

## Pensions Transfer Advice July 2010

On 13 July 2010 a joint statement on pensions transfer advice was published by the FSA and the Pensions Regulator. The statement, which is available at <http://www.fsa.gov.uk/pubs/other/tprfsa.pdf>, is relevant to financial advisory firms involved in giving pensions transfer advice to members of defined benefit occupational pension schemes.

### Pension Transfer Exercises

In pension transfer exercises, the scheme employers offer the members the chance to transfer their benefits to another scheme and may pay an enhancement or incentive to do so. Such transfers, known as enhanced transfer value or incentive to transfer exercises, are often unsolicited and due to their complexity can easily be misunderstood by the scheme's members.

### Main Concerns

The FSA is particularly concerned about:

- **The quality of advice being given to members and whether it reflects the starting assumption that a transfer *will not be suitable*.**

Firms advising scheme members on pension transfer exercises should take reasonable steps to ensure that any recommendation made is suitable for that member in light of their financial and personal circumstances. This obliges the firm to obtain sufficient information from the individual to understand "*the essential facts about them*" and assess the suitability. For example, advice solely on the basis that the critical yield has been achieved would not suffice.

- **Whether firms are identifying and managing conflicts of interests that arise with this type of business.**

Conflicts of interest are likely to arise if adviser firms have links to the sponsoring employer's advisers or are remunerated by the sponsoring employer. Where trustees hold an active role within the sponsoring employer conflicts could also arise on the trustee board. It is important that the employer's interest and those of the scheme members do not coincide. Members' advisers can be appointed by the employer, but they should be separated from those advising the employer on the transfer exercise. The FSA also state that an adviser's remuneration structure should not link payment levels to the number of transfers recommended, where this would breach the rule on inducements.

### Draft Guidance

On 13 July 2010 the Pensions Regulator also published draft guidance on transfer incentives for consultation, to which any exercise is expected to adhere. The Regulator has stated that it will investigate any behaviour outside the spirit of the principles contained in the draft guidance.

### Potential Action

The statement also reminds provider firms of their responsibility to treat customers fairly and to manage and be aware of conflicts of interest. Provider firms are referred to the FSA's factsheet on pension transfers for guidance.

The FSA and Pensions Regulator state that they are prepared to take action in relation to pension transfers against both advisers and providers. The FSA has already taken action against four different firms in 2010 for unsuitable pensions transfer advice, which was one of the reasons for the £700,000 fine imposed on RSM Tenon Financial Services Limited. Tenon was also required to reimburse customers where appropriate and conduct a review of its pension transfer business. The requirement to obtain and record sufficient information from members should be taken particularly seriously: this was one of the reasons for the £21,000 fine against N-Hanced on 8 July 2010.

Firms operating in this area should take particular caution and ensure they revise their procedures to incorporate the above.

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