Policy briefing

Updated: 4 March 2015

FCA/HM Treasury Retirement Freedoms: *Pension Wise*, a "second line of defence", and views on preparedness

Following consultations and discussions on the back of the proposed pension reforms announced in Budget 2014, the Government are progressing delivery of especially pensions guidance towards an April 2015 launch:

- The *Pension Schemes Bill* which makes amendments to the *Financial Services & Markets Act* and contains several practical provisions on guidance has now received Royal Assent to become law.
- HM Treasury is coordinating the delivery of the guidance with a view to an implementation on 6 April. It has unveiled the Pension Wise brand, launched the web portal www.pensionwise.gov.uk, and launched a television advertising campaign.
- Following their policy statement in November which included requirements for pension providers in signposting to Pension Wise, the FCA has now finalised special rules requiring firms to issue additional risk warnings to consumers accessing their pension. The rules elaborate on a Dear CEO letter issued earlier this year. However
- Stakeholders are still concerned about the overall level of preparedness. Providers are unsure of their exact regulatory requirements, while other stakeholders are nervous about the extent to which the Delivery Partners will be able to meet the demand.

Next Steps:

- HM Treasury and its delivery partners will be launching Pensions Wise guidance in April, inviting "expressions of interest" from interested customers. An associated marketing campaign under the brand Pension Wise will begin in March using radio, television and other media.
- With the *Pension Schemes Bill* now law, the FCA's rules final rules on standards as well as requirements of firms will have also gone into force.
- The FCA will run a consultation in summer 2015 following a review of their overall pensions and retirement rules, including whether to retain, modify or add to its "second line of defence" rules that it introduced under a special non-consultative process.

Background

Following the Government's Budget 2014 announcement to reform the at-retirement market including making available a "guidance guarantee", the Treasury and Financial Conduct Authority (FCA) has been working to meet the April 2015 deadline:

- The CII has been active in the debate, publishing responses to the consultations, particularly around training standards as well as research into consumer views towards these announcements;
- The Treasury has been leading on implementing the reforms, and in Autumn 2014 named The Pensions Advisory Service (TPAS) and Citizens Advice (CitA) as partners to deliver the telephone and face-to-face channels

respectively. As announced by the Government in the House of Lords on 27 January, the CII is now also assisting this process by accrediting the training of those staff giving pensions guidance;

- The FCA consulted on the Guidance standards, monitoring the designated partners, and its requirements of firms in the light of the reforms.

Overall Progress

The Government and FCA are overseeing the retirement reforms outlined in Budget 2014 towards an April 2015 launch. Most notable on that date will be the planned roll out of the proposed at-retirement guidance (termed "pensions guidance" by the *Pension Schemes Bill*), to be offered to all members of a Defined Contribution (DC) pension scheme approaching retirement.

Pensions Schemes Bill is now law

Parliament has passed the *Pension Schemes Bill* making amendments to the *Financial Services & Markets Act*.[1] It contains several practical provisions in relation to guidance:

- **A definition of *pensions guidance***: as "guidance given for the purposes of helping a member of a [DC] pension scheme to make decision about what to do with the cash balance benefits or other money purchase benefits that may be provided to the member". For the remainder of this note, this term will be used.
- **Designates guidance delivery providers:** TPAS and Citizens Advice's affiliate bodies, or any other person or organisation designated by HMT.
- **Sets out FCA powers**: to develop standards for pensions guidance and oversee delivery partners.
- **Criminal status of falsely giving Pensions Guidance:** defined as either falsely describing oneself as a guidance provider in whatever terms or holding oneself out as such. It includes punishments of fines and/or custodial sentences.

Next steps: now that the *Pension Schemes Bill* is law, we will hereafter refer to it as the *Pension Schemes Act 2015*.

