DRN-5790055

The complaint

Mr M complains that iPensions Group Limited has refused to transfer his Self-Invested Personal Pension (SIPP) to Novia Global, citing a red flag under The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 ("Conditions for Transfers Regulations") and supporting guidance from the Pensions Regulator (TPR).

What happened

Mr M resides in France and holds a SIPP with iPensions. This is styled "The Adviser SIPP" and designed to be available to individuals who are residing either inside or outside the UK. The current version of the terms and conditions on its website define "appointed adviser" or "financial adviser" both as a "*regulated…adviser appointed by you…".* Mr M says that he had originally set up or operated this SIPP under the advice of a firm regulated in Dubai.

On 19 September 2024 Mr M asked another investment provider that he had a relationship with, Novia Global UK, to request a cash transfer of his SIPP from iPensions. This was set up on the Origo Options online transfer system on 26 September 2024 for an approximate value of £625,385. He says he made this decision as a result of the level of service, range of solutions available and value for money, which had prompted him to approach another financial adviser he had an existing relationship with in Switzerland to assess alternatives.

Whilst processing the transfer, on 8 October iPensions asked Mr M to confirm where he had received financial advice. Mr M confirmed the following day that he was taking advice from "Firm L" which was based in Switzerland and authorised by FINMA, ARIF and SOFIT (three Swiss regulatory/supervisory bodies). Mr M has told this service that he had existing relationships with both Firm L and Novia Global.

iPensions responded to the transfer request on 11 October. It said that according to TPR's guidance, it was required to apply the red flag to his transfer request of *"Someone carried out a regulated activity without the right regulatory status."* No further information was provided.

After further querying by Mr M, iPensions explained on 30 October that Firm L didn't hold the necessary authorisation to advise cross-border from Switzerland into France. It agreed to add his case to the agenda at a forthcoming SIPP trustee meeting on 7 November. But Mr M didn't think this was sufficient. He pointed out that he had been resident in France since 2007 and iPensions added the Dubai adviser to his policy in 2017. He asked whether that meant that the Dubai adviser was also not permitted to advise him.

iPensions got back to Mr M on 22 November reiterating that the same red flag applied. It said, *"The financial adviser must hold the appropriate permissions to be able to advise the client in their jurisdiction, and in this case* [Firm L] *are not appropriately regulated in Switzerland and do not have the permissions to provide financial advice to you."*

iPensions said this hadn't applied to his Dubai adviser (who it appointed to the SIPP on a 'voluntary' basis in 2017) as the Conditions for Transfers Regulations didn't come into effect until 2021. It added that it was 'advisable' and 'beneficial' for clients to have an adviser in

their jurisdiction to *"ensure that the advice you receive aligns with your local tax and legal obligations"* and this is *"required to mitigate any risks associated by the cross-jurisdictional transactions and potential tax liabilities by conducting this transfer"*.

On 27 November Mr M said that if this meant he wasn't able to continue using the Dubai adviser, he would like that adviser to be removed from his pension plan. iPensions did this on 5 December, confirming that in future Mr M could only appoint an adviser on the iPensions SIPP with the correct permission to advise in his jurisdiction and that this "*will ensure the advice remains compliant, relevant and legally enforceable."*

Mr M formally complained about iPensions' refusal of the transfer on 10 December 2024, saying he considered that it was hiding behind the regulations and TPR guidance as a way of retaining his funds of some £625,000 and collecting further fees. He referred his complaint to our service on 15 February 2025 in the absence of a final response from iPensions.

iPensions issued its final response on 7 March 2025. This specifically addressed a concern Mr M said that the UK Financial Conduct Authority (FCA) had mentioned in a 2016 consultation:

"Allowing the advice requirement only to be met by advice from a financial adviser based in the same financial jurisdiction as the member presents difficulties for members who seek or rely on these advice services... It may mean, for example, that the member may not be able to locate a local adviser in the count[r]y of residence, who is willing or competent to advise on a cross-border pension transfer to a third country"

Mr M was actually referring to a consultation by the Department for Work and Pensions (DWP) in September 2016, addressing some of the difficulties individuals resident outside the UK faced when obtaining advice on transferring so-called 'safeguarded benefits': most commonly benefits of a guaranteed nature held in former "final salary" pension schemes. The government was looking into how the existing legal requirement was working, whereby anyone transferring such benefits worth more than £30,000 had to seek regulated advice from an FCA authorised adviser, irrespective of where in the world they lived.

