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Revised combating pension scams code

The Pension Scams Industry Group (PSIG) has issued a revised code of best practice on Combating Pension Scams.

The Code now runs to 132 pages and has been updated to reflect the evolving nature of pension scams and to reflect recent legislative and regulatory changes.

Background

Pension scams are not new, and we have learnt to live with them over the last 20 years or so. An unintended consequence of the pension freedoms introduced in 6 April 2015 was an increase in pension scam activity. Provided certain conditions are met, members of pension schemes have had a statutory right to transfer, and trustees and providers have often been powerless to stop them making unfortunate, life changing, decisions in respect of their pension benefits. Successive governments have done little to combat pension scam activity and PSIG developed as the pension industry tried to stem the flow of fraud surrounding pensions.

PSIG first issued a voluntary Code of Good Practice in 2015 which suggested steps to help identify whether transfers should be paid. Since then it has been periodically updated and version 2.2 was released on 1 April 2021. This version of the Code is more of an update than a rewrite but changes have been made to improve usability.

It will, however, be short-lived as a further version has been promised later in the year when regulations supporting the Pension Schemes Act 2021 are published.

What's new?

Structure

The layout of the Code has changed from the previous version. It now consists of three main areas:

- Practitioner Guide - Detailing the due diligence steps that PSIG considers should be undertaken by pension schemes assessing the pension scam risk of a requested transfer.
- Resource Pack - Containing materials firms can use to undertake the due diligence detailed in the Practitioner guide. This includes example scripts, letters and discharge form wording, Action Fraud reporting and case studies.
- Technical Guide - Detailing the rationale behind the guide. This includes legislative and regulatory requirements as well as the Regulator's pledge to combat pension scams initiative.

There is also a summary of changes at the end.

Regulatory developments

The Code contains reference to Pensions Ombudsman's decisions issued since the last version of the Code, and the impending regulations expected under the Pension Schemes Act 2021 to restrict the statutory right to transfer, but the major changes in this version of the Code relate to regulatory activity.

Key Pensions Regulator developments

- The pledge to combat pension scams initiative.
- A new letter warning members of defined benefit (DB) schemes, who are thinking of transferring their pension savings to a defined contribution (DC) scheme, about the risks of doing so.
- Additional guidance for trustees which calls on them to:
  - highlight the free, impartial pensions guidance from Pension Wise, including phone appointments and online information;
  - encourage members to take regulated advice to understand their retirement options;
  - identify increased risks in how a member has decided to access their pension savings and give appropriate warnings of the risks and implications of their chosen option; and
  - monitor transfer requests and inform the Financial Conduct Authority (FCA) of unusual or concerning patterns, such as spikes, or the same adviser across a multitude of requests.

Key FCA developments

- Updates to the ScamSmart site following the COVID-19 pandemic.
- The identification of "three generations" of scams as they have evolved over time.
- British Steel advice complaints.
- Concerns regarding so-called International SIPPs and offshore investment bonds.
- A warning on complicated investment structures.
- Final rules and guidance on pension transfer advice including the contingent charging ban.
- Guidance on what a member should expect when taking advice in relation to transferring from a DB scheme to a DC scheme.
- The FCA Call for Input on the Consumer Investments Market.

What are we expecting?

The Pension Schemes Act 2021 seeks to give trustees more control with pension transfers. The new measures to restrict the statutory right to take a transfer will enable trustees to prevent a transfer if they see evidence of 'red flags'. They will also, for other potentially fraudulent transfers, prevent hard-earned pension savings being moved to suspect schemes without members first receiving guidance from Pension Wise. All of the detail will be included in regulations which are expected later this year and are likely to necessitate major changes to the Code.

Comment

Trustees who have taken the Regulator's pledge to combat pension scams, or who are considering doing so, should ensure their practices have been updated to reflect changes in the new Code. Whilst the Regulator has described its pledge campaign, which involves following the PSIG Code, as being the "gold standard" on pension transfers, the Pensions Ombudsman is likely to judge the actions of administrators and trustees based on it.

Trustees, if they have not already done so, should also complete the recently added new pension scams module on the Regulator's Trustee toolkit.

It is also important, both to try and prevent so many members falling for pension scams and to protect trustees from subsequent claims when they do, that members are constantly reminded in newsletters and other member communications of the dangers of pension scams. Part of this involves trying to ensure members take appropriate advice by appointing an independent financial adviser (IFA) to assist members.

If you would like to know more about appointing an IFA, amending your transfer procedures in line with the new PSIG Code, taking the Regulator's pledge to combat pension scams, completing the Regulator's pension scams module on the Trustee toolkit, or communicating with members about pension scams then please contact your Buck Client Executive.

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