A Study of Legal Risks in the Current State of Financial Pension Funding

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Abstract

With the aging of the population becoming more and more prominent, the management of financial retirement assets has become an area of great concern in the global financial system. In this context, the development and operation of Financial Retirement Asset Management (FRAM) has become crucial. Financial Retirement Asset Management (FRAM) involves financial institutions or individuals managing and investing in pension funds, pension savings, and other pension financial products in order to provide ongoing financial support and security for the elderly. With the rapid growth of the financial pension asset management industry, there is an increase in legal risks. These risks may cover a wide range of areas such as compliance, market risk, investment risk, and consumer protection. The legal issues facing financial pension asset management are complex and diverse, requiring in-depth research and analysis. The rapid development of the financial pension asset management field has provided more investment and wealth management options for the elderly, however, along with this development comes a series of legal risks and challenges. The purpose of this paper is to provide an in-depth study of the legal risks in the current state of financial pension funding, explore the legal issues involved in this area from a number of perspectives, and provide recommendations to address these issues. By analysing existing regulations, cases, and regulatory practices, this study aims to provide useful references for the development and regulation of the financial pension custody industry.

Keywords

Financial pensions, asset management, legal risk, regulation, senior finance

Introduction

Financial pension funding is a financial services model that has emerged in response to the trend of an ageing population, aiming to meet the financial needs of older people and provide financial support for their retirement. However, the development of this field is accompanied by a range of legal issues and risks, including contractual disputes, regulatory uncertainty, disclosure, and privacy concerns. Therefore, it is crucial to study the legal risks in the current state of financial pension funding. The purpose of this paper is to analyse in depth the legal risks in the field of financial pension funding management and to explore their influencing factors and solutions. Through the study of existing regulations and actual cases, we can provide policymakers, financial institutions, and the elderly with legal guidance and advice on financial pension funding to promote its sustainable development and better serve the elderly.
1. Legal Risks of Financial Pension Funding

1.1 Contractual disputes

Contractual disputes are one of the important legal risks faced by the financial pension management field, and the disputes usually involve contracts for pension financial products and services (Yang Feng, 2023). On the one hand, vague or unfair contract terms may lead to disputes. Elderly people may find it difficult to understand the complex terms of the contract, or certain terms may be unfavourable to them, which may include fee structures, risk disclosures, and exit provisions. In addition, some financial institutions or sales agents may provide inaccurate or misleading information during the sales process, causing older persons to misunderstand the content of the contract. In such cases, older persons may claim that they have been defrauded in signing the contract. On the other hand, the interpretation of the contract may give rise to disputes. When the specific terms of the contract are ambiguous, both parties may have different understandings of the meaning of the contract, which may lead to disputes, and if one party fails to fulfil its contractual obligations in the manner stipulated in the contract, it may lead to disputes over contractual breaches, which may include the financial institution’s failure to make timely pension payments or the older person’s failure to fulfil the agreed obligations.

1.2 Regulatory uncertainty

Regulatory uncertainty is an important legal risk in the area of financial pension management, and this uncertainty can have a negative impact on financial institutions and older persons. First, regulations in the area of financial pension funding are often relatively complex and vary across regions and countries, making it necessary for financial institutions to adapt to different regulations and standards, increasing regulatory uncertainty, and regulations and policies change frequently in the area of financial pension funding to adapt to changes in the marketplace and in society, and such changes may make it difficult for financial institutions to keep up with updates to the regulations, creating compliance risks. Second, some regulators may not have a clear enough regulatory stance on financial pension funding, which makes it difficult for financial institutions to determine what practices are compliant and what are not.

1.3 Information disclosure and privacy issues

Information disclosure and privacy issues are one of the legal risks in the field of financial pension funding, which involves the protection of personal and financial information of the elderly and the transparency of the information that financial institutions should provide to their customers (Wang Ge & Shi Junpu, 2023). Firstly, financial pension funding involves the collection and processing of a large amount of personal information, including financial data and health information. If this information is inappropriately leaked or misused, it will have a negative impact on the privacy rights of the elderly. Secondly, financial institutions should provide adequate information to their clients, including contract terms, fee structures, risk disclosure, and exit provisions. Non-transparent disclosure of information may lead to customers misunderstanding the product or service. Finally, financial institutions need to comply with regulations to ensure that they provide the necessary compliance information before offering a product or service so that customers can make informed decisions.

2. Recommendations to address the legal risks of financial pension fund management

2.1 Strengthening legal regulation

In order to avoid the risks of financial pension fund management as much as possible, the government and regulators should formulate clear regulations and standards covering all aspects of the financial pension fund management field, including product design, sales, information disclosure, fee structure, and privacy protection. This helps to regulate market behaviour and reduce legal risks, and relevant regulations should be regularly reviewed and updated to adapt to market changes and emerging risks (HaoYajuan & Zhang Rongwang, 2023). This includes monitoring changes in market trends, technological advances, and consumer demand, and then adjusting regulations accordingly. On the one hand, regulators should have sufficient resources and authority to oversee the financial pension funding industry, including training of regulators’ staff, technical support, and hiring of legal experts, and regulators should actively enforce the law and take strict measures against violations, including fines and revocation of licences, to ensure that financial institutions comply with regulations. On the other hand, governments and regulators can provide legal guidance and support to help...
financial institutions understand and comply with regulations by actively issuing regulatory interpretations, policy documents, and compliance guidelines. By clarifying regulations, providing legal guidance, and strengthening enforcement and international cooperation, regulators can reduce legal risks and protect the rights and interests of older persons, while creating favourable conditions for the sustainable development of the financial pensions management industry.