This consultation didn't therefore apply to the type of pension Mr M held with iPensions (which doesn't contain safeguarded benefits) and, ultimately, the £30,000 UK advice requirement hasn't been removed for those overseas residents it does affect. Nonetheless, the consultation referred to difficulties that I accept Mr M considers apply to him: DWP was noting "*it is common for members to seek the services of financial advisers located in other financial jurisdictions…Members may choose to use these services for various reasons, including the absence of a suitable regulatory regime, or financial adviser in their current country of residence.*

iPensions' response to Mr M raising this was that it thought he was referring to the '*reverse solicitation rule'* – a provision in the EU Markets in Financial Instruments Directive (MIFID) II that allows a client in an European Economic Area (EEA) country (France in Mr M's case) to initiate the receipt of investment services or advice from a firm authorised in a third, non EEA country (Switzerland in Mr M's case) on their own initiative without contravening local regulations. iPensions thought this rule wasn't designed for long-term client relationships or to facilitate complex activities like completing pension transfer requests, so it considered the only option for Mr M in his case was to receive financial advice from an adviser in France.

Mr M told this service that he's unable to find an FCA regulated adviser willing to provide advice to a non-UK resident, or a French adviser familiar with UK SIPPs.

iPensions maintained its position with this service, citing *"an example document to help*

firms…gather information to carry out the assessment in respect of the conditions of transfer test, page 2, Q5c asks if the financial adviser is outside of the UK, 'who are they registered with in order to provide financial advice'." This is a reference to a list of example questions TPR provided for pension scheme members alongside its guidance supporting the Conditions for Transfers Regulations. TPR said when it released these questions that obtaining answers to these questions *"may assist you in your assessment of the presence of flags".* I've taken it that iPensions is saying that the country of authorisation of the financial adviser must be relevant for TPR to have suggested a question about it in this way.

Preliminary investigation

One of our Investigators considered the complaint. He referred to the onus placed on iPensions to scrutinise Mr M's transfer request in the Conditions for Transfer Regulations. The broad aim of these regulations, as both parties will know, is to reduce the incidence of pension scams. They provide for a system of red flags, which cause the pension scheme member to lose their statutory right to make a pension transfer; and amber flags which require the member to attend an appointment with the MoneyHelper guidance service before being able to exercise that right.

The Investigator set out that TPR's guidance on red flag 3, which iPensions was referring to, applies (with my emphasis) *"where you have reason to believe that the member has been in contact with someone who agreed to or who has carried out any of the following regulated activities without the appropriate regulatory permissions* ***from the FCA:***

- *providing pension transfer advice*
- *providing advice about where to invest their pension*
- *making arrangements for the member to buy or sell investments or making arrangements with a view to the member buying or selling investments"*

As part of its explanation TPR had also provided the following example, which our Investigator said didn't actually cover Mr M's situation (because he wasn't using a regulated adviser in the UK at all):

> *"• If the member lives abroad and wants to transfer their benefits overseas, a regulated adviser in the UK who is advising on a pension transfer may work with an overseas adviser who is advising on investing the transferred benefits in overseas investments. Depending on the particular circumstances, this may not in itself be a cause for concern."*

In the Investigator's view, no UK onshore regulated activity had taken place in the actions of Firm L advising Mr M and arranging his transfer – meaning that there were no grounds to raise the red flag on the basis of Firm L not holding appropriate FCA permissions. He said the wording of the Conditions for Transfers Regulations themselves made this clearer, again with my emphasis:

> *"(5) There is a red flag present where the trustees or managers of the transferring scheme decide that—*
> *(a) a person without the appropriate regulatory status has carried on a regulated activity for the member in respect of the transfer* ***in breach of section 19*** *(the general prohibition)* ***or section 20*** *(authorised persons acting without permission)* ***of the 2000 Act;"*** [the Financial Services and Markets Act 2000 (FSMA)]

The Investigator didn't consider that iPensions should be applying an analogous test to whether FSMA had been breached, on whether any domestic legislation in France had been breached instead – as that had no impact on Mr M's statutory right to transfer. Nor were

there any regulations specifically requiring iPensions to ensure Mr M obtained regulated advice in France.

