

Regulatory Update



INTRODUCTION

With less than three months until the UK's withdrawal from the EU on 29 March 2019, this update considers some of the potential impacts on SIPP Operators, in particular in the event of a 'no-deal' Brexit.

Whilst the FCA activity of operating a (trust-based) pension is not an activity covered by MiFID, within this update we have endeavoured to consider the potential impact on a range of items applicable to pension administration, including *inter alia* payment of benefits, transfers, data protection and financial resource requirements. In each case we have attempted to outline our thoughts as to what the issue could be, the extent of the impact and suggested actions, where applicable.

In preparing the update we have referenced certain UK Government agency's material, including the FCA, HMRC and ICO. Where applicable, this has been cited. Clearly, this is a malleable situation - this update was prepared between 7-8 January 2019, when the prospect of a 'no-deal' was realistic. This update should be viewed as a 'prompt' for firms to consider their own specific circumstances.

The UK's withdrawal from the EU: 2300 GMT 29 March 2019

Preparing for Brexit: Considerations for SIPP Operators

Background

Unless an extension is ratified by the EU, the two-year withdrawal period triggered by the UK's invocation of Article 50 will expire on 29 March 2019.

Assuming there is a withdrawal agreement in place, then a transition period would follow to allow implementation of the post-Brexit regime - this is currently set to December 2020.

If however, no agreement on the UK's withdrawal can be reached, then the 'no-deal' scenario means that the UK's relationship with the EU comes to an abrupt end on 29 March 2019 with no transition period. This means, amongst many other things, that the current arrangements for the free movement of people, goods and services between the UK and the EU would cease.

Whilst much speculated on, the impact of a 'cliff-edge' EU withdrawal is uncertain, both in terms of the UK's future dealings with the EU and the effect on the UK economy.

Against this uncertain background, the FCA expects regulated firms to prepare for Brexit, through understanding the implications and planning accordingly.

Scope of this update

As mentioned in the introduction, many SIPP operators will be 'non-directive' firms - in other words, the FCA 'pension-operators' permission does not fall within directives such as the Markets in Financial Instruments Directive (MiFID), the Capital Requirements Directive (CRD) or Insurance Mediation Directive (IMD).

That said, some firms will have ancillary permissions linked to, for

example, ISA manager activities, meaning that certain EU directives do apply. Moreover, all firms are potentially impacted through *inter alia* EU-based data protection regulations, dispute resolution and possibly dealing with advisers based in the EU operating under the 'passporting' regime.

Consequently, whilst the focus of this update is based on trust-based pension administration, we have attempted to consider some of these other factors too.

Outside of the scope of this update is matters such as personnel issues (i.e. the employment of EU nationals) and the wider economic or political impact.

Format of the update

Accompanying this update is a table of items that Enhance considers may be relevant to a SIPP operator. Some of these items are SIPP-specific (i.e. the payment of benefits to EU residents) whereas some are more generic, such as the economic impact on, for example, property funds. We have endeavoured to list these items in a manner whereby:

- ◆ the issue is identified;
- ◆ a rationale as to why this may be an issue is included;
- ◆ the reference source cited; and,
- ◆ steps to mitigate the issue are suggested.

We have also included a 'probability x impact' column, although this has been left blank for firms to complete as they deem appropriate.

Finally, our list of items is a mere 'starter for ten'; it will be for firms to decide what additions, deletions or amendments are relevant to their own circumstances.