

## Annex 2.1

### Non Regulated Activities

The purpose of this annex is to provide **DPB firms** with guidance as to activities which the **IFoA** does not consider to be **regulated activities** (that is, non-regulated activities). It should, however, be noted that the listed activities may often be conducted in conjunction with **regulated activities**.

In addition, it is extremely important for **DPB firms** to note that this annex represents the **IFoA's** understanding of what it believes to be non-regulated activities. It is not, and could not be, authoritative as to the legal position and **DPB firms** are advised to contact the **FCA** in case of doubt, and if necessary to seek their own legal advice.

It is the responsibility of a **DPB firm** to satisfy itself whether any particular activity is a **regulated activity**.

In general terms, the **IFoA** considers that any activities which are only **generic advice** or use the **authorised person exemption** are not **regulated activities**. However, it should be noted that the requirements on trustees under section 36 of the Pensions Act 1995 to seek investment advice would generally exclude the possibility of using the **authorised person exemption** for trustees of pension schemes unless the **authorised person** provides the written advice required by that section. Also, the **authorised person exemption** cannot be used in the case of insurance policies.

Examples of activities which the **IFoA** considers to be non-regulated activity for **business clients** include the following:

- **generic advice to trustees on the method of funding an occupational pension scheme: self-invested; managed fund or insured;**
- **recommending an asset allocation, by asset class, appropriate to an occupational pension scheme's or insurance company's liabilities and objectives, and reviewing this allocation as circumstances change;**
- **examining, explaining and recommending strategic investment policies and methods of management, including the use (or not) of core holdings, indexed funds, active or passive management, specialist funds (including, but not limited to OEICS, authorised and unauthorised unit trusts), in-house and external management so long as no particular *investments* are mentioned;**
- **recommendations of and/or advice and assistance in selection of *investment* managers for segregated funds, including negotiation of terms of appointment;**
- **recommendations of and/or advice and assistance in selection of authorised custodians with a view to custody services being provided in the *UK* including negotiation of terms of appointment;**
- **advice relating to Statements of Investment Principles for *UK* approved occupational pension schemes;**

- advice on the suitability in principle of using *options*, warrants, *futures*, *contracts for differences* so long as the advice does not relate to any particular derivative contract;
- monitoring the portfolio performance of assets, including the testing of *investment* strategies and the monitoring of individual managers; and advice to managers on relating fee to performance;
- advice on, and analysis of, portfolios by geographical area, by type of industry and by risk characteristic;
- asset liability studies
- advice on reporting systems and presentation of results;
- drafting and providing *investment* related information on behalf of trustees to be supplied to *UK* approved occupational pension scheme members, including benefit illustrations;
- attending on, and advising, trustees or a board of directors as an independent expert in institutional *investment*, so long as no advice on particular *investments* is given;
- membership of, or consultancy to, advisory committees that meet regularly with internal or external fund managers, so long as no advice on particular *investments* is given;
- advice given to an employer on comparisons between occupational pension schemes, stakeholder pension schemes and personal pension plans in general terms, so long as no advice is given about a stakeholder pension scheme or personal pension plan from a particular provider;
- advice on the design of a defined contribution pension scheme (contributions, retirement, *investment* options in generic terms etc);
- a *DPB firm* or *principals* or employees of the *DPB firm* acting as a trustee of a trust which includes or may include *investments* so long as:
  - (a) the *DPB firm* does not hold itself out as providing an *investment* management service and does not receive any remuneration for managing the trust assets in addition to any remuneration received as trustee. A *DPB firm* is not regarded as receiving additional remuneration merely because its remuneration is calculated by reference to time spent; and
  - (b) if the assets of the trust are held for the purposes of an occupational pension scheme, all routine or day to day decisions, relating to the management of the *investments*, are taken by an *authorised person*.
- advice that a *person* should take out insurance of a particular class, e.g. Directors & Officers or warranty insurance, without identifying any particular

insurer.

- **Monitoring or review of group pension plan arrangements**
- **Arranging for a person to join or leave a group pension plans**

Examples of activities which the *IFoA* considers to be non-regulated activity for *business clients* where the *investments* are or will be acquired by individuals include the following:

- **advice to an employer or an individual, including making presentations to employees, on comparisons between occupational pension schemes, stakeholder pension schemes and personal pension plans in general terms so long as no particular product or product provider is mentioned (see article 17 of the *Financial Promotion Order*);**
- **advice to an employer on designing the features (e.g. contribution scale, investment funds to make available in generic terms) of a group personal pension or stakeholder pension scheme to which it will contribute, and drafting information to be provided to employees by the employer on these aspects (but not information on a particular product);**
- **advice to an employer on the selection of a contract-based pensions product such as a GPP for the employees to use; this is not considered to be regulated as the advice is not being given to the holder of the investment;**
- **introducing employees seeking non-insurance *investments* to an *authorised person*, which is not in the same group as the *DPB firm* and where the *DPB firm* receives no pecuniary reward or advantage from the introduction, for the provision of *independent advice* or *restricted advice*. (Introducing employees to an *authorised person* for *advice* on insurance products may be *regulated activity* but is allowed under paragraph 2.22 of this *Handbook*)**

Examples of activities which the *IFoA* considers to be non-regulated activity for individuals include the following:

- **any advice relating to an individual member's rights in an occupational pension scheme, including advice relating to additional voluntary contributions into such a scheme (but not a Free Standing AVC), transfers between occupational schemes and retirement options under such a scheme which does not involve *investment* (this is excluded under Article 89 of the *Regulated Activities Order*);**
- **making a recommendation to an individual that they buy a particular type of *investment* (e.g. a personal pension), but making it clear that the individual will have to seek advice from an *authorised person* if the individual wishes to obtain *advice* on which particular product may be suitable (an example of *generic advice*).; and**
- **advice to employers in drafting communications to individuals.**