

Financial advisers



Pension transfers – who can do what and when?

This factsheet is for:

- Financial advisers who advise on pension transfers

This factsheet does not constitute regulatory guidance

What is a pension transfer?

A transaction resulting from the decision of a *retail client* who is an individual, to transfer deferred benefits from:

- a an *occupational pension scheme*;
- b an individual pension contract providing fixed or guaranteed benefits that replace similar benefits under a *defined benefits pension scheme*; or
- c (in the cancellation rules (COBS15)) a *stakeholder pension scheme* or *personal pension scheme*.

to:

- d a *stakeholder pension scheme*;
- e a *personal pension scheme*; or
- f a deferred annuity *policy* where the eventual benefits depend on investment performance in the period up to the *intended retirement date*.

Deferred benefits – The glossary definition of a pension transfer refers to deferred benefits. In this context benefits are deferred if they are not continuing to accrue and the benefits are not being taken. If an individual has access to the benefits (perhaps due to early retirement rights) but is not intending to crystallise the benefits then they are deferred benefits. If an individual is transferring benefits for the purpose of crystallising the benefits these will not be considered deferred benefits (but there must be evidence that the scheme member does intend to take/crystallise the benefits).

[back](#)

Requirements

Pension transfer transactions are subject to COBS rules in the same way as other investment transactions but there are additional special rules governing those who intend to undertake pension transfer transactions.

In this factsheet:

[What is a pension transfer?](#)

[Requirements](#)

[Permissions](#)

[Transfers](#)

[Pension sharing orders](#)

[Some specific types of pension](#)

[When is the pension transfer permission required?](#)

FSA factsheet for Financial advisers

Continued: Requirements

The specific requirements include:

- Requiring that where firms wish to provide advice on pension transfers (and opt-outs), they must apply for and obtain specific permission to carry out that activity (i.e. advising on pension transfers and opt-outs is a specific regulated activity).
- Requiring individuals giving advice on pension transfers to have a specific permission – controlled function 30 – or for the transaction to be checked by an adviser with this permission.

Firms should note that advising on, or checking, pension transfer transactions is an activity within the scope of the detailed rules in the Training and Competence sourcebook (TC). These rules

include the individual having to pass an appropriate examination as part of becoming competent. Firms can select this exam from the List of Appropriate Examinations maintained by the Financial Services Skills Council (FSSC).

Where the transfer is from a defined benefits pension scheme the benefits likely to be paid under the defined benefit scheme must be compared with the benefits afforded by the personal pension or stakeholder pension before any recommendation to a customer to transfer out is made.

The comparison must be carried out in accordance with COBS 19.1.2R, COBS 19.1.3G and COBS 19.1.4R.

[back](#)

Permissions

If a firm does not have permission to give advice on pension transfers it cannot undertake this activity.

Whilst it is not strictly forbidden for firms to simply provide information to members of schemes for a fee we would not encourage firms to do this. Deciding whether or not to transfer is a complex decision and will necessarily involve a comparison of benefits between the employer's scheme and pension arrangement into which these benefits are to be transferred. It is hard to see how the consumer would make this decision

without asking questions of the firm who could then cross over the boundary into giving advice.

Similarly it is difficult to envisage consumers seeking to undertake transfers on an execution only basis. We issued a statement in the November 2007 Financial Adviser newsletter which we have reinforced on the smaller firms website, giving our position on Pension Transfers done by direct offer.

[back](#)

Transfers from schemes which are in the process of being wound up

Where an occupational scheme is being wound up the Trustees will normally have arranged a bulk buy out under which all the members' benefits will be transferred to deferred annuity contracts with an insurance company. Individual members will also have the option of transferring those benefits to a personal pension or s32 buyout (an individually purchased deferred annuity) as an alternative.

Until the scheme is wound up the deferred benefits remain inside the scheme and full comparison of benefits will therefore be expected to be undertaken. And even if the winding up has been completed, transfers from individual deferred annuity policies may still be pension transfers, depending on circumstance.

