The facts about pension advances

This fact sheet describes pension advances, financial transactions in which a company gives a retiree a lump-sum cash payment in return for some or all of the retiree's monthly pension payments for a specified period of time. Pension advances can have extremely high interest rates and threaten the economic security of the retirees who receive them.

Pension advances are typically marketed through online ads that most frequently target military and government retirees, and, to a lesser degree, retirees from private-sector companies. Pension advances are also marketed to consumers with low credit scores who may otherwise encounter difficulty obtaining a loan.

Businesses marketing pension advances attempt to avoid state and federal regulation by claiming that pension advances are not loans. However, regulators are examining pension advance transactions to determine if they violate disclosure and interest rate laws. This fact sheet describes the types of pension advances as well as pending litigation and state and federal activity being considered to regulate pension advances.

Types of pension advances

Lump-sum payments: This type of pension advance occurs when a retiree receives a lump-sum payment in exchange for the right to some or all of that retiree's monthly pension payments for a specified period of time. Repayment is expressed as a set number of monthly payments, which effectively hides any fees and charges associated with the transaction. Pension advance contracts commonly do not disclose information on the fees and interest rates associated with the transaction.

Joint bank accounts: In some cases, businesses offering pension advances require a retiree to establish a joint bank account with a company representative and deposit some or all of the retiree's monthly pension benefit into this account. The retiree is prevented from accessing the joint account without permission from the company representative. As a result, the company offering the pension advance business gains control over the retiree's pension income. Such an arrangement is called "assignment of benefits" and can be illegal.

Pension advance investments: Pension advance companies also recruit individuals, often retirees, to "invest" in their business by providing the cash for the lump-sum payments (mentioned above) that are made to other retirees. The "investor" is then promised a share of the returns as the pension advances loans are repaid. These investments are risky because they are based on pension advance transactions which are not regulated securities and may be illegal.

Beware high interest rates

Without proper disclosure of interest rates and fees, individuals who receive pension advances are often unaware of the full cost of repaying the loans. Companies offering pension advances claim that these products are not loans and, as such, these pension advance products do not adhere to the state disclosure rules and interest rate limits that apply to loans. As a result, interest rates associated with pension advances tend to be extremely high and often violate state limits.

A 2014 Government Accountability Office (GAO) report shows that interest rates on pension advances can range from 27 to 46 percent, but they can surpass those levels. For example, GAO found that in 2014 interest rates on pension advances in the state of Washington were as high as 117 percent, violating the state's 25 percent cap on interest rates for loans.

Proceed with caution

Anyone considering any type of pension advance should consider the following:

High interest rates: As noted above, the interest rates associated with pension advances can be extremely high and often violate state interest rate limits.

Limited consumer protections: Pension advances are designed to take advantage of legal loopholes, which means that many of the protections that consumers normally enjoy might not apply in these arrangements.

Threat to long-term retirement security: Pension advances are risky and could result in a loss of much-needed retirement income.

Consumer alerts about pension advances

Several regulatory authorities have issued consumer alerts about pension advance transactions. Below is a brief summary of alerts that have been issued.

- **Financial Industry Regulatory Authority (FINRA) and the Securities Exchange Commission**: In May 2013, the Financial Industry Regulatory Authority (FINRA) and the Securities Exchange Commission (SEC) jointly issued an investor alert, **Pension or Settlement Income Streams—What You Need to Know Before Buying or Selling Them**. The alert notes that pension advance transactions can be called various names, including pension loans, pension income programs, mirrored pensions, factored structured settlements, or secondary-market annuities.

- **Federal Trade Commission:** The Federal Trade Commission has issued a bulletin on pension advances, **Pension Advances: Not So Fast**.

- **Consumer Financial Protection Bureau:** The Consumer Financial Protection Bureau (CFPB) has an advisory about pension advances, "Consumer advisory: 3 pension advance traps to avoid." **Additional CFBP Alert**: Information for those involved with Pension Funding, LLC and Pension Income, LLC

- **Statewide consumer alerts:** Several states have issued consumer alerts about pension advance transactions, including Arkansas, California, Indiana, Michigan, Minnesota, North Carolina, Texas, and Washington.

