will require firms to set reminders within their administration systems in order to trigger timely issuance of the wake-up packs. This takes effect from November 2019. Effective from April 2020 are changes to drawdown illustrations. Again, these changes, which include projections in real terms and disclosure of summary information, appear to be fairly straightforward to implement, although illustration systems will require reconfiguring.

CP 19/05 contains proposals linked to 'investment pathways', applicable in the case of non-advised drawdown, which potentially has ramifications for many pension providers.

Enhance will respond to the CP and it is suggested that firms consider doing so too.

Policy Statement 19/01

Retirement Outcomes Review: feedback on CP 18/17 and final rules and guidance

Background

PS 19/01 sets out the feedback to CP 18/17 Retirement Outcomes Review: Proposed changes to our rules and guidance, which consulted on changes to the information provided to clients in relation to taking benefits, illustrations provided to clients at the point of taking benefits and on-going communications once a client is in drawdown. This reflected the FCA's concerns regarding poor consumer outcomes when scheme members entered drawdown and a desire to improve customer engagement with their retirement income decisions.

The changes will impact SIPP operators' wake up process, key features illustrations issued when taking benefits and the annual information provided once an individual is in drawdown.

The policy statement also sets out changes to information provided when an individual elects to purchase an annuity. As these are relevant to annuity providers, we have not considered these changes within this update.

Issuance of 'wake-up' packs

The FCA have set out new rules on when 'wake-up' packs should be issued. In addition to the requirement to issue 4-6 months before the client's intended retirement date pension providers will have to issue within 2 months after age 50 then again 4-10 weeks before age 55 with packs being sent every 5 years until the member fully crystallises their fund.

Pension providers must also issue a 'wake-up' pack when the member requests to access their pension savings for the first time (unless it has been issued within the last 12 months).

The FCA are introducing a single page summary document which is limited to one side of A4 containing prescribed information (**see Appendix One**) and a statement of retirement risk warnings (see below) which will also be limited to one side of A4. The information sent at age 50 will consist only of the single page summary document and retirement risk warnings. For all other ages a full 'wake-up' pack must be sent and must include the single page summary document.

The full wake up pack will consist of the following (each item has been marked to indicate whether it is an existing requirement under COBS 19.4 or a new requirement):

- ✦single page summary document (***new requirement)***;
- ✦the Money Advice Service factsheet – Your pension: it's time to choose or a statement provided by the firm giving materially the same information (***existing requirement)***;
- ✦retirement risk warnings (***new requirement***);
- ✦a statement about whether any guarantees apply and if so, how they work (***existing requirement***);
- ✦any other information to enable the member to be able to make an informed decision about whether to exercise, or to decline to exercise open, market options ***(existing requirement, albeit reworded***).

The table at **Appendix Two** sets out the timeline of what documents need to be sent and when.

SIX-WEEK REMINDER LETTERS

The current requirement to send a reminder letter at least six weeks before the members intended retirement date will not change. However instead of reminding the member about the availability of pension guidance, the pension provider must include a clear and prominent statement recommending that the member uses pensions guidance and that appointments are available and recommend that they seek appropriate guidance or advice to understand their options.The letter must not include financial promotions for a pension decumulation product.

These rules will come into effect on 1 November 2019.

Retirement Risk Warnings

These are generic risk warnings that have been prepared by identifying the main risk factors relevant to the exercise of open market options. The FCA cite the following as examples of risk factors in guidance which will be at COBS 19.4.8 D (G) (1):

- the client's age and intended retirement date;
- the amount of the client's pension savings;
- if there are any ongoing employer contributions;
- the existence of means-tested benefits;
- protection under the compensation scheme; and.
- the clients need to review, make further decisions about, or take further actions in relation to their pensions savings depending on their intended investment objectives.

Firms should also have regard to the risk factors that are set out in COBS 19.7 in relation to the provision of risk warnings when a member elects to take benefits.

The pension provider must then identify which risk warnings to give to a member based on the information that they hold on that member. If it is unclear whether the risk factor is present then the appropriate risk warning should be given.

If the risk warnings are being provided between 4- 10 weeks before reaching age 55 and 7 months before the members intended retirement date then the risk warnings must include a clear and prominent statement that accessing pensions savings at this point in time may not be the best option.

The risk warnings provided should fit onto an A4 sheet of paper. If the risk warnings will not fit onto a sheet of A4 paper, then the provider should prioritise the warnings it considers most relevant. Providers will also need to send to the members the assumptions that were used to prepare the risk warnings and the personal data relied upon to provide the risk warnings.