[back](#)

**Pension transfers –
who can do what
and when?**

Pension sharing orders

Where a pension sharing order has been effected and the receiving spouse 'transfers' these benefits, this may or may not come under the pension transfer definition. If the rules of the pension scheme where the benefits are coming from will not allow for the receiving spouse to be a member of the scheme

then there is no choice but to 'transfer' the benefits. This would therefore not constitute a pension transfer for FSA purposes. Where the spouse is able to continue as a member of the pension scheme then any transfer out will be a pension transfer.

[back](#)

Section 32 Buy Out Bond

Most are used to preserve some of the guaranteed or fixed benefits under an occupational pension scheme. This is particularly relevant where the scheme was a defined benefit scheme and was contracted out of the State Second Pension (previously the State Earnings Related Pension Scheme). Some will not provide any guaranteed benefits (in which case transfers from them are not 'pension transfers').

constitute a pension transfer and would be subject to our rule requirements under sub paragraph (f) above. Most s32 contracts mirror the fixed and guaranteed benefits arising from the occupational scheme. If the member subsequently transfers from the s32 Buy Out to a personal pension or stakeholder pension, the second transfer would usually be subject to the 'pension transfer' rules.

[back](#)

Where a member's benefits are transferred from an occupational pension scheme to a s32 Buy Out Bond this would usually

Some specific types of pension

An **executive pension plan** (EPP) is a form of occupational pension scheme and benefits under these schemes are therefore outside the FSA's scope. For the purposes of the pension transfer definition and executive pension plan falls under subsection (a) of the definition.

A **group personal pension plan** (GPPP) is a collection of personal pensions. Therefore a transfer from a group personal pension is not a pension transfer for the purposes of our definition.

A **stakeholder pension** (SHP) is a particular type of personal pension which must have specific design features which are set out in stakeholder legislation. A group stakeholder pension is a collection of stakeholder pensions.

A **retirement annuity** or **Section 226** policy is basically an earlier type of personal pension that was available until April 1988. Therefore a transfer from such a scheme is not a pension transfer for the purposes of our definition.

[back](#)

When is the pension transfer permission required?

Transferred From	Transferred To	Permitted Activity for 'pension transfers' Required?
Occupational Pension Scheme – defined benefit or defined contribution	Occupational Pension Scheme – defined benefit or defined contribution (e.g. EPP)	No
Occupational Pension Scheme – defined benefit or defined contribution	S32 buyout	Usually (see paragraph 7 above)
Occupational Pension Scheme – defined benefit or defined contribution	Personal Pension Scheme; or, Stakeholder pension; or, Group personal pension.	Yes
Occupational Pension Scheme – defined benefit or defined contribution	Self invested personal pension SIPP	Yes
Occupational Pension Scheme – defined benefit or defined contribution	Section 226	Yes
Executive pension plan	Occupational Pension Scheme – defined benefit or defined contribution	No
Executive pension plan	Executive pension plan	No
Executive pension plan	S32 buyout	Usually (see paragraph 7 above)
Executive pension plan	Personal Pension Scheme; or, Stakeholder pension; or, Group personal pension	Yes
Executive pension plan	Self invested personal pension SIPP	Yes
Executive pension plan	Section 226	Yes
Personal Pension Scheme; or, Stakeholder pension; or, Group personal pension	Any other type of pension	No
Self invested personal pension SIPP	Any other type of pension	No
Section 226	Any other type of pension	No
S32 buyout	Occupational Pension Scheme – defined benefit or defined contribution	No
S32 buyout	Personal Pension; or Stakeholder pension; or Group personal pension	Usually (see paragraph 7 above)
S32 buyout	Self invested personal pension SIPP	Usually (see paragraph 7 above)
S32 buyout	Section 266	Usually (see paragraph 7 above)
S32 buyout	S32 buyout	Usually (see paragraph 7 above)
FSAVC	Personal Pension	No
FSAVC	Final Salary Scheme	No
FSAVC	Executive Pension	No
FSAVC	FSAVC	No

[back](#)