



Institute
and Faculty
of Actuaries

Regulating the pensions and retirement income sector: our strategic approach

IFoA response to the Pensions Regulator
and Financial Conduct Authority

19 June 2018

About the Institute and Faculty of Actuaries

The Institute and Faculty of Actuaries is the chartered professional body for actuaries in the United Kingdom. A rigorous examination system is supported by a programme of continuous professional development and a professional code of conduct supports high standards, reflecting the significant role of the Profession in society.

Actuaries' training is founded on mathematical and statistical techniques used in insurance, pension fund management and investment and then builds the management skills associated with the application of these techniques. The training includes the derivation and application of 'mortality tables' used to assess probabilities of death or survival. It also includes the financial mathematics of interest and risk associated with different investment vehicles – from simple deposits through to complex stock market derivatives.

Actuaries provide commercial, financial and prudential advice on the management of a business' assets and liabilities, especially where long term management and planning are critical to the success of any business venture. A majority of actuaries work for insurance companies or pension funds – either as their direct employees or in firms which undertake work on a consultancy basis – but they also advise individuals and offer comment on social and public interest issues. Members of the profession have a statutory role in the supervision of pension funds and life insurance companies as well as a statutory role to provide actuarial opinions for managing agents at Lloyd's.



Donald Cranswick
Strategy & Competition Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

19 June 2018

Dear Mr Cranswick,

IFoA response to 'Regulating the pensions and retirement income sector: The Pensions Regulator's and Financial Conduct Authority's strategic approach'

The Institute and Faculty of Actuaries (IFoA) welcomes this joint call for input. Overall, we are very supportive of the premise of the paper and welcome the intention for both regulators to work more closely together. Our response therefore aims to highlight specific areas where there is currently a perceived lack of joint working, as well as where the Pensions Regulator (TPR) and the Financial Conduct Authority (FCA) could take advantage of a stronger joint approach in other areas, such as improving public confidence in and understanding of pensions. More broadly, we would urge both regulators to ensure they are suitably equipped to stay up to speed with developments in the market in order to fulfil their regulatory duties in an evolving landscape and to ensure regulation evolves accordingly, for example with regards to the expected trend towards greater defined benefit (DB) consolidation. Our comments in relation to the questions raised are as follows:

1. FCA and TPR's remits intersect in some areas. Do you see this working effectively, or are there areas where this could be improved?

We agree that TPR and the FCA must be clear about the division of responsibilities, but perhaps the biggest opportunity afforded by this re-examination of the relationship is the opportunity to address areas where the regulators can be stronger by working together. To that end we agree in particular with the comments in the paper about improving confidence in pensions and addressing levels of retirement saving.

We also urge TPR and FCA to focus on minimising any gaps between their respective regulatory focuses, and in particular gaps that can be exploited by those giving inadequate advice and those seeking to exploit pension scheme members through scams. Efforts to prevent scams could benefit from improved joint working between the two regulators, particularly the speed at which potential scam cases are identified and subsequently tackled. For example, trustees face criticism and penalties from TPR if they fail to permit a transfer, even if a scam is suspected by the trustees or the FCA. We believe TPR and FCA could facilitate improved protection for members by proactively working together on live cases, rather than the current retrospective approach. Instead, TPR could make it clear that they would not act against trustees who delay transfers where the FCA is investigating potential fraudulent activity.

2. Do you agree that the areas we have identified are the right ones? If not, which themes would you add or remove from our list? In which areas could the FCA and TPR singly or jointly have the most impact?

We agree with the suggested areas; most are largely already addressed by TPR and/or FCA, although not necessarily jointly. The IFoA would expect to comment on areas that FCA and TPR can address singly in another forum, for example, as part of its response to the Work and Pensions Select Committee's inquiry into the DB White Paper. In general, co-operation is most needed at the point of transition between one regulator and the other, or where it is desirable or logical to have common standards of disclosure and conduct. Possible areas for more joint working include:

- The point at which TPR-regulated occupational pensions switch to FCA-regulated ones remains problematic from a risk perspective and we believe this could be a focus for a genuinely combined FCA and TPR approach, focusing on the quality of member knowledge, communication and advice, and with a view to proactively preventing pension scams and the provision of poor or disproportionately expensive financial advice.
- Providing more support for trustees who have concerns about scams, and moving from a largely retrospective approach of reporting actual scams, to a more proactive approach of reporting and addressing potential ones. Whilst it is apparent that TPR is increasing its record-keeping expectations of occupational pension schemes with regard to transfers and advice, we do not believe more record-keeping is a solution in its own right.
- The FCA appear to be undertaking a lot of work in the decumulation space, specifically on default pathways. The equivalent TPR regime is by comparison largely underdeveloped, therefore we would suggest that joint work on this topic is considered.
- In an environment of unprecedentedly high transfer activity, a joint approach to improving the quality of communication and the quality (and value for money) of financial advice is crucial, as is improving the public's perception of the value of advice (assuming the Government becomes comfortable that advice is indeed of suitable quality and value). With the Government having made transfer advice mandatory in many cases, the onus must now be on TPR and FCA to ensure that that advice is adequate and ensures good outcomes (net of its cost).
- Given the number of licenced advisers qualified to give advice on DB to DC transfers has not kept up with pace of demand, both regulators should also consider a joint approach to better supporting adviser capacity and capability in the market. Away from the noise of DB to DC transfers, a wider effort to promote the value of good financial advice throughout an individual's life course would be welcome.
- We would welcome greater consistency of consumer experience given it is likely that an individual will cross between the two pension regimes several times in their life, particularly at the point of retirement. However, the information presented to consumers who are in different regimes is not always consistent. For example, taking retirement savings from an occupational DC trust to purchase an annuity or invest in a drawdown product is a key point of transition and it makes sense to have commonality in the form of advice/guidance/information offered by entities under both regimes. Also, the complaints regimes are different and it may not be clear to individuals which regulator has authority.
- Greater consistency of protection for consumer promises would also be welcome. At present, each regime has its own way of assuring that promises can be supported. For the FCA, it relies almost exclusively on capital adequacy, whilst TPR recognises the value of an ongoing employer covenant. Whilst it is difficult to ensure that these regimes offer equivalent protection,

the emergence of “superfunds” reinforces that the regulators need to do their best to achieve some sort of consistency.

- The FCA has a competition mandate and has used it to examine workplace pension provision. TPR does not. We would question this inconsistency, particularly given that many millions of savers are likely to be investing with a small number of large master trusts.

3. Given our regulatory remits, what more, if anything, should the FCA and TPR do to support people as they start to save in a pension?

TPR and FCA could work jointly to increase confidence in pensions. One way of doing this might be to consider expanding the scams awareness materials from both organisations into a more positive campaign about the value of pension scheme membership, the importance of making good decisions, and where to get help. Currently, we believe that exaggerated risks around the security of DB benefits are, in part, driving transfers to DC. Regulators could work together to correct this misconception, thereby reducing inappropriate decision-making.

4. Is there more scope for TPR/FCA working, either singly or jointly, in this area? To what extent should the emphasis be on collaboration with a wider group of bodies to improve the advice and services supplied to schemes (e.g. administrators, investment consultants)?

We see more benefits of a joint approach to improving the protection of members who wish to take advantage of the pension freedoms, not least because improving outcomes will minimise negative publicity and the consequent deterrent to new savers.

5. How can pension providers and schemes, employers and other firms in the sector improve the security of the money and data they hold? What role is there for FCA and TPR in further driving up standards?

The IFoA is not responding to this question as this does not seem to us to be a particular focus for *joint* activity.

6. Are there any further opportunities for FCA and TPR to support the delivery of value for money, either singly or together?

Yes, with regard to value for money and the adequacy of financial advice.

The requirement for mandatory advice to be obtained by members before certain transfers of more than £30,000 can proceed is a step in the right direction, but such advice is only effective if the cost and quality of it are appropriate. The requirement to obtain advice does not necessarily improve net outcomes (as demonstrated by the British Steel Pension Scheme case) if the cost and quality are inappropriate. With a greatly increasing number of members of pension schemes considering their options at retirement, it is vital to ensure that clear and appropriate advice is available, to prevent risks of a repetition of the pensions mis-selling scandal of the late 1980s.

7. How can FCA and TPR work, singly or together, to ensure that information and advice helps people make appropriate decisions? When are people most vulnerable to taking poor decisions?

People are most vulnerable when taking decisions (or not taking necessary decisions) when they do not have adequate knowledge and information. Current public messaging is largely about the FCA

protection and about avoiding scams, so there is a risk this negative bias is creating distrust in the pensions market. Therefore we suggest that a similar approach to the positive messaging around auto enrolment could be deployed for other pension saving, with TPR and FCA addressing the tone and content much more positively to improve confidence in pensions. This could also build on TPR's work on 'trustee knowledge and understanding' to improve the public's knowledge and understanding of pension schemes.

