

Consultation Response

Secondary annuity market: proposed rules and guidance, CP16/12

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About this consultation

1. Introduction

Age UK

carefully monitor all such activity and ensure that risk warnings are displayed prominently, and should consider extending existing rules to provide more stringent governance of the secondary annuity marketplace.

2. Questions

- 1. Do you agree with our proposal to require specific risk warnings to be given to consumers at first contact? Would you suggest any changes to the format and content of the risk warnings?***

Age UK fully supports the use of such risk warnings, and believe that they are of even greater significance in the secondary annuities market than under the pension flexibilities. They should be delivered alongside some clear signposting to Pension Wise.

The risk warnings should be delivered repeatedly throughout the process, including in any advertising and marketing (i.e. before the potential seller makes contact with a broker or adviser). Buyers and brokers should be required to talk through the risk warnings, and ensure that they are displayed prominently in written communications.

It is with some concern that we note the recent research on the pension flexibilities by Citizens Advice found that only 1.6 per cent of those surveyed had changed their behaviour because of the risk warnings.ⁱⁱ The research explains that this is largely because these risk warnings are delivered further downstream in the process, when consumers are suffering from a general ‘fatigue’, and that to maximise effectiveness they should be delivered as early as possible – this lesson should be borne firmly in mind as the secondary annuity process is developed.

Content

The risk warnings should be as engaging as possible, and that the FCA should conduct behavioural testing to determine the most effective ways of communicating with consumers in relation to this specific marketplace. Making sure people are able to access, understand, and apply the messages to their own situation is of paramount importance, and if they are delivered via a non-written means of communication such as during a telephone call, extra care must be taken to ensure consumers genuinely understand the issues –

3. Do you agree with our proposals that at first contact all sellers should be informed about the possible need for contingent beneficiary consent, and that FCA should make rules in relation to contingent beneficiary consent?

We are concerned that a regulatory gap in the protection of dependent beneficiaries is emerging. Without sufficient safeguards, there are likely to be cases where the contingent beneficiary will unwittingly lose their future income.

In the secondary annuities market, both the primary annuity holder and the buyer are likely to have a role in ensuring that contingent beneficiaries are aware of the impact on their future incomes:

1) The primary annuity holder needs to be in a position to make the contingent beneficiary aware of any implications for their future income. However, this is not to say that it is the annuity holder's responsibility – in fact it is down to regulatory rules on risk warnings and advertising/marketing to ensure that both parties are aware of the potential implications, and to facilitate communication.

We believe the proposed risk warning on 'dependents' should be amended to reflect this substantial risk. Any advertising and marketing should carry risk warnings prominently.

The specific role of Pension Wise in communicating with contingent beneficiaries should be carefully considered.

2) We are concerned there is a gap in the regulatory framework governing the behaviour of buyers. There appears to be nothing built into the sales process to require them to perform even a rudimentary check on dependents or the contingent beneficiary's level of knowledge. We believe a regulatory stop-gap should place some onus on the buyer to discuss with the individual the implications for beneficiaries and ensure the beneficiary has mental capacity.

The FCA should also examine how contract law is affected by mental capacity and what this might mean for the secondary annuity marketplace. Given the irreversibility of some of the decisions, we have significant concerns that people could enter into an arrangement that they (or an attorney) later come to recognise as being made improperly, which could cause untold difficulty for buyers and sellers alike.

In particular, we are concerned especially where there is a possibility that the contingent beneficiary may be suffering from cognitive decline, whether general age-related or as a symptom of another illness, such as dementia.

The panel approach is also likely to act as a barrier to entry for new buyers, which could affect competition within the marketplace.

- 6. Do you agree that firms providing quotes should be required to:**
- a. present quotes for annuity income in certain prescribed ways; and**
 - b. provide the price comparator alongside their quotes for annuity income?**

Yes. Age UK feels a clear illustration of price differentials is an essential part of the communications with sellers, and without this diagram it will be difficult for many consumers to develop a clear understanding of real costs involved. We support the format included in the consultation paper – copied here for reference.



We agree with the FCA that the best comparator is the cost of buying a replacement income – as long as it is clear that actual costs may vary depending on what the individual

does with their lump sum – as this approach automatically accounts for life expectancy and age, and puts the onus on the provider to find the best-priced comparator.

We also consider that the comparison between the two ‘quotes’ is fair as it is intended as a guide only. From the consumer’s perspective, the fact that some of the ‘replacement of your annuity income’ cost is related to administrative and set-up costs is irrelevant. This is a tool designed to pass on knowledge of an indicative cost to the consumer, not to dictate the direction the consumer should take.

We hope the FCA maintains this or a close variant that clearly and succinctly illustrates the typical transaction cost. It should also monitor consumer understanding and behaviour and be prepared to adapt the illustration if it is not properly understood.

7. Do you agree that the 14 day stop period requirement should be extended to all secondary annuity market interactions?

Yes, it is important that face-to-face transactions are included.

8. Do you agree with our proposals on broker incentives and charging?

We agree that brokers should not receive commission. Any costs to the seller must be clear and upfront – along with the make-up of the broker’s panel.

It also must be made abundantly clear at the outset that just obtaining a quote from a broker does not incur a charge and there is no obligation for the consumer to continue. Once invested in the process many individuals may feel that they have no choice but to continue, and it is important that people realise they can back out.

Under both the customer journeys outlined in Annex 2 we believe that Pension Wise guidance should be built in as an integral part of the process. Seeking guidance is not specified at any point, whereas using a broker and seeking paid advice is. Pension Wise should be built into each and every customer journey, and the FCA should re-model its suggested pathways to place a far greater emphasis on this, with multiple ‘touch-points’ pointing towards Pension Wise.

9. Do you agree that the FCA should make rules requiring that an annuity provider can only cover reasonable costs when charging to help facilitate or execute an annuity income sale?

Yes, although perhaps some clarification should be provided as to what a 'reasonable cost' entails upfront, in order for the seller to be aware, and these should be reflected in the price comparator diagram and the quote.

10. Do you agree with our proposals to continue to provide access to the ombudsman service in relation to the sale of annuity income on the secondary market?

Yes.

11. Do you agree with our proposal to continue to provide access to the FSCS in relation to the sale of annuity income on the secondary market?

Yes.

13. Do you agree that we should provide guidance reminding firms active in this market about their existing legal responsibilities in respect of sellers who may lack full mental capacity?

This is a very important part of the regulatory structure. As all sellers will be aged at least 55, there might be a higher incidence of mental capacity issues than in other financial marketplaces. There is also a risk of abuse from relatives wishing to gain access to a capital sum. Firms may not be used to dealing with such consumers, and so the emphasis here must be stronger.

Age UK recommends that brokers and buyers are carefully monitored to ensure they are recognising any issues with their customer's mental capacity and acting appropriately. It is vital that if an issue with firms' behaviour in the marketplace develops, the FCA will step in and create tighter guidance specifically for the secondary annuity market.

Similar issues may occur with individuals who may have full mental capacity, but may be 'vulnerable' in a different way, for example being recently bereaved. It is important the FCA considers carefully whether the regulations here will provide sufficient protection.

ⁱ Polling by YouGov for the Institute and Faculty of Actuaries, April 2016

ⁱⁱ Citizens Advice (2016), Drawing a pension: a consumer perspective on the first year of the pension freedoms

ⁱⁱⁱ HM Treasury, Department for Work and Pensions (2015), Creating a secondary annuity market consultation paper