HM Treasury preparation

HM Treasury is coordinating the delivery of the Guidance with a view to an implementation on 6 April. It recently briefed the CII and Personal Finance Society on progress:

- **Working with delivery partners:** TPAS and Citizens Advice are undergoing recruiting and training for staff to deliver the guidance. The latter recently announced a second wave of recruitment for its Citizens Advice Bureaux.
- **Brand identity:** the Treasury has developed an overarching public-facing identity for Pensions Guidance: "Pension Wise: Your money, Your choice, backed by HM Government." The logo is reproduced here.
- **Training/accreditation**: all guidance staff at both delivery partners are undergoing a standard set of training and accreditation to ensure a common treatment across the guidance service. The Government announced during a House of Lords debate on 27 January that we at the Chartered Insurance Institute are providing the accreditation services for the delivery partners:

> *The development of that programme is well under way and it will be accredited by the Chartered Insurance Institute, which is an extremely well respected professional standards body. All trained guidance specialists must have undergone training and passed the assessment at the end of the training programme.*[2]

[1] See Department for Work and Pensions press release, "Pension freedoms protected and new breed of pension schemes become law," 4 March 2015. https://www.gov.uk/government/news/pension-freedoms-protected-and-new-breed-of-pension-schemes-become-law

We are working with the Treasury and its designated implementing organisations to develop, test and roll out material to meet the timeframes.

- **Website**: the Government launched a version of the www.pensionwise.gov.uk website in February, prepared by the Government Digital Service in association with the Money Advice Service. This builds on the holding website www.gov.uk/pensionwise that went live in January, and serves as the on-line channel, containing information about the Pension Guidance, where to access it, and six steps in considering pensions decumulation options.
- **Marketing/promotion**: a campaign under the Pension Wise brand began on Sunday 1 March included a television advert which started airing on prime time that day (see: https://www.youtube.com/watch?v=IeNEnJ5xvqg). The Treasury is also working with industry and other non-government bodies to ensure consistency of messaging. This is especially important given that Government will not be able to continue their own campaign during the pre-General Election "purdah" rules which begin on 30 March.
- **Funding**: the Treasury have earmarked a total of £35m of FCA Levy funding for FY2015/2016 for the purposes of Pension Wise activity including the guidance. It has said that any additional costs above this Levy value will come from the Treasury funds, and the department will reclaim this from the subsequent year's Levy.

Next steps: a media campaign will progress through March, as will preparation with the Delivery Partners to deliver the guidance service.

Industry misgivings of preparedness

Despite these announcements, there are still concerns expressed by especially the financial services sector that Pensions Guidance is not ready for a 6 April rollout. Speaking at his annual conference on 25 February, Huw Evans, Director General of the Association of British Insurers, said:

> *...the Government has simply not been able to deliver enough at this stage to ensure the reforms have a flying start when they go live on April 6. Critical pieces in the jigsaw are still missing and will not be in place in time to deliver a seamless start.*

He listed some specific concerns:

- It is still unknown how the Pension Wise guidance sessions will work, how they will be structured, and how the session will be recorded so providers and advisers know what customers have discussed and what was covered;
- There is no modelling on expected volumes to use the service and estimated waiting times that can be shared with customers;
- Final tax rules on annuity payments to beneficiaries are still unknown;
- How lump sum payments by trust-based schemes will be regulated are still unknown; and
- Pension Wise has no phone number yet so there is nowhere for pension providers to direct people to if they do not have internet access.

He pleaded for the industry to "give up the blame game not just for Lent but for the immediate future and knuckle down, all of us, to the much harder challenge of getting lift off for the new system."

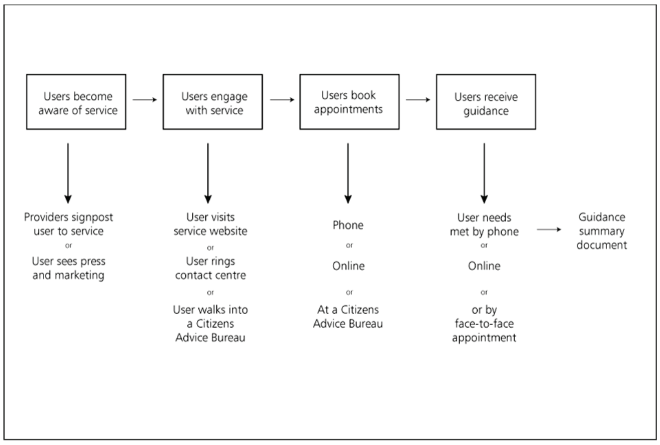
[2] House of Commons Library, *Pension Schemes Bill 2014-2015, House of Lords Stages*, 18 February 2015, p.21, quoting *Hansard* text for House of Lords debate 27 Jan 2015, c156. www.parliament.uk/briefing-papers/SN07105.pdf

Pensions Guidance standards

The FCA published Policy Statement 14/17 in November setting out its near-final approach in the areas of guidance standards and the requirements for pension providers in treating its at-retirement customers, especially signposting people to the guidance: PS14/17: Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11.