We also see a significant joint opportunity to improve the quality and adequacy (relative to cost) of financial advice relating to transfers, particularly transfers from DB to DC, and subsequently in persuading the public of the value of advice.

We would also suggest that messaging around incentive exercises could be improved. TPR currently appears very cautious about such exercises, in spite of the code of good practice and the availability of employer-funded advice. Provided the quality of advice can be addressed, we believe TPR's suspicions could be better focused on voluntary member requests for transfers.

Finally, whilst the recent re-affirmation by the FCA regarding perimeter guidance was helpful in some instances, a fear persists among those providing guidance and information about whether "advice" is deemed to have been provided, particularly employers. This issue should therefore remain under review by both regulators in light of the emerging and predicted trends noted in our response.

8. Do you believe that the macro trends that we have identified are those most likely to drive change across the pensions and retirement sector? If not, what are the trends that matter? Which trends should be the highest priority for TPR and FCA? How will those trends (and any other drivers of future risks and opportunities) affect the areas we have identified?

A significant trend not mentioned in the paper is the continuing and escalating trend of transfers from DB to DC. This will clearly impact the way TPR allocates its resources, but it equally places increasingly more emphasis on the need for individuals to have access to appropriate and cost-effective financial advice. Legislation regarding transfers from DB to DC is written such as to protect scheme members by requiring them to obtain advice where the value of their benefits is significant. However, if that advice is not appropriate or cost-effective, the legislation only serves to pass risk and cost from sponsors to members (and responsibilities from one Regulator to another). This could have an adverse impact on members and/or advisers rather than the protection that is intended.

The shift from DB to DC will also expose the likelihood that contributions to DC arrangements may not provide the level of benefits that previous cohorts of members have enjoyed under DB arrangements, and thus it is increasingly important that the public understands the need to save for retirement. Automatic enrolment, whilst undoubtedly a success in kick-starting the savings process, may not in itself provide the expected levels of benefit. With a savings framework now in place, regulators need to work together to ensure existing members understand the value of pension scheme membership, but also understand that more saving may be necessary. Our work with the PLSA and others in response to their 'Hitting the Target' consultation, which looks at developing a set of retirement income targets to make pension saving aspirations more tangible, is therefore timely.

More widely, this proposed joint strategy therefore provides a significant opportunity for both regulators and the relevant Government departments to work together to develop a communications strategy around saving for retirement, to complement and build on the foundation that auto-enrolment has provided thus far, in order to encourage a greater culture of pension saving in the UK. Whilst we would encourage collaboration between the relevant agencies on this, we would

suggest that one party should take the lead in the development of the strategy to ensure successful and timely delivery.

From a public policy perspective, neither the regulators nor the Government has demonstrated a clearly articulated, long-term narrative for how both envisage the future of retirement and long term savings in the UK; the arguably contradictory objective of the Lifetime ISA with the “traditional” long-term objective of pensions is a prime example of this. Therefore in developing this strategy, we would ask that there is a more coherent and joined-up approach to policy development and implementation.

A further predicted trend not mentioned in the paper is the trend towards DB consolidation and the emergence of new vehicles to facilitate that. A gap exists between having sufficient assets and sponsor support to maintain an ongoing occupational DB scheme, and being in a position to buy-out benefits in full with an insurance company and there are clear opportunities to fill the gap that. However, there is also potential for arbitrage if the different risk profiles of the two positions are overlooked. We therefore expect that the regulators, including the Prudential Regulation Authority, will want to be acting proactively and jointly to ensure regulation evolves accordingly and emerging solutions do not disproportionately balance commercial interests against risks to members' benefits.

We urge TPR and FCA to work together to address emerging trends in order to protect accrued benefits, and to protect and further encourage a savings culture. We support regulation to prevent unscrupulous employers and advisers from taking advantage of occupational pension schemes to the detriment of members, but equally we would not wish to see regulation with a view to eliminating DB provision in order to protect the Pension Protection Fund. More generally, we believe it is crucial that recent bad news stories are seen in the context of a regulatory framework which largely already works well, and that they do not inadvertently lead to an excessive regulatory system which in effect discourages generous pension provision by responsible employers and pension saving by members.

Should you wish to discuss our response any further please contact Henry Thompson, Policy Manager, at Henry.Thompson@actuaries.org.uk.

Yours sincerely,



Colin Wilson
Immediate Past President, Institute and Faculty of Actuaries