New measures to tackle pension scams

The past few years have seen pension scheme trustees needing to strike a fine balance between complying with members' statutory rights to transfer their benefits to other schemes, and protecting against pension scams.

Recognising that scam activity is particularly focused around transfers to apparently legitimate pension schemes, the Government has recently issued a response to a consultation on a package of measures aimed at tackling three specific areas.

1. Ban on cold calling

The Government has confirmed that it will introduce a ban on cold calling. It believes that this will cut off the main mechanism used by fraudsters to persuade people that they are offering legitimate pension investments and services, in turn reducing the number of consumer requests to transfer to illegitimate schemes.

The ban will also cover communications where individuals are encouraged to release funds from their pension and transfer them to a bank account, before investing them in inappropriate products.

Responding to feedback, the prohibition will extend to all unrequested electronic communications about pensions, including emails and text messages.

The ban will be enforced by the Information Commissioner's Office, which currently regulates firms that make direct marketing calls. The Government will work with the ICO to ensure that consumers will be able to report cold calls easily.

2. Tightening the rules on pension transfers

Under current legislation trustees have little scope to refuse a member's transfer request, even if the receiving scheme displays characteristics of a scam. For this reason, the Government is to restrict members' rights to transfer, with the aim of protecting individuals' savings.

Once in force, a statutory right to transfer will only exist where:

- the receiving scheme is a personal pension scheme operated by an FCA-authorised firm or entity
- a genuine employment link to a receiving occupational pension scheme can be demonstrated, with evidence of regular earnings from that employment, and confirmation that the employer has agreed to participate in the receiving scheme, or
- the receiving occupational pension scheme is an authorised master trust.

Where an individual does not have a statutory right, they may still have a right to transfer under their scheme's rules. An increased number of transfer requests are likely to fall into this category once the proposed changes are adopted.

The Government aims to ensure that legitimate non-statutory transfers can continue, subject to sufficient due diligence being carried out.

3. Making it harder to open fraudulent schemes

The consultation noted that there are currently around 800,000 registered pension schemes in the UK, the majority of which are single-member small self-administered schemes ("SSASs"). There is a common perception that schemes which are registered have in some way been "approved" and that investments made by them are appropriately regulated. TPR's view, however, is that SSASs increasingly offer "exotic investments and unrealistic returns", and that there is evidence of consumers having lost their pension savings as a result.

To address the issue of SSASs being registered with a dormant company as the sponsoring employer of a scheme, the Government will require all new pension scheme registrations to be made through an active company (subject to certain exceptions for legitimate circumstances). The requirement will apply equally to existing schemes; again, HMRC will have discretion not to de-register a scheme with a dormant employer where there are legitimate reasons.

Next steps

The Government has issued draft legislation to amend the Finance Act 2004 in respect of its planned changes to the registration of schemes. These measures are due to come into force from 6 April 2018.

The Government plans to engage further with industry, consumer groups and other stakeholders on how best to implement the other changes it has proposed. It states that it will work on the "final and complex details" of the cold calling ban during the course of 2017, and will introduce legislation to implement the ban "when Parliamentary time allows".

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