Responses to the investigator's view

iPensions raised a number of points that I'll summarise as follows:

- It applied the red flag because Firm L, based in Switzerland, didn't hold the appropriate authorisation under MiFID to provide investment advice to a client residing in France – when such authorisation was a legal requirement across the EU.
- The consequence of this was that Firm L's advice was unlawful, so *"our assessment has followed the same principles we would apply in a UK context".*
- Because the transferring and receiving schemes were both in the UK, domestic pension legislation and regulatory standards continued to apply.
- It took this action to uphold a standard that was *"essential to ensure that clients who receive financial advice from qualified, lawfully operating professionals who are subject to regulatory oversight"*.
- It was complying with its wider regulatory obligations to the FCA to protect its client's best interests.
- This included conducting appropriate due diligence on all transfers, including *"assessing the appropriateness of the advice received"*.

Mr M agreed with the Investigator's findings but added:

- The proposed mix of investments within the Novia Global SIPP have outperformed the investments with iPensions, and charges were also higher including an annual in advance £650 trustee fee (one of the reasons he was seeking to change providers).
- MiFID II doesn't cover personal pension products, and therefore advice on these isn't caught as investment advice under the Directive. That is the position also taken by the FCA on MiFID (on matters concerning activities taking place in the UK).
- In any case even if the advice normally required authorisation, the provisions allowing reverse solicitation under MiFID II mean that he can initiate obtaining investment services including advice from Firm L in a third country (Switzerland) without breaching any regulations.
- As this is not a transfer of safeguarded benefits of more than £30,000, there is no regulatory requirement that he takes advice, from anyone, on the transfer.
- He has received a detailed suitability report in which all advantages and disadvantages, and costs, have been made clear to him – as well as terms & conditions, a schedule of fees for the SIPP and prospectuses for the investments.
- He also has a contractual right to transfer his policy, separate to the statutory right.

As agreement couldn't be reached, the matter was referred to me as Ombudsman.

My provisional decision of 14 November 2025

In the following summary of this decision I haven't included discussion about the extent to which Mr M had a contractual right to transfer his pension alongside the statutory right, because the statutory right alone would be sufficient to have a legal right to transfer.

iPensions has provided a range of different reasons for applying a red flag to Mr M's transfer when, in my view, only one reason can – potentially – be used for red flag 3 under the Conditions for Transfers regulations. That reason is where a person without the appropriate regulatory status has carried on a regulated activity for the member in breach of the general prohibition at section 19 or 20 of FSMA. Section 20 is not relevant to this case as Firm L is not a firm that is authorised in the UK carrying out unauthorised activities. Section 19 reads,

with my emphasis:

> *"(1) No person may carry on a regulated activity in the United Kingdom, or purport to do so, unless he is -*
> *(a) an authorised person; or*
> *(b) an exempt person."*

It is therefore clear that the territorial extent of the general prohibition is that it only covers activities taking place in the UK. The regulated activity of 'advising on investments' is normally considered to take place at the place where the advice is received (PERG 5.12.8G in the FCA handbook refers). Here, Mr M was located in France and Firm L is in Switzerland – so whether he received the advice electronically or during a visit by Firm L's adviser, or went to Switzerland to receive it, the advice didn't take place in the UK.

I'm aware that advice is typically accompanied by the regulated activity of 'arranging deals in investments' (Article 25(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001). Arrangements relating to investments are normally carried on at the place where the arrangements are made (by analogy with the insurance distribution guidance in PERG 5.12.8G).

The arrangements I'm concerned with here are between Mr M and Firm L. So they may have been taking place both in France and Switzerland, but were outside the UK. The reason the UK 'leg' of the arrangements (essentially, Firm L transmitting an instruction to Novia Global to request the transfer) isn't relevant to this question is because of the exclusion of *"arrangements made by an overseas person* (in this case Firm L) *with an authorised person* (in this case Novia Global)*"* from the 'making arrangements' activity under Article 72 of the above Regulated Activities Order.

There is therefore no breach of section 19 FSMA that I can identify in this case. That is the only relevant test that iPensions is required to apply to determine whether red flag 3 exists under the Conditions for Transfers Regulations. Consequently, I consider that iPensions erred in reaching its conclusion that there was a red flag for this reason.

