**Monthly mediation case September 2018**

**Transfer of a classic PEA to an insurer-managed PEA: pay careful attention to special conditions**

The insurer-managed equity savings plan (PEA), which takes the form of a unit-linked capitalisation contract, can only be invested in cash. Therefore, all securities held within the classic PEA must be sold before the transfer to an insurer-managed PEA. Since the tax advantages of the plan are preserved, the information form[[1]](#footnote-1) must be transmitted by the originating institution as soon as possible. The following mediation case, which allowed one saver to obtain compensation, illustrates this point.

Facts:

Mr S. requested the transfer of his classic PEA, comprising FCPs (*fonds commun de placement)* and membership shares, to an insurer-managed PEA on 12 October 2015. On 4 December 2015, the recipient insurance company informed him that it had sent a transfer request via registered mail to the bank of origin (manager of the classic PEA).

After several follow-ups, the funds were finally transferred on 14 March and 25 April 2016. However, the insurance company did not receive the complete information document from the bank until 22 June.

Mr S. believes that this abnormally long transfer time caused him to suffer losses that he estimates at around €7000, taking into account the fall in share prices of his FCPs in Q1. After his bank refused his request for reimbursement, he asked me to intervene. I questioned the institution, which shared its observations with me.

The analysis

The bank first of all explained to me that, in a transfer to an insurer-managed PEA, only cash can be transferred to the beneficiary institution. Consequently, the bank was obligated to sell all securities held by Mr S. before proceeding with the transfer. However, among these securities were membership shares, the sale of which delayed the processing time.

The institution then informed me that all available cash had been transferred on 14 March 2016. The additional transfer on 25 April concerned only the annual interest on company shares.

The bank added that during this period, Mr S. had the option to switch the securities in the account based on the change in prices via his personalised access from the website.

In view of the above, the bank considered that the transfer of the PEA had been processed within three months, a period it found to be reasonable in light of the assets in the portfolio. The institution therefore did not wish to grant the client’s request.

The recommendation:

First of all, I noted that more than a month had passed between the client’s transfer request to the insurance company and the date on which this request was sent to the originating institution. Clearly, this delay cannot be attributed to the original institution.

I understand that the processing time for the transfer of a classic PEA to an insurer-managed PEA can sometimes be longer if the securities held are not liquid, since all the securities must be sold. However, it appears to me that if the sale of membership shares in the PEA required a longer processing time, the sale of FCPs, on the other hand, could have been completed more quickly.

Moreover, the bank's reasoning by which Mr S. could switch his securities seems debatable. It is clear that during this intermediary period, it may be in the saver’s interest to avoid making changes to his portfolio, as this could further slow down the transfer, keeping in mind that he has no visibility with regard to the delays.

Finally, as regards the transmission of the information form, it appears, based on the documents provided to me, that the bank made a twofold error. First, the information document was sent to the wrong recipient. Second, it was incomplete since the page retracing the tax history of the PEA was missing. I can therefore only assume that the completed form was not sent to the insurance company until 22 June, or more than three months after the cash transfer.

I therefore asked the bank to reassess this file. As a gesture of goodwill, the latter offered to compensate this saver for a portion of the alleged damages. The amount proposed seemed entirely appropriate to me, and Monsieur S accepted the offer.

Lesson to be learned:

Firstly, it should be noted that the AMF Ombudsman cannot be solicited in cases relating to insurance disputes, including life insurance. This case was processed since the transfer delays were attributable to the originating bank, and not the insurance company. As for the insurer-managed PEA, it falls under the authority of the ACPR (*autorité de contrôle prudentiel et de résolution*) and not the AMF.

* For institutions managing classic PEAs:
  + When a saver requests a transfer from a classic PEA to an insurer-managed PEA, the institutions must exercise due diligence and transmit the information form as soon as the securities are sold, since the tax advantages of the plan are preserved. In the absence of this information form, the recipient institution cannot activate the PEA.
  + When there are securities in the portfolio that, by nature, are subject to specific sale processing times (i.e. membership shares), the best practice would be to inform the client directly. He will have a better sense of the remaining processing time and can then, if he so chooses, take management measures to protect his portfolio against the falling prices of his securities.
* For the client:
  + The processing time for a transfer to an insurer-managed PEA may be longer than that of a transfer between classic PEAs, depending on the securities held in the portfolio. Since an insurer-managed PEA can only be invested in cash, the securities must be sold prior to the transfer.
  + Contrary to a classic PEA, securities cannot be directly held in an insurer-managed PEA. The saver can only invest in units of the capitalisation contract - units that feature on the list proposed by the insurance company.

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1. The information form enables a bank to retrace all the related history to calculate the rights and tax liabilities of the PEA holder. [↑](#footnote-ref-1)