

Following the herd



Nick Gardner reflects on how retirees have been behaving two months into the new pension freedoms

Chancellor George Osborne's 2014 Budget announcement introducing pensions freedom certainly took everybody in the industry by surprise. Undoubtedly, the continuing low annuity rates and penal death benefit tax treatment were drivers for change, however; the cynics also point out the political timing of the introduction and the additional tax revenues that are anticipated to be raised. Indeed, the Treasury's own predictions suggest an additional £4bn tax will be paid over the next five years.

Rising to the challenge

The changes were introduced with haste giving providers little time to make the necessary system and process changes. However, the SIPP industry has responded well to the challenge, demonstrating the flexibility that niche pension providers offer by being able to adapt quickly to legislative changes for the benefit of members, unlike the monolithic insurers struggling with legacy systems.

Two months into the new rules we have been surprised by the level of flexi-access interest from members, but there has not been the large withdrawals anticipated following Steve Webb's now infamous Lamborghini quote. Indeed, the complete opposite is true. We have seen a number of members who were previously drawing maximum GAD income under the capped drawdown rules either reducing or stopping their income altogether, preferring the fund to accumulate in a tax-free environment knowing that this may now cascade tax efficiently down generations, effectively turning their pension fund into a form of family trust.

Concern going forward is the potential liability for members' actions and where the liability rests. There are conflicting objectives between the regulatory powers of HMRC and the FCA. HMRC is essentially telling members that they can now withdraw unlimited sums from their pension fund while the FCA is endeavouring to make it as difficult as possible for individuals to take full advantage of the new rules to protect consumers from ill-informed decisions.

Blurring the lines

In response to concerns, the FCA issued a Dear CEO letter to pension providers in

January 2015 introducing the second line of defence concept, placing a responsibility on providers to engage with members to ensure that they are aware of the Government's Pension Wise guidance service and point out the risks involved of the members' benefit choices, which are dependent upon their individual circumstances. This could be a dangerous precedent and blur the lines between advice and information. In the litigious society we now live in, the concept of caveat emptor clearly no longer applies and I can already see the claims management companies circling as the PPI compensation frenzy draws to a close and they begin to look for other easy prey.

Examples of risk warnings were provided by the FCA in policy statement PS15/04. This confirmed that risk factors particular to an individual's circumstances have to be determined by the provider, who must ensure that the appropriate risk warnings are provided to the member. These include information regarding the tax implications of withdrawal, sustainability of income in retirement, charges, the impact of additional income on means-tested benefits and highlighting the possibility of investment scams.

The FCA has confirmed that the issuing of such risk warnings will not constitute the provision of regulated financial advice; however, it is unclear how the Financial Ombudsman Service (FOS) will react to any potential claims. We have already seen in

other areas that the FCA and FOS are not necessarily always aligned. The FCA is consulting upon the guidance for providers within PS15/04 and we expect clarification by late summer.

Difficult conversations

This has led to some difficult conversations with clients who are frustrated with the obstacles being placed in front of them and access to their pension funds. We have received mixed reports on the effectiveness of Pension Wise. Indeed, one member reported that he was advised there was a four-month wait for a face-to-face appointment with a Citizens Advice Bureau pensions guidance adviser.

Fortunately, the majority of flexi-access applications that we have received to date have been on a fully advised basis. A pattern has been established whereby members seek to withdraw tax efficiently either by utilising their personal tax allowances or by taking income up to the basic rate income tax band.

We have had a small number of UFPLS requests, but these have been for smaller funds and are arguably exactly the type of client the legislation has benefited the most. We have not had any Lamborghini requests, indeed, not even a Ford Fiesta, although we did have one member wishing to withdraw funds to purchase a herd of cows!

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