2.2 Improvement of contractual terms

Relevant contract terms should use clear, concise language and avoid overly technical or vague terminology. Older people and other clients should be able to easily understand the content of the contract without having to rely on legal expertise, and all relevant fees and rates, including management fees, sales fees, exit fees, etc., should be clearly stated in the contract. This helps clients understand what they may have to pay and reduces the likelihood of fee disputes. On the one hand, the contract should contain risk disclosure about the investment product or scheme. Clients should have a clear understanding of the risks to which the investment may be exposed and be aware of the possible losses, and the contract should clearly set out the conditions and procedures regarding withdrawal from or cancellation of the contract. Customers need to know how to withdraw from or cancel the contract and understand the possible consequences. On the other hand, the contract should contain provisions on compliance to ensure that the financial institution complies with regulatory and supervisory requirements and takes action against non-compliance, and the relevant content needs to include confidentiality and privacy protection clauses, which clearly set out the financial institution's duty to protect the customer's personal and financial information and contribute to the protection of the customer's right to privacy. In addition, dispute resolution mechanisms, including arbitration or court action, should be clearly explained in the contract, thus making it easier to resolve disputes when they arise. Better contractual terms can improve customer information, reduce the likelihood of contractual disputes, and create a more transparent and sustainable relationship between financial institutions and older persons. This will help to maintain market credibility, attract more clients, and create favourable conditions for the healthy development of the financial and pension funding industry.

2.3 Enhanced information security and privacy protection

Enhanced information security and privacy protection is one of the key strategies to address the legal risks of financial pension funding, and relevant financial institutions should establish strict privacy policies that specify how they collect, store, process, and protect customers' personal and financial information. These policies should comply with applicable regulations and standards and ensure that all sensitive customer information stored in electronic systems is secured using strong data encryption technology to protect the data. This includes encrypting data during transmission and storage. Firstly, financial institutions should establish access control mechanisms to restrict access to customer information to authorised personnel only. The access rights of employees and partners should be graded according to their responsibilities and needs, based on which regular security audits and vulnerability scans should be conducted to identify and address potential security vulnerabilities. Secondly, financial institutions should provide security training to their employees on how to protect customer information and how to deal with security threats such as phishing and malware and ensure through effective means that customers have a clear understanding of how their personal information is used by the financial institution and that they have the right to refuse the sharing of information or to choose their own privacy settings. In addition to this, financial institutions should comply with statutory and regulatory requirements relating to information security and privacy protection. Regularly review compliance policies to ensure compliance. Enhanced information security and privacy protection help build customer trust and reduce the risk of information leakage and data misuse. Financial institutions should consider information security a top priority and take all necessary steps to protect customers' personal and financial information. This will not only help to reduce legal risks but also help to maintain the reputation of the business, attract more clients, and promote the sustainable development of the financial pension funding industry.

2.4 Enhancing education and protection of older investors

Strengthening the education and protection of elderly investors is one of the important strategies to address the legal risks of financial pension funding, through which the potential for financial risks in subsequent development can be reduced. Firstly, local government departments should lead extensive financial education activities to teach basic financial knowledge and investment skills to elderly investors, help them better understand financial products and risks, and develop and provide easy-to-understand financial education materials, including investment guides, risk alerts, and
retirement planning advice (Zhang Xiuquan, 2022). In addition, financial pension asset managers should be required to disclose relevant information to investors on a regular basis, including investment portfolios, risk assessments, and fee structures, and financial institutions should be compelled to provide transparent information on fees and commissions to ensure that older investors understand the cost of their investments. Secondly, there is a need to establish a risk tolerance assessment mechanism for elderly investors to ensure that their investments match their financial situation and risk appetite, and financial pension asset managers should provide personalised investment advice, tailored to the specific needs and objectives of elderly investors. Relevant government departments need to formulate laws and regulations to clarify the legitimate rights and interests of elderly investors and provide them with legal protection, including redress channels and complaint-handling mechanisms, and encourage financial and pension asset management institutions to establish dispute resolution mechanisms to resolve disputes with elderly investors. Finally, the Market Supervision Authority needs to expand anti-fraud education to teach elderly investors how to identify potential investment frauds and scams, establish investment fraud reporting channels, and encourage elderly investors to actively report suspicious behaviour (Liu Ronghe, 2022). Finally, regulators should actively enforce the law and impose severe penalties on unscrupulous financial and pension asset managers to show a deterrent effect, regularly review and update regulatory requirements to ensure that they are in line with changes in the financial market and the needs of older investors, financial and pension asset managers should actively collaborate with non-governmental organisations (NGOs), the community, and governmental agencies to advocate for the education and protection of older investors, and governmental departments should formulate and promote relevant policies to support education and protection of the rights of elderly investors. Through these measures, we can help elderly investors better understand and manage financial risks and improve their investment decision-making ability, as well as ensure that their legitimate rights and interests in the field of financial and pension asset management are effectively protected, which will help promote the sound development of the financial and pension asset management market and the financial health of elderly investors.

3. Conclusion

Legal risk in the area of financial pension funding is a complex and evolving issue that requires governments, regulators, financial institutions, and older people to work together to address it. Through in-depth research and effective compliance measures, we can minimise legal risks and provide safer and more reliable financial pensions for older people. The sustainable development of the financial pensions management industry must be based on legal safeguards and compliance principles to meet the growing financial needs of older persons.

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References