I'm aware that the accompanying guidance to these Regulations, from which iPensions has quoted, is phrased differently and in a way which – absent the context of the Regulations themselves – could be interpreted differently. It suggests that an absence of authorisation from the FCA is a determining factor. But that's because for the vast majority of cases where the pension scheme member is resident in the UK and advice is being given in, or into, the UK, that is a determining factor. It isn't however what matters in Mr M's case for the reasons given above, and when read in the proper context of the Regulations themselves I consider both the guidance and Regulations have the same meaning.

iPensions has further taken the intent, or spirit, of red flag 3 and applied it to Mr M's situation outside the UK – that is, looking to see if Firm L is appropriately authorised to advise him in France. It may have acted with the intention of preventing Mr M falling risk to a pension scam – that being the stated purpose of the Regulations and guidance. However, given that the application of the flag is what takes away Mr M's statutory transfer right, it has significant and I consider unreasonable consequences for him in the circumstances of this case.

I don't agree with iPensions that simply because Mr M's pension plans – and it as provider as one of those – are based in the UK, it is bound in some way to adopt this alternative interpretation of the guidance. TPR's example question asking the scheme member how any overseas financial adviser is regulated, was plainly conceived for the vast majority of transfers where the member is receiving the advice in the UK. And Red flag 3 only applies in the circumstances the Regulations say it applies. I think what iPensions is getting at is that

because it believes Firm L may be contravening regulations in Switzerland – and I assume for the purpose of this that iPensions' belief is correct – Mr M may be at greater risk of a scam.

Our Investigator said he doubted whether a UK pension provider such as iPensions had the expertise to assess whether regulations in other territories were being broken. Whilst Mr M has suggested that advice on personal pensions isn't covered by MiFID, it's possible that such advice might be addressed in other domestic legislation in France outside of that Directive. Equally Mr M has made a point about the reverse solicitation rule, which might significantly affect the extent to which iPensions has reached the correct interpretation of his position.

Considering the wide range of factors that might apply, there is no expectation that a UK pension provider will investigate the circumstances of advising and arranging activities that are fully offshore to the extent that iPensions is seeking to do. I'm not in a position to say whether iPensions has reached the correct interpretation, nor do I think it reasonably needs to reach a definitive decision about the regulatory regimes of overseas countries, in order to fulfil its own obligations to the FCA. I'll explain why.

Since 2013 TPR has periodically issued guidance giving UK pension providers like iPensions a role in carrying out due diligence before processing a pension transfer. This guidance, and further best practice guidelines from the Pension Scams Industry Group (PSIG), whilst not binding on iPensions, are relevant things for me to take into account in deciding whether it has adhered to the FCA Principles for Businesses. The following Principles and Rules have particular relevance to transfer requests:

- Principle 2 – A firm must conduct its business with due skill, care and diligence;
- Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;
- Principle 7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading;
- COBS 2.1.1R (the "client's best interests rule"), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

There has always since then been an expectation that personal pension providers like iPensions will carry out due diligence on transfer requests and, where necessary, warn the member of their conclusions where they are concerned that he or she is at risk of a pension scam.

That expectation remains since the introduction of the Conditions for Transfers Regulations – not least because the nature of scams can change and a pension provider may have concerns that don't strictly engage one of the red or amber flags. In that event it would still be consistent with these overarching regulatory responsibilities for the provider to alert the member about its concerns, so he or she can make a fully informed decision before transferring.

As iPensions has now explained to Mr M why it thinks Firm L may be contravening French/Swiss regulations – a view I note Mr M disagrees with – I think it has met its obligations here. Even if iPensions could counter Mr M's objections and demonstrate unequivocally that laws are being broken in those other jurisdictions, I don't agree that denying the legal right Mr M has to transfer under the law in the UK (in effect, breaking another law) is a fair, reasonable or proportionate response unless one of the red flags

actually applies. The reason is that iPensions will already have done all it reasonably can to alert Mr M to its concerns, and ultimately the right to exercise the statutory right remains with him.

For similar reasons I'm not persuaded that iPensions' wider regulatory obligations to the FCA to act in its client's best interests provides justification for denying him this legal right. There is no indication here that Mr M is incapable of, or hasn't, understood the concerns iPensions has highlighted with him. He evidently doesn't agree with those concerns and has made an informed decision in light of what iPensions has told him.