Guidance standards

HM Treasury update paper in January also clarified its vision of the customer's journey through guidance (see diagram). The FCA's proposed standards are designed to deliver on this, to ensure the service is impartial, consistent, of good quality and engaging across the range of delivery channels. It must:



- create consumer trust and confidence in the designated guidance providers and content of the guidance so that consumers actively use the service;
- ensure that the framework works for both contract-based and trust-based pension schemes; and
- deliver helpful guidance for consumers that considers their retirement options and refers them to specialist advice or information where appropriate.

Role of guidance

The FCA standards go into more detail on the expected content of the Guidance. It must by itself or with another designated provider do the following:

- inform the client of the scope, purpose and limitations of the session;
- inform about the pension entitlement and other personal and financial information that the designated guidance provider may request from them during the session;
- request information from the client about their accumulated pension pots including, for example, the [various relevant information about the their financial circumstances];
- request information about the client's financial and personal circumstances that is relevant to their options;
- alert to other sources of information and advice as appropriate and at relevant points during the session;
- identify for the client and provide them with information about the options relevant to that specific person, to the extent that they are relevant to their options; potential tax implications or debt obligations; and
- set out the next steps and provide a record of the guidance session.

Distinction from regulated advice or other financial mediation

The FCA guidance sets out in more detail the limitations of Guidance compared to financial advice. This is an attempt to dispel concerns about the service potentially straying into regulated advice.

Guidance may...	Guidance must not...
• Provide the consumer with information about particular types of financial products or services that may be relevant to those retirement options; and/or • Discuss the potential advantages and disadvantages of those options.	• Sell, arrange, or facilitate the sale of a financial product or service; or • Recommend such a product or service (explicitly or implicitly).

Refer a consumer to a directory or other list of: • financial advisers; or • providers of financial products or services.	Introduce or recommend (explicitly or implicitly) a: • specific financial adviser; or • specific provider of a financial product or service
Refer a consumer to their existing pension product provider where the consumer needs that provider to take action in order to implement one of the retirement options.	

Pensions Guidance oversight

As described above, the *Pension Schemes Act 2015* requires the FCA to monitor the implementation on these standards among designated guidance providers. The regulator explained that it will be developing "to develop a proportionate and robust approach" to this, using the diverse range of supervisory tools:

- Developing a suite of appropriate monitoring data which we will require designated guidance providers to supply on a regular basis;
- Developing a series of questions and carrying out a self-assessment process with designated guidance providers to understand their view on their own compliance with the standards;
- Consumer research (user experience, mystery shopping);
- Call listening; and
- Detailed reviews of specific issues (similar to thematic supervision approach).

Frauds and scams

Helping consumers be alert to fraud and scams is an important part of creating confidence in making financial choices. The *Pension Schemes Act 2015* contains a clause that will make imitation of the Pension Wise service a criminal offence. This will ensure that those who see the Pension Wise brand can trust it, and that anyone who tries illegitimately to pass themselves off as providing the service will be breaking the law.

In addition to these legal measures, the Government is trying to pool existing initiatives with a view to creating a joined-up approach to equipped people with the information they need to recognise and avoid illegitimate, fraudulent or other approaches not in their best interests. For example, the FCA has recently launched a web initiative www.scamsmart.fca.org.uk.

FCA requirements for regulated firms

The FCA's policy statement also covered the role of regulated financial services firms, and set out rule changes that will apply to contract-based pension schemes and retirement income providers:

- the FCA have indicated that their rules will come into force "as soon as possible after [the *Pension Schemes Bill*] receives Royal Assent" (this has now happened); and
- a set of more substantial rule changes to the COBS will go into force on 5 April 2015.

