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Slow Progress on the Equitable Life Assurance Society Closure

When Equitable Life announced plans last year to transfer the Society and all its policies to Utmost Life and Pensions (then called Reliance Life), it had been expected that this would be finalised towards the end of 2019. This timetable has now slipped slightly with Equitable Life quoting an implementation date of 1 January 2020.

This transfer is expected to significantly increase the current capital distribution on with-profits policies, creating a potential windfall for members.

Trustees of pension schemes holding policies with Equitable Life have previously been advised to communicate the uplift to relevant members and may now wish to inform them of the revised timetable for implementation.

Failure to inform members who take or transfer their benefits before the implementation date could lead to Pensions Ombudsman claims, and members who expected the transfer to be more advanced than it is, may need to adjust their expectations.

In many occupational pension schemes, particularly in relation to AVCs, the trustees will be the policyholder and not the member. Trustees will therefore have to decide how they should vote and whether they need to canvass members views before doing so.

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Background

The Equitable Life Assurance Society (Equitable Life) is the UK’s oldest mutual insurer. At its peak it had around 1.5 million policyholders with funds of £26 billion under management.

Between 1956 and July 1988 Equitable Life sold pension policies with an option to choose between a fixed Guarantee Annuity Rate (GAR) and the current annuity rate in force at a member’s date of retirement. No additional premium was charged for this guarantee. In 1993 the then current annuity rate fell below the GAR prompting GAR policyholders to exercise their rights. Rather than adequately hedging or reinsuring against this GAR risk, the provider instead sought to rely on a directors' discretion in its Articles of Association to reduce the terminal bonus paid to GAR policyholders. When in July 2000 the House of Lords ruled GAR policies had to be given the GAR, and the Equitable Life directors' discretion could not be used to reduce them, there was no way of funding the £1.5 billion increase in long term liabilities. Thus on 8 December 2000, with Equitable Life on the verge of collapsing, it closed to new business and reduced payments to existing members.

The European Parliament issued a report in June 2007 that concluded the UK regulatory system was in part at fault for the Equitable Life situation. A year later, the Parliamentary Ombudsman completed a four-year investigation into Equitable Life accusing the UK regulators of a comprehensive failure. This led to the Government providing limited compensation to nearly a million policyholders through the Equitable Life Payment Scheme (ELPS).

The transfer announcement

Equitable Life announced on 15 June 2018 that it had entered into an agreement to transfer the Society and all its policies to Utmost, a newly formed and authorised UK life assurance company established as a specialist UK run-off manager.

Potential windfall

On 1 January 2020, the impact on in-force with-profits policyholders will be to:

- increase the current 35% capital distribution to a level expected to be between 60% to 70%;
- close the with-profit fund, which means the guaranteed values under with-profit policies end along with any guaranteed annual increases;
- convert with-profit policies to unit-linked funds selected by policyholders; and
- transfer the policies to Utmost.

Action for policyholders

Equitable Life and Utmost are now progressing a Scheme of Arrangement and Part VII Transfer (see below). This will include a vote by members of Equitable Life on the conversion of the with-profit policies and will then be followed by a court hearing to approve the transactions. Following an initial court hearing on 22 July 2019 policyholders are currently being sent full details regarding the process later this year, with a vote taking place in the autumn and the High Court hearing to approve the proposal to take place on 22 November 2019.

(A Part VII Transfer is a court sanctioned legal transfer of some or all of the policies of one company to another and is governed by Part VII of the Financial Services and Markets Act 2000.)

Action for trustees

Whilst it could be argued that trustees do not have to bring the announcement to the attention of relevant members, failure to do so could lead to complaints from members who crystallised their benefits, or transferred them, before the Equitable Life deal is finalised.

But it's not just about member communication as in most occupational pension schemes the policyholders will be the trustees - particularly in relation to AVCs held by members with Equitable Life. In such cases trustees, rather than scheme members, would vote on the proposal.

Trustees should therefore consider:

- How to vote – including reviewing the proposals and considering how to respond, in particular, discussing and agreeing any criteria to be used to assess the proposals, any support the trustees may need and if/how members' views should be obtained and fed into the trustees' decision;
- Communicating with members - including considering how to communicate the proposal to members, in particular, members who could potentially access their AVC savings *before* the implementation date (and miss out on any uplift if so). Equitable Life can provide communications support, but this would need to be negotiated; and
- The investment approach following the transfer - including reviewing the default and self-select investment choices being made available for members' funds post-Transfer.

Comment

This transfer brings to an end the long running Equitable Life saga. The proposed uplift will, for most with-profit policies, represent a significant enhancement. The slippage to the timetable may be of concern to those wishing to take or transfer their benefits at this time.

Expected timetable if members and the High Court agree

Event	Time and Date	Explanation
Initial Announcement	15 June 2018	Equitable Life announces transfer to Utmost
Introduction to the Scheme sent to Policyholders	Week commencing 29 May 2019	The Scheme of Arrangement (Scheme) is a legal process supervised by the High Court which will convert the rights of those who have with-profit policies with Equitable Life
First Court hearing	22 July 2019	High Court gives permission to hold the Policyholders Meeting
Decision pack including an explanatory booklet and voting forms sent to Policyholders	Early August 2019	Details of the proposal sent to policyholders to decide how they want to vote and whether they wish to object
Investment Choice Pack	Mid August 2019	Setting out the unit-linked funds that would be available upon which Policyholders may wish to take advice
Deadline for receipt of voting forms for the Extraordinary General Meeting	10am on 30 October 2019	All postal votes need to be received, and any online voting forms completed, by this time.
Policyholders meeting on the Scheme	10am on 1 November 2019	The Policyholders meet to vote on the Scheme.
Extraordinary General meeting	11am on 1 November 2019	If Policyholders vote in favour of the Scheme this will change the Articles so Utmost becomes Equitable Life's sole member

Event	Time and Date	Explanation
Second Court hearing	22 November 2019	Equitable Life will seek High Court approval of the Scheme and the transfer.
Deadline for receipt of Investment choice forms	13 December 2019	This is the deadline for implementing investments at the implementation date. Policyholders who miss this deadline can still make a choice but it will be implemented after the Implementation date
Implementation Date	1 January 2020	
Policy update and uplift information issued to policyholders	February 2020	
Factsheets and performance information made available on funds and flexi-access drawdown options	Early 2020	

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