

FSCA takes a heavy-handed approach to new pension rules

Bureaucracy has gone mad in the policyholder protection regulations for group risk

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AS GEORGE BERNARD SHAW SAID, THE BIGGEST PROBLEM OF COMMUNICATION IS THE ILLUSION THAT IT HAS TAKEN PLACE EVERY PENSION FUND IS OBLIGED TO OFFER A DEFAULT INVESTMENT STRATEGY TO MEMBERS

There have been so many new rules in the pensions industry that it was quite a relief to get a seminar from Sanlam Corporate.

It was certainly a better bet than trying to get the rules explained by the Financial Sector Conduct Authority (FSCA), which has little experience of the private sector or no empathy with it. It appointed leading pensions lawyer Rosemary Hunter as an experiment but she fell out quite dramatically.

People with extensive experience of employee benefits such as Chris Brits of EB Net and Alan Greenblo of Today's Trustee also turned up at the Sanlam seminar in the hope that they could make sense of the new rules.

The best (worst?) example of bureaucracy gone mad is the policyholder protection regulations (PPRs), which are easily confused with the PPRs introduced shortly before the Financial Advisory & Intermediary Services Act. These were designed to bring much needed disclosure to retail life products. The new PPRs apply to group risk, the compulsory death and disability cover included in almost all pension funds.

Michele Jennings, CEO of Sanlam group risk (Sanlam suffers from title inflation), says the rules will affect insurers, brokers, employers, members and beneficiaries and also funds and administrators.

The FSCA has insisted on 21 rules focused on achieving fair outcomes for members.

Insurers are expected to communicate with the entire membership base before, during and after setting up the policy. They can make representations that demonstrate that it is not practical to engage directly with members, and no doubt this will involve a submission of more than 100 pages. The FSCA has almost unlimited powers as it does not need to punish an insurer for something concrete such as paying excessive commission, but on the ill-defined concept of fairness.

A great emphasis is placed on communication, which includes full disclosure of fees and costs as well as other issues members are highly unlikely to read, such as terms and conditions, exclusions, limitations, conflicts of interest, cooling off rights, right to cancel (which vests with the employer and not the member) and durations.

But as the great dramatist George Bernard Shaw said, the biggest problem of communication is the illusion that it has taken place.

Insurers are expected to have access to up-to-date, accurate data, but group risk businesses have never needed to keep databases of the underlying fund members. They can get more information from other parts of the business, such as the Sanlam umbrella fund, or even Sanlam Collective Investments, but privacy regulations have to be respected.

One effect of the more open environment is that it will be much harder for life offices to keep their group risk rates confidential, leading to a potential price war — in most cases insurers will cut their margins to keep the business.

The PPR rules have moments of sanity. One is that they oblige the insurer to notify the claimant within 10 days of deciding whether or not to honour the claim presumably disputes primarily revolve around disability, not death.

This might look like an issue for the life offices, and why should we care? It is true that they have to absorb much of the cost: the Sanlam marketing budget has paid for a national roadshow to intermediaries explaining the new rules. But eventually these costs will be passed on to the insurer, and in cases where they are given a choice of risk benefits they will gravitate towards cheaper options.

Another big change has been the new retirement savings costs standards, which will enable trustees and members to compare the costs of their own funds with the peer group.

Sanlam Corporate's head of special projects, David Gluckman, says that costs are not in fact the main determinant of retirement outcomes. The most important is whether the member preserves, whether contributions are a meaningful proportion of salary, when contributions start and the allocation of contributions between risk benefits and retirement savings.

The Association for Savings & Investments SA worked on the RSC standards for the best part of a decade, but at least they have avoided the FSCA's heavy-handed flying squad style. The fees must be divided between investment management, advice, administration and other. To avoid too much spiking, performance fees are averaged over three years.

There will be some grey areas over implementing consulting, which could be considered advisory or bundled into investment management: more clarification is needed.

Sanlam Corporate acting CEO Jocelyn Hathaway (wasn't she George Clooney's girlfriend in ER?) updated us on the default regulations. On March 1 2019 every pension fund was obliged to offer a default investment strategy to members, a default in-fund preservation option and a recommended postretirement annuity. All good ideas in their own right, these defaults are likely to be suitable for 85%-90% of fund members; almost everybody in the built-up phase should be in a high-equity balanced fund, with a recommendation of moving to a low-equity fund in the five years prior to retirement.

And when people resign they won't any longer be cashed out, unless they specify in writing, but their capital will be preserved in the fund, with no higher charges than active members. Default regulations on annuities should see a move away from (drawdown) living annuities with no longevity protection to safer with-profit and guaranteed annuities.

Undoubtedly many employers will be attracted by the full service offering of umbrella funds, enabling them to divest themselves from their responsibilities as trustees.

Sanlam is in the big five and they certainly have a growing reputation for competence and professionalism. But, of course, new rules mean extra monitoring from the FSCA blits patrollie.