Scope

These changes apply to all firms that are caught by the COBS in relation to pensions decumulation, specifically those that establish, operate and wind up *personal* and *stakeholder* pension schemes:

- providers of pensions and retirement income products including personal pension, stakeholder pension, FSAVC, retirement annuity products or pensions buy-out contract;
- providers of other financial services products that play a role in consumers' retirement planning;

- distributors of financial products, particularly retirement income products; and
- those providing regulated advice to consumers on retirement income options and products.

These rule changes do not apply to *occupational* schemes which are not regulated by the FCA. These include Trustees of Defined Contribution (DC) pension schemes or employer sponsors of DC schemes (or either of those schemes with a DC element). The regulator will be working with the Department for Work & Pensions (DWP) which will be amending its existing regulations for those types of stakeholders to ensure consistency.

OMO statement amendments 6 April 2015 onwards

From 5 April 2015, this signposting would become part of the OMO statement which providers currently have to produce under COBS 19.4.1 R. The OMO statement requirements themselves will be amended so that it includes:

- **a clear and prominent statement about Pensions Guidance** including how to access it, that it is available over the internet, by telephone or face-to-face; is free and impartial; and a recommendation to seek appropriate guidance or advice to understand their options.
- **additional information**: information about the customer's pension scheme, stakeholder pension, etc; and a summary of the customer's options sufficient to make an informed decision, and the MAS fact sheet Your pension: it's time to choose (both are already required).

When the OMO statement would be given:

A firm would provide to the consumer at least six weeks prior to intended retirement the following information:

- a reminder about the OMO statement
- information of what sum will be available to exercise OMO
- a reminder of the availability of Pensions Guidance
- a recommendation to receives appropriate guidance or advice to understand their OMO.

The OMO statement would not be required if the customer:

- is in contact with the firm about something else;
- has already accessed Pensions Guidance; or
- has accessed advice about the OMO such as professional financial advice.

Having consulted on the first two of these areas in June, its Policy Statement now indicates how the FCA will approach these roles. It also set out a high level approach on overseeing Delivery Partners.

Additional risk warnings under the FCA's special "second line of defence" rules

On 27 February, the FCA published a set of additional rules for pension providers requiring them to ask consumers looking to access their pensions a series of questions about "key aspects of their circumstances that relate to the choice they are making", and provide additional retirement risk warnings based on the answers to those questions. This elaborates on a Dear CEO letter to pension providers on 26 January.

The new rules go into force on 6 April when the Government's pension freedoms take effect, and were introduced using special FCA powers to bring in new rules without the normal consultation process. Policy Statement 15/4 provides:

- The purpose and desired outcomes of these rule changes
- The reason for using this special non-consultative process

- An overview of the process by which firms should issue these warnings to customers
- The FCA's core expectations governing the risk factors that firms should question customers on
- Guidance on whether to issue the risk warnings depending on the answers to specific questions

Implications

The FCA think that "these retirement risk warnings can be given without providing regulated advice"; they are not requiring firms to tell consumers what to do or implying that the consumer's decision will be wrong. They "simply require firms to ensure the consumer is aware of the risks of the course of action they are seeking to take."

The changes will give consumers significant additional protections against the risk of poor outcomes in the new pension landscape. The rules would affect:

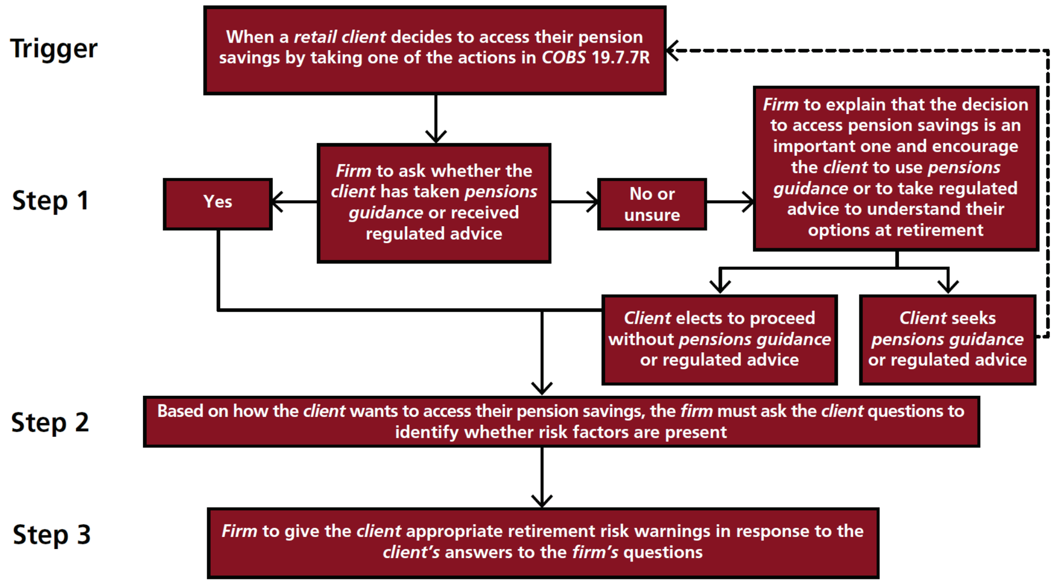
- Providers of pensions, including operators of Self Invested Personal Pensions (SIPPs);
- Providers of retirement income products;
- Firms facilitating access to pension savings on an execution-only basis;
- Trustees of DC pension schemes (and schemes with a DC element);
- Employer sponsors of DC schemes (and schemes with a DC element);
- Providers of other financial services and products that play a role in consumers' retirement planning;
- Those providing advice and information in this area already; and
- Distributors of financial products, in particular retirement income products.

The rules will therefore apply to firms:

- holding the consumer's pension savings, including SIPP operators;
- selling pension decumulation products, and who are contacted by a consumer wanting to buy a decumulation product with their pension savings before contacting their holding provider; and
- providing services that facilitate execution-only transactions.

Process

The rules require firms to follow a specific process to assess whether there is need to issue a risk warning, which the FCA graphically illustrated as follows (p.12, para.3.17):



The questions are core to helping the firm identify if a risk factor is present, and therefore if a risk warning must be given. To help firms identify the kind of questions they could ask consumers, the Policy Statement sets out in a table the type of questions that firms should ask themselves in judging whether risk warnings are required. This is not an exhaustive or prescriptive list; we expect firms to consider what they think is appropriate.

FCA Risk Factors/Warnings Table (verbatim: p.15, para.3.34)

Risk Factor	Examples of what the firm is trying to find out	Risk warning required
Consumer's state of health	Are there aspects of the consumer's health or lifestyle that would make them potentially eligible for a better value annuity – for example, an enhanced annuity?	If yes or unclear, give risk warning
Loss of guarantees	Will the consumer lose any guarantees attached to the pension?	If yes or unclear, give risk warning
Whether the consumer has a partner or dependants	Does the consumer have a partner or dependents who might benefit from a joint life annuity (where they are not already purchasing one)?	If yes, give risk warning
Inflation	If the consumer is seeking to buy a level annuity, do they understand that inflation will erode the real value of the income they receive from their annuity?	If no or unclear, give risk warning
Whether the consumer has shopped around	Has the consumer shopped around different providers before choosing to buy the product?	If no or unclear, give risk warning
Sustainability of income in retirement	Is the consumer expecting the money they take from the pension to help provide an income in retirement?	If yes or unclear, give risk warning
Tax implications	Does the consumer understand the tax implications of taking money from their pension savings?	If no or unclear, give risk warning
Charges (if a consumer intends to invest their pension savings)	Has the consumer considered how the charges they may face when investing their pension savings elsewhere compare with those on their pension savings?	If no or unclear, give risk warning
Impact on means-tested benefits	Is the consumer aware that taking money from their pension may impact on any means-tested benefits they receive?	If no or unclear, give risk warning
Debt	Is the consumer aware that creditors may have a call on any money taken from pension savings?	If no or unclear, give risk warning
Investment scams	Is the consumer aware that investment scams exist, and that they should be careful where they invest money taken from their pension savings?	If no or unclear, give risk warning

Risk warnings themselves are to be communicated clearly and prominently. Firms must follow the steps in the process and are required to ensure that consumers cannot progress to the next stage of a sale until the relevant signpost or retirement risk warning has been given. If, after receiving appropriate risk warnings, the consumer wants to continue to access their pension savings, the firm can continue with the transaction.

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