

The logo for the UK Shareholders' Association (UKSA) features the letters 'UKSA' in a large, bold, white sans-serif font on a dark blue rectangular background.

UK Shareholders'
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Financial Conduct Authority

Part VII guidance – by email partviiguideance@fca.org.uk

GC 21/3: Proposed changes to guidance on the FCA's approach to the review of Part VII insurance business transfers

I write as Policy Director of the UK Shareholders' Association. As part of its 'Savers Take Control' project, the Association is concerned about the rights of pensioners to have a say in how their pensions are managed.

We have reviewed your proposed changes to Part VII guidance by comparing it to the existing guidance in FG 18-04 which came into effect in May 2018.

We are broadly supportive of the changes, such as the guidance on call centre response times.

However, we feel that the proposed changes do not go far enough to ensure (i) that policyholders are adequately and independently represented and (ii) that policyholders are able effectively to organise themselves to discuss the proposal.

On the first point, our experience of Part VIIs is that policyholders are over-reliant on the Independent Expert, who is appointed and paid for by the transferring firms. While the Expert expressly acknowledges their independence and their primary duty to the court, the fact that their fees are paid for the firms nonetheless may be a reason to doubt their complete and absolute independence. Note also that the Expert is normally employed by a firm of consulting actuaries, who are dependent on a pool of clients for their business. Experts who get a reputation for 'difficult' Part VII opinions may find the pool drying up rapidly.

We would like the process to provide for voluntary organisations (such as our own ‘Savers take Control’ project) to review and comment on the IE report, and to submit their own written report to the PRA, or to the Court, and we would like the FCA to provide guidance on what that process might look like. Voluntary organisations are mentioned nowhere within GC 21-03.

On the second point, our experience is that communication with policyholders is one-way only, and that there is no facility for them to organise themselves, or even to discover who the other policyholders are. One told us that a small group of objectors was only formed because they met each other in person at the Court Hearing. Yet, in that very case, over 1,000 policyholders had objected. GDPR is a further obstacle. In an era dominated by social media (and in the present situation of Covid) it seems perverse that the Part VII process allows no means of policyholders contacting each other. This could be achieved by a Facebook or other social media platform that would allow policyholders to discuss issues with one another, anonymously if they wished. The Part VII communication process should facilitate this, e.g. by including some address or URL for policyholders to use. Forums are inexpensive to set up and administration and authentication should not be difficult to provide, perhaps sponsored by the transferring partners.

On a point of detail, paragraph 6.8 gives examples such as “I have discussed with the firm’s management ...”. Another example is “In my view”, which occurred two dozen times in one recent IE report that we saw. Where the view is on a subject of material concern, it is *not* enough to rely on the Expert’s ‘view’. Consistent with para 6.5 any material ‘view’ should be accompanied by sufficient reasoning to support it, and your guidance should make this explicit.

If you wish to clarify any of our comments or discuss our thoughts further, please contact either of the signatories whose contact details are given below.

Yours,

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