Pending litigation

On August 16, 2017 Minnesota's Attorney General filed a lawsuit against two pension advance companies claiming the businesses violated state lending laws by issuing loans without a license and falsely describing the transactions as "purchase agreements" rather than loans. The companies charged interest rates equivalent to 200 percent per year. Other states have pursued actions against these two companies, including Colorado, California, Massachusetts, North Carolina, New York, Washington, Iowa, and Pennsylvania, plus the City of Los Angeles.

In August 2015 the CFPB and New York Department of Financial Services sued two pension advance companies, Pension Funding LLC and Pension Income LLC. See the CFPB press release about the suit, "**CFPB and New York Department of Financial Services Sue Pension Advance Companies for Deceiving Consumers About Loan Costs**."

Federal action

Pension advances have drawn attention from Congress, federal agencies, and several states. In October 2015, Representative Matt Cartwright (D-PA) introduced H.R. 3850, the **Annuity Safety and Security Under Reasonable Enforcement Act of 2015**, which would regulate disclosure rules and interest rates for pension advance loans marketed and sold to military and federal retirees.

In September 2015, the United States Senate Special Committee on Aging held a hearing on pension advances, "**Pension Advances: Legitimate Loans or Shady Schemes**," with testimony from state and federal experts.

State laws

Many states have passed laws that limit interest rates for loans, prohibit the assignment of pension benefits payable to public employees, and regulate sales of securities.

A 2014 Missouri **law** prohibits pension advance businesses from targeting public-sector employees, such as teachers, police officers, and firefighters. The law gives the Missouri Attorney General enforcement authority and allows victims of pension advances to reclaim any money lost to these schemes.

A 2014 **Vermont law** classifies pension advances as loans and requires pension lenders to apply for a license.

What if I have questions about pension advances?

Below is a list of steps people can take if they have questions or concerns about pension advances:

- **Contact a pension counseling project**. The Pension Counseling and Information Program provides free legal assistance to anyone with a question about their retirement plan in 30 states.
- **Submit a complaint to the Consumer Financial Protection Bureau (CFPB).** The CFPB is investigating pension advances and is accepting complaints from individuals who have been harmed by businesses offering them.
- **Contact your state's consumer agency**. State departments of consumer affairs may be able to find out if complaints have been made against a particular pension advance business and are able to answer questions about interest rate limits and how they apply to pension advances. List of state departments of consumer affairs

Other resources:

- *Los Angeles Times (March 2017)*: Pension advance' company is unmasked – and it's no friend of California consumers
- *Forbes (June 2016)*: How To Avoid Pension Advance Scams
- *North American Securities Administrators Association (April 2016)*: Informed Investor Advisory: Pension Advance Scams
- *Investment News (February 2016)*: Texas securities regulator cracks down on firm selling pension streams
- *Washington Post (October 2015):* Some retirees are making a terrible mistake with their pensions
- *International Business Times* (October 2015): Controversial Pension Advance Industry Flourishes With Little Federal, State Scrutiny
- *A follow-up GAO report on pension advances, looking at actions taken by the federal government (September 2015): Pension Advance Transactions: Questionable Business Practices and the Federal Response.*
- *Kiplinger (September 2014) – Retirees Fare Poorly in Pension Advance Deals*
- *AARP Bulletin* (June 2014): Beware of the Pension Predators
- GAO report about pension advances (June 2014): Pension Advance Transactions: Questionable Business Practices Identified
- *CNN Money* (May 2013): Seniors losing savings to 'pension advance' firms
- *New York Times*: (April 2013): Loans Borrowed Against Pensions Squeeze Retirees

PRC Regulatory Comments:

Pension Rights Center comments to the Consumer Financial Protection Bureau on the need for additional oversight of pension advance companies and practices (October 2016)