Equitable Life transfer to Utmost Life and Pensions

Requirement to provide an AVC arrangement

LGPS administering authorities are legally obliged to provide access to an in-house Additional Voluntary Contribution (AVC) arrangement for their members. This was an overriding requirement between 6 April 1988 and 5 April 2006 but is now only a requirement under the LGPS regulations themselves.

The overriding requirement was provided for by:

- section 12 of the Social Security Act 1986 from 6 April 1988 until 6 February 1994
- section 111 of the Pension Schemes Act 1993 from 7 February 1994 until 5 April 2006.

The Scheme requirement is currently provided for by regulation 17 of the LGPS Regulations 2013:

> *17. -(1) An active member may enter into arrangements to pay additional voluntary contributions ("AVCs") or to contribute to shared cost additional voluntary contribution arrangements ("SCAVCs") in respect of an employment.*
>
> *(2) The arrangements mentioned in paragraph (1) must be a scheme established under an agreement between the appropriate administering authority and a body approved for the purposes under the Finance Act 2004*
> *("the AVC provider"), registered in accordance with that Act and administered in accordance with the Pensions Act 2004*

In predecessor regulations the requirement has been provided for by:

- Regulation 60 of the LGPS Regulations 1997
- Regulation 25 of the LGPS (Administration) Regulations 2008

Equitable Life

Because of the legal requirement mentioned above, all LGPS administering authorities have entered into arrangements with one or more AVC providers. When the requirement was first introduced Equitable Life were a big player in the market and many funds appointed Equitable Life as their sole or joint AVC provider.

In 1999, Equitable Life launched court proceedings to enable it to force policyholders to accept bonus cuts. It won the first stage of its battle only to lose in the Court of Appeal and then the House of Lords.

Following the House of Lords ruling in July 2000 Equitable Life decided it was in the interest of members to find a purchaser for the Society. This failed and on 8 December 2000 it announced that it would not write any new business – it has been operating in run-off since then.

At this time LGPS administering authorities took action regarding:

- whether to retain Equitable Life as an AVC provider, and
- whether to appoint another AVC provider either in substitution for, or as an addition to, Equitable Life.

As a result, most LGPS administering authorities only hold AVC policies with Equitable Life in respect of historical AVCs but we think the amount invested across the whole of the LGPS is still significant.

The Proposal

On 15 June 2018, Equitable Life announced that it has entered into an agreement to transfer its business to Utmost Life and Pensions (previously Reliance Mutual).

Equitable Life's Proposal is made up of two main parts:

1. The Scheme –
   - increasing with-profits investments with an immediate one-off 'Uplift'
   - removing any investment guarantees, and
   - converting with-profits policies to unit-linked investments

2. The Transfer -
   To transfer to Utmost all of the business of Equitable Life except for certain excluded policies.

The Proposal involves three legal processes:

(i) the 'Scheme', which is the legal process which would make the changes to the with-profits policies
(ii) the Change to Articles, which would make Utmost the Equitable Life's only Member
(iii) the Transfer, which is the legal process which would transfer the transferring business to Utmost.

In August 2019, Equitable Life wrote to all the LGPS administering authorities affected by the transfer (about 45) to advise them that as both 'Scheme Policy Holders' and 'Eligible Members' they are able to vote:

1. to approve the 'Scheme'
2. to 'Change the Articles'

Administering authorities are also able to object to the transfer of Equitable Life's business to Utmost Life and Pensions (which does not require a vote but does need the approval of the High Court).

The deadline for the receipt of postal and online votes is 10am on 30 October 2019.

Key points

1. Scheme Policyholders cannot choose to opt out of the Scheme. The Scheme will only go ahead if the statutory majorities are obtained in the vote on the Scheme. These are:

   - a majority of more than 50% of the Scheme Policyholders vote in favour of the Scheme, and
   - the Scheme Policyholders who vote in favour of the Scheme hold 75% or more of the total Voting Value of all the Scheme Policyholders who vote.

2. The Change to the Articles requires approval of at least 75% of the votes cast. If the Change to the Articles is not passed the Scheme will not be implemented.

3. LGPS administering authorities are able to split their vote in a way that represents the preferences of their members.

4. The Scheme will also not become effective unless Utmost obtains a Changes in Control Approval from the Regulators (the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA)), as a result of them becoming the sole member of Equitable.

5. If enough Scheme Policyholders vote for the Scheme and the Change to Articles is passed, Equitable Life intends to return to the High Court to ask it to approve (or "sanction") the Scheme and the Transfer. This hearing is likely to take place on 22 November 2019.

6. Although there is no policyholder vote on the Transfer, all policyholders of the Equitable are able to raise concerns or object if they believe they will be adversely affected by the Transfer.

7. If the Proposal does not become effective, no Scheme Policyholder would receive any uplift and Equitable would continue to run as it does currently. They would try to find a different solution to the challenges they currently face, which they state include:
   - policyholders choosing to retire or take their benefits later than Equitable expect
   - regulatory requirements to set aside assets to provide for risks, rather than distribute them to their With-Profits Policyholders
   - Equitable becoming too small to function efficiently or cost effectively, and
   - other risks that materialise which mean that future policy payments have to decrease.

Full details about the Proposal is available on Equitable Life's website.