At **Appendix Three** we have included some example risk warnings that firms may wish to consider as a starting point.

Key Features Illustrations

This policy statement confirms that a key features illustration must be issued when an individual elects to designate funds into drawdown, take an income or take an uncrystallised funds pension lump sum for the first time. This will apply for both new contracts and existing contracts that are used to access benefits.

The KFI must include a single page summary key information document (**see Appendix One**) which will present the main information from the KFI.

Under current rules a KFI for drawdown does not need to take into account the effects of inflation. However, this policy statement amends the rules so that KFI's for drawdown will need to be in real terms and take into account inflation. This reflects the current rules for new business illustrations, hence arguably this change removes the anomaly of pre and post-retirement illustrations being prepared on different bases.

A KFI will need to be issued even if the member intends to fully encash the policy in order to explain the charges.

These rules come into effect on 6 April 2020.

Ongoing communications

Where a member has taken benefits, even if they are not taking an income there will be a requirement to send information to the member every 12 months.

This currently includes where relevant the information required by COBS 13 Annex 2 2.9R [Additional requirements: drawdown pensions and regular UFPLS payments] and many providers satisfy this by providing an illustration.

Within this communication providers will also have to inform the member that if their circumstances have changed it may be in their best interest to review their choice of pension product, their investment choices, take regulated advice and seek guidance. **Rules effective from 6 April 2020.**

CP19/05: Investment pathways and other proposed changes

This consultation reviews proposals that were raised for discussion in CP 18/17. It consults on three areas – investment pathways, ensuring investment into cash is an active decision and charges information. It will apply to all firms offering income drawdown, which will include SIPP operators.

The consultation period ends on 5 April 2019 with a policy statement due in July 2019. The FCA have proposed an implementation period of 12 months within the consultation for each of the above.

Investment pathways

The FCA are proposing that investment pathways are offered to non-advised clients when they elect to move pension savings into drawdown or transfer funds already in drawdown.

This will involve the client being given four options to choose from to indicate their intentions for the funds in drawdown. These range from 'I have no plans to touch my money in the next five years' to 'I plan to take out all my money within the next five years'.

The drawdown provider must then offer an investment solution for each of the four options and the client is able to select this solution or invest elsewhere.

The FCA set out certain requirements on the process followed when offering investment pathways which they have called choice architecture.

Small provider easement

There is a proposed easement for small providers which should apply to a large number of SIPP operators. To qualify providers must have less than 500 non-advised clients a year entering drawdown. The provider must determine whether they qualify by assessing how many clients will enter drawdown without taking advice in the next 12 months.

This easement will mean that the small providers will still have to follow the investment pathways process up to the point where the member selects an investment pathway option but will not have to offer the investment pathways solution and instead refer the client to either:

- Single Financial Guidance Body (SFGB – see note below) drawdown comparator tool, or
- Another provider's pathway solutions

(Note: The SFGB is the newly created organisation that brings together under one body, The Money Advice Service, The Pensions Advisory Service and Pensionwise.)

We question the point of providing the client with an investment pathway option if that information will not be used and the expectation that the client will have of the operator by providing this information.

Within this consultation the FCA cite rules under SYSC [General requirements: SYSC 9.1.1] that state that firms must keep orderly records sufficient to enable the FCA to monitor them. In order to help meet this requirement this paper consults on guidance to provide a non-exhaustive list of areas where good records should be kept, such as: the numbers of non-advised consumers and their resultant investment strategy (investment pathways, self-investing or remaining in their current investments); where applicable, analysis of pathway solutions taken by consumers; and, where applicable, product governance records where the pathway solution is manufactured by the firm. The FCA also state that they will make regular data requests to providers to inform their post implementation review.

Ensuring investment in cash is an active decision

The consultation paper proposes that providers ensure that non-advised clients entering drawdown or transferring funds in drawdown who invest wholly or predominantly in cash make an active decision to do so. They do not propose to define 'active decision' and they do not indicate what should be done if an active decision is not made. They do propose that 'wholly or predominantly' will mean anything above 50% of the total value of the client's drawdown funds. Where a client elects to remain in cash, warnings about the potential risk of cash investment must be given every 12 months. They provide guidance on content that the warning should cover.

Actual charges information

Under this section the FCA are proposing that providers of decumulation products should provide the client with annual information on all the costs and charges, including transaction costs that the client has paid from their pension, expressed as a cash amount. This will include clarifying if any actual adviser remuneration has been paid. This does not specify whether adviser remuneration paid from underlying investments should be included. It also does not indicate whether investment charges should be included.