The Ombudsman's Case of the Month
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Be aware of the difference between transferring and switching assets within employee savings schemes

The AMF Ombudsman routinely encounters situations where investors in employee savings schemes may be confused about the difference between transferring assets into a group retirement plan (PERCO) and switching assets within a company savings plan (PEE). These two courses of action have very different effects both in terms of the period for which assets are tied up and the situations in which early release is allowed.

A discussion of the following case offers an opportunity to highlight this issue.

The facts

Acting through his account keeper's website, Mr D. wanted to invest his assets in fund X rather than fund Y, while leaving his money in the same employee savings scheme. This meant that he needed to switch the assets within his PEE plan.

But Mr D. entered the wrong instructions and mistakenly transferred the assets into his PERCO plan. A PERCO plan requires funds to be tied up not for five years as with a PEE plan, but until the holder retires, except in the situations in which early release is permitted by law.

On being informed of his error when he attempted to make an unauthorised withdrawal from his PERCO plan, Mr D. asked his account keeper to cancel the transaction. He had mistakenly transferred all of his savings to the PERCO plan and he said he needed the money urgently.
But his account keeper refused his request on the grounds that transactions are irrevocable once they have been booked.

Mr D. therefore turned to me with a request to cancel the disputed transaction.

The analysis

I contacted the account keeper to ask for the information that it had provided to its customer about the difference between switching assets within a PEE plan and transferring assets to a PERCO plan. Specifically, I wanted a copy of the procedure put in place by the institution on its website to allow employee investors to distinguish between the two different actions when inputting their instructions.

When I reviewed the case, I saw that information was provided in two stages:

- <u>before the transaction was executed</u>: information was duly provided, with the the account keeper's website distinguishing between transfers and switches.

- <u>after the transaction was carried out</u>: I noted that the transaction statement received by Mr D was titled *"asset switch statement"* even though he had actually transferred assets. I felt that this might have caused him to confuse the two transactions. What is more, a note at the bottom of the statement incorrectly suggested that it was still possible to cancel the transaction. I conveyed these views to the institution.

The recommendation

My recommendation was partly informed by considerations of fairness, given the specific circumstances of the case in terms of the investor's financial position and needs. The account keeper agreed to cancel the transaction wrongly made by Mr D. It also told me that it would review the titles of its transaction statements and improve the procedure designed to alert investors to the differences between the two courses of action when inputting instructions.

The lesson to be learned

Any investor considering making a transaction involving his or her employee savings schemes must be mindful of the differences between transferring and switching assets.

Funds transferred from a PEE plan into a PERCO plan will be tied up until the investor retires. By contrast, a switch merely involves moving funds within the same scheme, whether it be a PEE or a PERCO plan.

Bear in mind also that the situations in which assets may be released are much more restrictive in the case of a PERCO plan as compared with a PEE plan. Specifically, by law, assets may be released early in five situations, as compared with nine for PEEs. For example, termination of an employment contract does not constitute a reason for the early release of funds from a PERCO plan. In such a situation, it is necessary to wait for the holder's unemployment benefits to run out. By contrast, the purchase of a principal residence is a situation allowing early release under both types of scheme.

Investors must therefore pay attention to the systems put in place by their account keepers to alert customers to the differences between the two courses of action and their effects.
Meanwhile, account keepers must take care to provide investors with information not only beforehand but also after the fact, to avoid maintaining or creating a risk of confusion.

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