What can we learn from the FCA's response to transfers from the British Steel Pension Scheme?

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The FCA has identified concerns about financial advice given to members of the British Steel Pension Scheme (BSPS) during the "time to choose" activity in 2017. Almost 20% of the deferred members of the BSPS opted to transfer out of the scheme, despite the Trustee not having developed a formal transfer option as part of the exercise. The FCA announced in June 2020 that it would be writing to around 7,700 former members of the BSPS to invite them to review the advice they received.

The communication that was issued to transferring members was subsequently published by the FCA. The letter explained that "many people who transferred out of the BSPS … received unsuitable financial advice" and set out the results of the FCA's review of a sample of the advice provided, which showed that the advice only appeared to be suitable in 21% of cases assessed. The FCA also directed investors to their advice checker tool and outlined next steps for any investor not satisfied with the advice they were given.

The FCA's intervention in BSPS transfers will impact upon many financial advisors – both small firms who have advised one or two individuals, and larger companies who may have run more extensive exercises, attracting business through referrals or bespoke communications.

Although the circumstances of the BSPS time to choose exercise were unique, and the communication and support offered to members is understood to have been lacking, it is conceivable that this sort of FCA interest could arise in future in relation to other schemes. Further indication of this possibility is evidenced by the joint statement from the FCA, the Pensions Regulator and the Money and Pensions Service in October 2020 regarding the Rolls-Royce defined-benefit pensions scheme. The FCA is engaging with a "number of advisers" who advised on transfers from the Scheme following a redundancy exercise.

This means that even if your firm has not advised on any BSPS transfers, it is still sensible to familiarise yourself with the circumstances of the FCA review.

For example, it may also be appropriate to consider whether you have any exposure to a particular ceding scheme in your portfolio –have you advised a substantial number of individuals to transfer out of the same scheme, as a result of a redundancy exercise or subsequent to a scheme closure? Do you have any feel for whether the transfer value basis adopted by the Trustee was generous or penal – a more generous basis will clearly reduce the potential future compensation as well as offering some protection against the risk of the advice being found unsuitable.

It's worth bearing in mind that even without FCA intervention, word of mouth amongst individuals who previously worked together can mean that one complaint can escalate to a number of complaints. Understanding the potential exposure in your book is the first step in developing a risk management plan, which could include reviewing advice, addressing material information gaps or creating a reserve for remediation.

The potential exposure to a particular ceding scheme is also something to consider as part of acquisitions. Indeed, it was reported in New Model Adviser that the CEO of Quilter, who acquired Lighthouse Advisory Services (a firm who had offered transfer advice to 300 BSPS members) has acknowledged that not spotting Lighthouse's BSPS transfer advice before the acquisition was "a due diligence failing".

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