I also don't agree with iPensions that the Conditions for Transfers Regulations say anything about whether a particular overseas adviser is able to be associated with his SIPP on an ongoing basis or not. The Regulations are particular to transfers. It may be that iPensions' appetite in general for attaching overseas advisers to SIPPs has changed (for reasons which may include that is more difficult to establish how they are regulated, particularly in the context of clients who reside in the UK). But if so, I think it should have given Mr M a correct explanation for this. I haven't considered this point any further because Mr M evidently wanted to remove the Dubai adviser from his plan by this point.

There's no specific expectation that iPensions (a firm that doesn't have permission to provide investment advice) should, as part of its due diligence, decide whether another advisory firm has given suitable advice to its member. The adviser's suitability report is one of a range of things a ceding scheme might seek to review as part of its due diligence, but from the point of view of looking for obvious warning signs of a scam – rather than holistically evaluating advice that it does not itself have the permission to give.

The result of any such review would only affect the extent to which the ceding scheme decided it was appropriate to warn the member of any warning signs it identified (and, in the absence of the member having a legal right, whether it exercised any other discretion it has to make the transfer – which isn't relevant to this case).

My provisional decision concluded that iPensions hadn't provided a valid reason to deny Mr M his statutory transfer right, and is should therefore reconsider Mr M's transfer request in light of my findings. And if it now decided that Mr M's transfer should proceed, it should also give consideration to the financial losses he'd complained about.

Responses to my provisional decision

iPensions didn't agree with the decision, saying in summary:

- It applies the same guidelines it has around business acceptance for non-UK residents, to transfer requests: *"the advisers are appropriately regulated in the jurisdiction where the clients are tax resident, they are UK qualified to level 4 as a minimum and that they have an ongoing CPD regime, to maintain their knowledge and professional standing."* The rationale for this is to drive consistently positive client outcomes, reduce potential scams and unlawful activity.
- iPensions is working to the ethos of what the transfer regulations intended, which was to prevent scams and consumer detriment. So it refuses transfers where it has identified connected parties, suspect behaviours or unregulated advisers, which generally manifest themselves into unappropriated [sic] high-risk investment or high costs and charges that are obscured from the member/client. It applies this uniformly to all clients – whether UK based or international – to ensure fairness, transparency and protection of members' interests.
- Whilst it agrees that the guidance has principally been written on the basis that the member and the adviser are both based in the UK, the contained safeguards should not be disregarded on the basis that the member resides elsewhere and his

'informed decision' is being made on the basis of unlawful advice from an unregulated adviser.
- Mr M's SIPP is regulated by the FCA and typically many of iPensions' members return to the UK in retirement and therefore those safeguards are equally as important.
- iPensions' refusal decision has been made in the best interests of the member, following FCA guidance and the principles set out by TPR.
- My provisional decision will compel it to make this (and other potential scam) transfers even though there is a heightened risk that the client will suffer harm/detriment.

iPensions also made reference to past transfers it had declined on the basis of known scam activity and a recent report it has made of another potential scam. But it doesn't appear to be saying that Mr M's transfer request contains all of the same features of these scams. Rather, it said there were *"several reasons"* why the transfer was rejected and it was based on clear risk indicators. The only one which I can identify in its arguments specific to Mr M's case is *"particularly the fact that Mr M's advisers are unregulated and acting unlawfully"*. So I'm not going to comment on iPensions' observations about other scams. Mr M's transfer request must be considered on its own merits.

Mr M accepted my provisional findings and provided further evidence of what financial loss he'd suffered, which I've shared with iPensions. In summary, Mr M's analysis (supported by data from his adviser) is that:

- He ought to have been able to transfer his pension on 31 October 2024, when he had £765,566 in his iPensions SIPP, mainly held in the Dimensional Fds Pl World Allocation 80/20 Eur fund with a smaller component in the Dimensional Fds Pl Wld Allocation 60/40 Eur fund.

- He attached Firm L's suitability report which he signed electronically on 8 September 2024, before the transfer request on 26 September 2024. The adviser recommended investment in the following exchange traded funds (ETFs) and EU-compliant Undertakings for Collective Investment in Transferable Securities (UCITS) funds within the Novia Global UK SIPP, which they said allocated 70% to equites and 30% to fixed income:

HSBC MSCI World ETF	21%
Xtrackers MSCI World Momentum UCITS ETF 1C	17%
Xtrackers MSCI World Value UCITS ETF 1C	10%
iShares MSCI World Small Cap UCITS ETF	7%
iShares Core MSCI EM IMI UCITS ETF	14%
Vanguard Global Short-Term Bond Index Fund – Hedged EUR Dist	29%
Cash	2%

- His calculations show that once growth and dividends is included, this portfolio would have outperformed the iPensions SIPP by €28,268 up to 16 November 2025.

