FCA
Practitioner Panel

Chris Woolard
Financial Conduct Authority
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London
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30 April 2018

Dear Chris,

PRACTITIONER PANEL VIEWS ON REGULATION OF PENSIONS
(Including response to DP18/1: Effective Competition in Non-Workplace Pensions)

The Practitioner Panel has been considering three of the FCA's documents which are currently open for comments and which focus on the area of pensions and retirement saving. These are:

- DP18/1: Effective Competition in Non-Workplace Pensions
- CP18/7: Improving the quality of pension transfer advice
- Call for Input: Regulating the pensions and retirement income sector: the FCA's strategic approach.

We are responding to DP18/1 in particular, but we also wish to make some overall comments about the pensions landscape which cover all three workstreams.

The key risk in the pensions area is that consumers are not saving enough for their retirement. A general lack of confidence in retirement saving in the UK has led to the largest pension gap in Europe. The drivers of this lack of confidence include the complexity of legislation, unexpected changes to taxation, changes to the treatment of dividends and a general absence of clarity in the government's objectives and how they intend to achieve them. We support pension freedoms, but are concerned that the legislative framework is not in place to ensure that this market operates well.

It is a symptom of the complexity of the current legislative and regulatory landscape that the FCA currently has three pension consultations running in parallel. There is a very real danger that a piecemeal approach to regulation will result in consumer detriment. When decisions are complex, people make mistakes.

We appreciate that many of the challenges in this area are public policy issues, and therefore not within the direct remit of the FCA. We welcome the work with tPR on the strategic approach to pensions as a positive step, but it is our view that the situation can only be improved by a legislative framework with clear objectives and a long-term and sustainable perspective. We believe development of a high-level cross-party approach would be a first step towards improving consumer confidence. We recommend that behavioural economics work should be used to build an understanding of how consumers relate to retirement saving to support this and help it achieve its objectives.

We encourage the FCA to continue engaging with government and other agencies to develop a clearer framework in this area.

Yours sincerely

Anne Richards
Chair, FCA Practitioner Panel

DP18/1 Effective competition in non-workplace pensions – Practitioner Panel response

The previous work undertaken by the OFT on the workplace pensions market identified a number of areas of harm which have since been addressed by the FCA through a comprehensive set of rule changes. This Discussion Paper acknowledges that there are many differences between that market and that for non-workplace pensions. We agree with this analysis and believe that a regulatory approach which treats them the same is likely to be inappropriate.

Non-workplace pensions is a broad segment which covers a diverse set of products and customers sold over a period in which there have been substantial changes in regulation and legislation. Unlike workplace pensions, non-workplace pensions have been proactively chosen by an individual, often with the support of an adviser. This typically means that the up-front engagement issues outlined in relation to Workplace Pensions are not the same in relation to Non-Workplace Pensions.

1. **Areas of harm**

In our view, the greatest area of potential harm to customers overall is that they do not save enough for their retirement, and this is an issue which applies across all markets. Specifically within the non-workplace market the areas which have the greatest potential for harm include:

- Unregulated investments within SIPPs which we have already seen leading to big compensation bills falling on the FSCS.
- Retirement choices, in particular driven by the wider choice of options since the advent of pension freedoms and the potential for people to make choices that result in poor outcomes due to an inadequate understanding of investment risk and/or longevity. We think it would be helpful for the FCA to clarify its focus within the NWP market, and especially whether the decumulation phase is covered by this work or left to the Retirement Outcomes Review.
- Consequences of tax changes. For example, following the pensions freedom changes the high tax bills incurred by some consumers exercising the new freedoms appear to be evidence of poorly-informed decisions.

2. **Levels of engagement**

Although the level of consumer engagement for non-workplace pensions is initially higher than workplace, largely due to the interaction with financial advisers, we see that this level of engagement reduces over time, driven by events including:

- Losing touch with the adviser, which can lead to customers not remaining engaged with their pension and not reviewing contribution levels, fund choice or the ongoing suitability of the product.
- Changing employment or other circumstances, which can lead to customers ceasing contributions to their existing plan and leaving behind a small pot. The structure of some older products, specifically designed for long term accumulation, are not conducive to these situations.

3. **Reducing harms**

Improvement activity which regulators and firms are driving includes:

- Actions linked to the FCA's Long Standing Customers Thematic Review, including communications improvements to aid consumer understanding. This is backed by initiatives from the ABI including Making Retirement Choices Clear to help with understanding of retirement options through simplifying and standardising language. It is important that this work continues to recognise that transparency is not the same as clarity, and that providing information is not enough without

ensuring that consumers have the tools and context to use the information appropriately.
- Pension dashboard, which will offer customers a single view of their pensions and which would be expected to stimulate actions linked to ownership of pensions, including aggregation.
- Activity taking place on workplace pensions – overseen by IGCs – which many firms will naturally be extending to their non-workplace pensions population where relevant.

4. Consumer segmentation

Given the varied nature of the business within scope of this review, segmentation of the population is important, as pensions will range from older, more complex products with integrated advice costs which may feature valuable benefits and guarantees through to more modern contracts with simpler (though not necessarily cheaper) charging structures and explicit fund and advice costs. Care will be needed so that areas which have been covered by other current or recent initiatives are not duplicated – including the Long Standing Customers Review, Investment Platform Market Study, Asset Management Market Study and Retirement Outcomes Review – and allowance made where evidence is yet to be obtained for actions taken or where activity is planned for the future (such as the pension dashboard). Data requests therefore need to be carefully considered such any significant remaining structural issues can be found and to allow the FCA to identify remedies and interventions.

5. Switching

We would also caution against the assumption that frequent switching is a necessary feature of a competitive market, advised or non-advised. Pensions are long term and should ideally adapt to changing circumstances and if set up right, should not see a great deal of switching. Arguably, the OFT placed too great an emphasis on this when reviewing workplace pensions.

6. Further work needed

We think further Government action is needed around:

- For the future - providing school-based education on financial matters including pensions;
- In the more immediate term - through education for those of working age, noting that non-workplace pensions cannot necessarily be channelled through an employer;
- Through reviewing the rules on the provision of guidance, as despite recent reviews firms risk straying into giving advice. This includes when nudging individuals about actions taken by 'people like you';
- By providing a framework for consumers to move their funds where they risk a small pension pot becoming 'trapped' due to changing circumstances.