

Gibraltar's New Pension Regime



**An Overview by
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The beginning of April saw the long awaited introduction of a licensing and regulatory regime for personal pension providers in Gibraltar. An

effective supervisory regime in this area had been the aim of Albert Isola, the Financial Services Minister, since his appointment to office, and this has now come to fruition.

Beginnings

So, what was the need and what changes do the new requirements bring?

In the UK and elsewhere, pensions, pension advice and pension administration have often only partially and incidentally been covered by existing financial service regulation. A significant amount of these activities fell outside the scope of the EU Directives in place. Historically they were often dealt with, if at all, under separate legislation (e.g. the Pensions Act in the UK). Yet an individual's pension is normally their largest asset after their home and, with the need to supplement any state entitlement, is a vital mechanism to prevent poverty in old age. Furthermore, as life expectancy increases, so the need to save for retirement grows still greater.

We have also seen a massive decline in the number of earnings related pension schemes provided by UK employers. These defined benefit schemes have been closed by many firms due to their potentially ruinous cost. However the result has been a loss of certainty in respect of an individual's income level in retirement. Instead income at retirement has become dependent upon the growth of a person's own pension pot during their working life. Furthermore the new flexibility in respect of pensions, introduced by George Osborne, has meant that an enormous amount of investable assets have become more freely available for alternative pension vehicles. This freedom brought issues which the lack of regulation exacerbated.

For some in the finance industry the pension market became a feeding frenzy. On occasions unsophisticated investors with newly flexible funds were encouraged to move to far more risky investments on the

promise of high returns. Some administrators provided poor services for high fees, often with penal exit charges. Consumers could not always easily distinguish the vast majority of providers, who gave a competent and fairly priced service, from the sharks. This became hugely frustrating for the decent providers and created unfair competition as the sharks would often offer a seemingly cheaper service, hiding the real charges in the small print and undisclosed commissions.

Even worse, pensions become open season for fraudsters placing pension assets in worthless schemes, often controlled by themselves. In some cases the consumer will not discover what has happened for many years, until they try to access their pension savings and find they have vanished or been hugely eroded.

Reducing risk

The above risks existed in all finance centres involved in the pensions business. In the UK there were scandals involving Small Self-Administered Pension Schemes. Elsewhere problems arose in respect of some overseas pension schemes. In some cases attempts were made to "liberate" pensions, releasing funds before they were entitled to be, thereby exposing the consumer to possibly huge tax charges.

Something had to be done. The UK introduced new requirements in 2015 and now Gibraltar has.

As a result all those involved in the personal pension market in Gibraltar are now subject to the supervision of the Gibraltar Financial Services Commission (GFSC). There will be a licensing regime under which all existing providers will have to apply (transitional provisions will be in place to allow them to continue to operate whilst their application is considered). There will be new conduct of business rules including requirements on the information that has to be provided to clients (including charges). Exit charges will have to be reasonable and outsourcing by firms, especially to outside Gibraltar, controlled and subject to approval. Most importantly pension assets will only be permitted to be put into suitable investments. Except for professional clients, the test will be that the investment must be suitable for retail investors.

These measures, and others, will be monitored and enforced by the GFSC, which

has established a new team specifically for this area.

The road leading to the new regime has been a model of consultation and cooperation. Driven by the Minister and establishing a working party comprising both the Gibraltar Association of Pension Fund Administrators (GAPFA), chaired by Gerry Kelly, and the GFSC. As a result Government, industry and regulator have, together, produced an effective regime which will provide both consumer protection and preserve competitiveness.

External events

The process was accelerated by the announcement by the UK Government at the end of last year to only allow pension transfers, from April, into Recognised Overseas Pension Schemes (ROPS) in jurisdictions where such activity is subject to a regulatory regime. However much of the work in Gibraltar had already been done, making the new timescales imposed by the UK achievable.

Clearly the recent announcement by the UK of the imposition of a 25% exit charge, on many pension transfers to outside the UK, will impact the Gibraltar market. Whilst Gibraltar, as part of the EEA, is not automatically caught, a charge will be applied if the client is living outside the EEA or moves to live outside within five years of the transfer. This will adversely affect the business models of a number of local providers. However significant opportunities still exist and other have opened up because of the application of the charge to a number of other QROPS jurisdictions that will therefore no longer be able to compete in this market.

An unfinished journey

There will be more to do; occupational pensions and the schemes themselves are on course for regulatory and supervisory improvements and the issue of existing pension assets sitting in inappropriate investments will have to be addressed. However, given the manner in which the new regime has been implemented, this work seems destined to further enhance Gibraltar's reputation as a safe harbour for consumers seeking a home for their investments.

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