My revised provisional decision of 27 January 2026 and responses

As I wasn't persuaded by iPensions' arguments (for reasons I'll explain below), I subsequently clarified my provisional decision. I explained that if there were any other matters that iPensions considers it should caution Mr M about to inform his decision, and which are not based on an erroneous interpretation of the law, that was its last opportunity to

do so. That was because I wouldn't be able to support denying Mr M his statutory right to transfer any further, providing no further red or amber flags have been identified and Mr M still wished to make the transfer.

I explained that should nothing materially change, I would therefore be making a Final Decision ordering iPensions to make the transfer. And that decision would adopt Mr M's calculation for the financial loss he'd suffered which I thought was fair and reasonable.

I gave the parties until 10 February 2026 to respond to this revised provisional decision. Mr M confirmed he didn't have anything further to add, but agreed that should iPensions take that final opportunity to identify any further concerns or flags, he would consider them carefully before deciding whether to proceed.

iPensions asked for an extension of the deadline until 24 February 2026, which I granted. In summary, it said:

- It is seeking feedback from TPR, FCA and AMPS (Association of Member Directed Pension Schemes) on the interpretation and application of the relevant legislation. As my decision will have a wider impact on the UK SIPP market, it believes the FCA needs to provide comment.

- Many UK providers have a blanket ban from taking instructions from overseas advisers or members living overseas. (I presume the point being made is that iPensions doesn't do this, but investigates the legality of each approach individually.

- It reiterates that in its opinion, Mr M's adviser is breaking French law (and explains why).

We haven't heard further from iPensions, and I'd already made clear to it that I wouldn't be agreeing to further extensions without good reason. As part of this I mentioned that DWP, which was involved in authoring the regulations themselves, was aware of the

approach this service is taking on the territorial extent of red flag 3, and that other firms (including those who are members of the ABI) have been prepared to adopt this interpretation. So I don't consider it is likely that iPensions will obtain significant new evidence or argument as a result of approaching TPR, FCA and AMPS.

As my extended deadline has passed without hearing further from iPensions, in order to be fair to both parties I must now make my decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I haven't been able to identify any materially different argument in iPensions' response to my provisional decisions to those which it made previously. The Conditions for Transfers Regulations (and supporting guidance from TPR) themselves suggest a number of risk factors which might amount to a red for amber flag, but iPensions remains focused on red flag 3 (carrying on a regulated activity in breach of section 19 or section 20 of FSMA).

I've already explained in my first provisional decision why red flag 3 doesn't apply in this case. iPensions' argument is that whether or not this strictly applies, it needs to act with *"the ethos of what the transfer regulations intended"*. Where the law has been clearly formulated, as it is in this case, there is no basis for substituting what the law says for what iPensions

would like it to say – even if it thinks a different construction of the law would better protect Mr M from the risk of a scam.

As iPensions hasn't identified a red or amber flag that correctly applies to Mr M's case, its remaining option was to warn Mr M of any concerns it might have. This is because I accept that it has a duty to act in his best interests, amongst other things, under the FCA's principles and rules. But in my view that duty doesn't extend to replacing what Mr M considers is in his best interests (after having an opportunity to be being appropriately informed by iPensions of what it sees as the risks in his transfer), with what iPensions considers is in his best interests.

In addition to unregulated advisers iPensions referred to connected parties and suspect behaviours. It said these generally manifest themselves into high-risk investment or high costs and charges that are obscured from the member/client.

As I mentioned in my provisional decision, there is guidance from TPR and PSIG on combating pension scams which predates the Conditions for Transfers regulations. Whilst not binding on iPensions in the same way as those regulations, it encourages enquiries into any known connected parties and the nature of the promotional material or advice the member was getting, as well as the features of the proposed investment such as the underlying assets and their costs. In order to demonstrate that it was acting in Mr M's best interests, as it maintains it has been doing, I would expect iPensions to have asked for more information from Mr M than just who his adviser was.

