



## PROPOSED CHANGES TO THE PENSION TRANSFER RULES

ICAEW welcomes the opportunity to comment on the paper *CP 15/7 Proposed Changes to Our Pension Transfer Rules* published by Financial Conduct Authority on 4 March 2015, a copy of which is available from this [link](#).

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## GENERAL POINTS

### Support for the initiative

The introduction of the Government's new flexible pension regime from 6 April this year allows DC schemes to offer pensioners immediate access to their pension savings from aged 55, which means more protection will be required to safeguard individuals with valuable DB benefits.

ICAEW broadly supports the proposed changes to the pension transfer rules and believe the suggested approach will help provide the necessary additional level of consumer protection. We support the proposals to extend the scope of the pension transfer rules, which will need to be incorporated as described in the consultation paper. The creation of the new regulated activity of advising on the conversion or transfer of flexible benefits should generally be fit for purpose.

Our general presumption is that transfers from DB to DC arrangements are unlikely to be in consumers' best interests. However, we accept that in limited circumstances a valid case can be made for transferring, such as where a member has limited life expectancy or has adequate secured benefits from elsewhere and where less straightforward objectives need to be met.

## RESPONSES TO SPECIFIC QUESTIONS

**Q1: Do you agree that, in general, we should require that advice under the new specified activity should be provided, or checked by, a Pension Transfer Specialist?**

Yes. However, we also believe the examinations syllabus for Pension Transfer Specialists should be reviewed in the light of the pension reforms, particularly given that, to the best of our knowledge, the syllabus has not been subject to any substantial review for a considerable number of years.

**Q2: Do you have any comments on the proposed new definition of pensions transfer and subsequent requirements?**

The definition broadly seems to generally achieve what is intended. However given the proposed rules are designed to capture the transfer of safeguarded benefits only, we suggest more consideration may be required to prevent non-safeguarded benefits being caught in circumstances where an occupational pension scheme incorporates both safeguarded and non-safeguarded benefits, such as where DB benefits have been supplemented with a money purchase AVC.

Examples of where we believe the definition may not fully achieve what is intended include:

Annex C2.619 (3): 'rights or interests under a pension scheme which provides safeguarded benefits'. We suggest that this would be improved if amended to read 'safeguarded benefits or interests under a pension scheme'.

Similarly Annex 2G Note 4(2): 'advising on conversion or transfer of pension benefits where it is carried on in respect of rights or interests under a pension scheme which provides safeguarded benefits'. We suggest this could be amended to read 'advising on conversion or transfer of safeguarded benefits in respect of rights or interests under a pension scheme.'

Is the definition of flexible benefits intended to exclude transfers to contracts set-up under capped drawdown arrangements, which could easily be transferred into flexi-drawdown contracts? We also received comments from members that have some concerns over the different way that the term 'flexi' has been used in differing contexts.

**Q3: For future consideration, do you have any views on whether we should continue to include transfers from occupational DC schemes without safeguards in our definition of pension transfer?**

We believe this requirement should remain. Pension Transfer Specialists are more likely to identify the range of issues that may need to be considered, such as protected tax free cash or underlying guarantees provided by defined benefit underpins.

As a more general observation, there may be situations where the default option of critical yield analysis under a TVAS could lead Pension Transfer Specialists to adopt an overly binary approach. The system was designed at the time when annuity purchase at NRD was generally the default option. Critical yield should remain as the starting point. However, there may be occasions when the current approach to TVAS in COBS 19.1 does not provide a sufficiently broad tool. Pension Transfer Specialists also need to be able to apply professional judgement on a case-by-case basis to evaluate whether a pension transfer could represent an appropriate mechanism to help customers meet their personal objectives, having taken all quantitative and qualitative factors into account.

In terms of the actual calculation of the TVAS, it would be helpful to provide specific guidance on the approach to be followed where there is a clear intention for an individual to start to receive benefits immediately post transfer/conversion. It would also be prudent to highlight that the cost of the transfer advice must be appropriately factored into a TVAS calculation if the individual wishes to pay for this via a deduction from their benefits.

**Q4: Do you have any comments on the proposed new definition of pension conversion and subsequent requirements?**

We generally agree with what has been said in the consultation paper.

**Q5: Do you agree that we should not require a Transfer Specialist for advice on the conversion or transfer of benefits from pension policies with a GAR?**

The approach generally seems reasonable. However, some contracts that have a GAR are with profits contracts, which tend to incorporate a relatively high degree of safeguard on a guaranteed minimum pension. It could therefore be argued that this type of contract should also be subject to a TVAS style analysis.

**Q6: Do you have any comments on our proposed approach to permissions and grandfathering firms?**

The approach seems sensible.

**Q7: Do you agree with our proposal that all advice on DB to DC pension transfers - including any provided for the purpose of crystallising the benefits being transferred - must be carried out or checked by a Pension Transfer Specialist?**

Yes.

**Q8: Do you have any comments on our cost benefit analysis?**

The approach looks to be generally reasonable, although we believe you may have underestimated the time required to undertake a full pension transfer analysis. This needs to take into account client meetings both before and after the analysis has been undertaken, as well as the production of the report itself. Anecdotal comment suggests that this could equate to perhaps 15 hours' work in the round.

**Other comments**

**Period before in-force date**

If the expectation is that firms should ideally be following the new rules in the period before they come into force, then it would be helpful to firms if the statement in 2.9 of the CP "firms...may want

to take into account our proposed rules in this consultation paper” could be made clearer/strengthened.

### **Advice requirements**

Whilst the FCA may not have direct control over the requirement for advice to be taken, it should be noted that there are practical considerations that may occur. For instance, an individual may steadfastly refuse to take advice, either for reasons of cost (particularly in light of the likely time commitment set out under Q8 above) or because they consider themselves to be sufficiently knowledgeable in relation to the issues involved. Is there scope for some form of opt out or self-certification? Could there be a minimum size of benefit for the absolute requirement for advice rather than apparently just restricting this to a £30,000 minimum when a guaranteed annuity rate is involved? The cost of the advice itself may move the suitability of the transfer/conversion from a ‘yes’ to a ‘no’.

The advice confirmation letter requirements do not appear to include a statement that the advice received has actually been in favour of a transfer. Is this intentional?