

Chapter 12

Guidance for persons running or advising on personal pension schemes

12.6 Advising on conversion or transfer of pension benefits

12.6

Q29.What is the background to this *regulated activity*?

The effect of the Pension Schemes Act 2015 is that trustees or managers must ensure that a *member of a pension scheme* or a *survivor* has taken appropriate independent advice before converting or transferring pension benefits, where the conversion or transfer is of *safeguarded benefits* to *flexible benefits*.

The *Regulated Activities Order* was amended so that the appropriate independent advice to be sought by a *member of a pension scheme* or a *survivor* is regulated.

Q30.Does this mean that there is an overlap between “advising on conversion or transfer of pension benefits” and “advising on investments”?

Yes, there is an overlap between both activities. Under the *Regulated Activities Order* rights under a *stakeholder pension scheme* and under a personal pension scheme fall within the definition of *security*. This means that advising on any of these investments would fall under *advising on investments*.

Where a *pension scheme* provides *safeguarded benefits* then a person who is *advising on investments* may also be *advising on conversion or transfer of pension benefits* at the same time.

In practice, we expect that a person *advising on conversion or transfer of pension benefits* will also carry on *advising on investments*.

Q31.What is the difference between both advising activities?

The regulated activity of *advising on conversion or transfer of pension benefits* applies to any *pension scheme* that has *safeguarded benefits*. This means it includes advising on transfers between *occupational pension schemes* where the transfer payment is in respect of *safeguarded benefits* with a view to acquiring a right or entitlement to *flexible benefits*.

In the context of pension schemes, *advising on investments* in respect of rights under a *personal pension scheme* or a *stakeholder pension scheme* is limited to these types of schemes and would not include occupational pension schemes.

Q32.Does a person who advises on the conversion or transfer of flexible benefits need to seek authorisation?

When the conversion or transfer of *flexible benefits* involves advising on the merits of *buying, selling, subscribing for rights in a personal pension scheme*

or in a *stakeholder pension scheme* or exercising any of these rights, either as the ceding scheme or the receiving scheme or both, then that would amount to *advising on investments* and authorisation is required. This is because the *regulated activity of advising on investments* applies in relation to rights under a *personal pension scheme* or rights under a *stakeholder pension scheme*.

When the conversion or transfer of *flexible benefits* involves *occupational pension schemes* only and is not in respect of *safeguarded benefits*, then no regulated activity is being carried on.

For example, advice on the switching of *flexible benefits* between *defined contribution occupational pension schemes*. Similarly, advice on an *uncrystallised funds pension lump sum* payment out of a *defined contribution occupational pension scheme* is not regulated.

Q33. Does a *guaranteed annuity rate* (GAR) mean that a pension policy has a *safeguarded benefit*?

In our opinion, a pension policy with a GAR has a *safeguarded benefit* and a person advising on it may be *advising on conversion or transfer of pension benefits*.

Q34. Can advising on conversion or transfer of pension benefits be carried on in respect of any other *specified investments*?

No, the only *specified investment* relevant for *advising on conversion or transfer of pension benefits* is rights or interests under a pension scheme which provides *safeguarded benefits*.

It should be noted that rights or interests under a pension scheme which provides *safeguarded benefits* is a *specified investment* exclusively in respect of *advising on conversion or transfer of pension benefits* and not any other *regulated activity*.

Q35. When does a *firm* advise on conversion or transfer of pension benefits when it provides triage services?

The table in ■ PERG 12 Annex 1G includes examples of when a *firm* is and is not *advising on conversion or transfer of pension benefits* when it has an initial "triage" conversation with a potential customer. The purpose of triage is to give the customer sufficient information about *safeguarded benefits* and *flexible benefits* to enable them to make a decision about whether to take *advice on conversion or transfer of pension benefits*.