Mr M's willingness to provide Firm L's suitability report containing the proposed investments, and setting out the charges, suggests he would have been willing to provide that information to iPensions – particularly if it had asked him to so do by explaining that it was for the purpose of proper due diligence.

As iPensions didn't do this, that explains why its options for dealing with the transfer were limited. That situation was one of iPensions' own making. The intention of my provisional decision was to give iPensions a further opportunity to consider Mr M's transfer request holistically and let him know whether that results in the application of any other flags under the regulations, or perhaps any warnings iPensions feels it should give Mr M in order to act in his best interests.

iPensions either hasn't taken proper advantage of that opportunity or doesn't feel there is anything else it needs to discuss with Mr M. These are matters for it and not me to decide with respect to its wider regulatory obligations, including the FCA principles and rules.

As it stands, iPensions hasn't persuaded me that Mr M's statutory right to transfer doesn't exist for the reason it specifically used. It also hasn't shown that any other red or amber flags apply to this transfer. Or that there are other overriding reasons caused by its obligations to the FCA to act in Mr M's best interests which mean it has to refuse this transfer.

Importantly and as I said in my provisional decision, Mr M already knows what iPensions' concerns are about Firm L. iPensions may or may not be correct in interpreting the domestic legislation of another country, and that isn't a matter I'm going to comment on further – as it is not what the Conditions for Transfers regulations require iPensions to do. But it's fair to say that Mr M has been able to make an informed decision about what iPensions has told him. He has been continually prepared to listen to and engage with (but ultimately disagreed with) iPensions' point of view.

I think the point being made about other providers having blanket bans on accepting overseas business is misplaced. As I said in my provisional decision, there's a difference

between who a provider may be prepared to take instructions from as part of an ongoing business relationship, and which adviser it discovers the client has been speaking to before giving an instruction to exercise his statutory right to transfer.

There can be sensible reasons why a UK SIPP provider may not want to enter into new commercial relationships with overseas advisers that it doesn't consider are on a par with those authorised in the UK. But here, iPensions' view of the legislative position with Mr M's adviser in France doesn't alter his statutory right to transfer from the iPensions SIPP.

Finally, I'm not persuaded by the reasoning that my decision in the individual circumstances of this case alters what iPensions (or the wider market of SIPP providers) should do with other transfer requests. The law, regulations and good industry practice all require each transfer to be considered on its own merits. And as I've explained at length above, there are steps open to any firm to ensure that it complies with its wider obligations without withholding a statutory right.

I will therefore be ordering iPensions to comply with Mr M's statutory right to transfer to Novia Global, if he still wishes to transfer. I'm also going to address the financial loss Mr M considers he has suffered as a result of the transfer being withheld. His calculation assumes the transfer would originally have happened by 31 October 2024, which I've already said I consider is reasonable - on the basis of iPensions wrongly applying the red flag on 11 October 2024 and the transfer being stalled since that date. iPensions hasn't said anything further to lead me to conclude that a different method of calculation would be more appropriate.

Putting things right

iPensions Group Limited must transfer Mr M's pension funds to Novia Global if he still wishes to make that transfer. I then require iPensions Group Limited to:

1. Update Mr M's valuation of the Novia Global funds, including missed dividends, to the date the transfer subsequently takes place.

2. Deduct the actual value transferred from iPensions on that date.

3. If the result is positive, i.e. there is a loss, increase the sum it transfers to Novia Global by the amount of that loss.

4. If (and only if) it considers, and can show, that compensating for the loss this way won't be treated by HMRC as an authorised transfer payment – then alternatively make a payment of the loss to Mr M directly in cash.

   iPensions Group Limited may notionally reduce any cash payment in (4) to allow for the impact of income tax that would otherwise have been levied by the French authorities on Mr M's pension funds whilst in retirement.

   Based on the income requirements and pension funds detailed in Mr M's suitability report, I consider his pension income is likely to fall into the 30% tax bracket in France. He hasn't indicated differently. So, iPensions would be entitled to reduce a cash payment by 30%. The reduction isn't paid to any tax authority, but is to ensure that Mr M isn't overcompensated.

5. In view of the distress and inconvenience caused by iPensions' unreasonable refusal of the transfer request for the reasons it used, I also award Mr M a payment of £450.

My final decision

I uphold Mr M's complaint and require iPensions Group Limited to take the steps outlined above and pay Mr M the resulting compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 31 March 2026.

Gideon Moore
Ombudsman