FINANCIAL CONDUCT AUTHORITY

The Pensions Regulator

Regulating the pensions and retirement income sector:

Our strategic approach

October 2018

Feedback Statement
FS18/3

This relates to

In this Feedback Statement, we report on the main issues arising from our joint call for input 'Regulating the pensions and retirement income sector: Our strategic approach'.

You can download this document from the FCA's website: www.fca.org.uk and TPR's website: www.tpr.gov.uk.

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1 Overview

"We have been working jointly on our pensions strategies, which aim to clarify how we work together generally. We also outline how we will work over the next five to ten years to tackle the risks we see facing the pensions industry."

Regulating the pensions and retirement income sector: Our strategic approach (2018)

Introduction

1.1 The Financial Conduct Authority (FCA) and The Pensions Regulator (TPR) published our joint pensions regulatory strategy ('the Strategy') on 18 October 2018. It sets out how we will work together to tackle the key risks and issues facing the pensions and retirement income sector ('the sector') in the next five to ten years.

1.2 Our strategy identifies the overarching harm facing the sector as the prospect of people not having adequate income, or the income they expected, in retirement. While this harm is not something that the FCA and TPR can tackle on our own, we can make a difference by reducing some of the harms, risks and drivers that lead to it.

1.3 For each of the key areas of focus identified in our Strategy we have set a clear objective that describes the outcome we want our regulatory actions to achieve, and have outlined the initiatives we will undertake.

Background

1.4 In March 2018, we published a Call for Input (CFI) seeking stakeholder views to support the development of the Strategy.

1.5 We held a series of events with stakeholders in London, Edinburgh and Manchester in the spring.[1] These broadly focused on two discussion areas, led by the FCA and TPR:

- our collective view of the current landscape of the sector and our respective regulatory remits
- our likely key areas of focus in the coming years

1.6 In total over two hundred stakeholders attended these events and the agendas closely reflected the areas covered and questions posed in our CFI.

1 For those who were unable to attend, a webcast of the London event was made available.

1.7 We received fifty-one written responses from a cross-section of stakeholders including:

- provider firms
- financial advisers
- professional services firms
- campaign groups and charities
- consumer bodies
- professional associations
- public bodies
- trade associations
- occupational pension schemes
- individuals.

1.8 Almost all of those providing written responses strongly endorsed our joint effort to clarify how we work together and to outline how we will work over the coming years to tackle the risks we see facing the pensions sector. Similarly, there was no significant disagreement with our view of the overarching harm in the sector.

1.9 Many respondents gave general comments as well as specific responses to the questions in our CFI. These ranged from views on broader socio-economic conditions, inter-generational fairness, the appropriateness of the current regulatory framework for pensions and where FCA and TPR might usefully push the boundaries of their respective remits.

1.10 The importance of climate change risks was the most commonly given socio-economic factor, usually accompanied by suggestions on how we could highlight its impact through additional disclosure requirements.

1.11 Inter-generational fairness was cited as a key tension affecting the sector. Some respondents offered their views on how it might affect the sector's main stakeholders.

1.12 Other respondents believed that the self-employed should be a key interest group for the FCA as they often struggle to save into a pension. These respondents added that the self-employed often find pensions to be a complex area and, therefore, require clear and accessible advice and guidance.

1.13 A significant minority of respondents called for a single pensions regulator. Many of them cited the increasing complexity of pension products and services, and the attendant risks of inconsistencies in regulation influencing firms' choices as reasons to combine the FCA and TPR's current functions. Some respondents went further, asking for a more radical reduction in the number of regulatory bodies within the sector.

1.14 Other respondents rejected the idea of a single pensions regulator, arguing that better coordination between the FCA and TPR would produce a better overall outcome.

1.15 A significant majority of respondents argued that the FCA and TPR should be more vocal in areas including:

- positively endorsing pension saving as being a good thing
- directly addressing the adequacy of pension contributions
- telling government where we believe that our current powers are insufficient to deliver our objectives and/or where there are gaps between our respective remits

1.16 Respondents also offered specific suggestions, including:

- the development of a comprehensive pensions dashboard
- a review of the functioning of scheme governance arrangements
- better protections for consumers in drawdown
- better coordination of consultations and more use of behavioural economics
- re-visiting the Financial Advice Market Review (FAMR) outcome involving the boundary between advice and guidance
- developing a common consensus across government, industry and consumers of what a good retirement looks like

1.17 Some respondents suggested that the FCA and TPR don't fully understand the self-invested market and that the arrival of a new CEO at TPR may affect the delivery of our Strategy.

This document

1.18 In this feedback statement, we summarise the feedback we received to our Call for Input and via our stakeholder events. In each instance, we explain how we will address the issues identified, through one of the new initiatives identified in our Strategy or through an existing and ongoing workstream.

2 Feedback and next steps

Introduction

2.1 This chapter summarises the feedback we received to the questions posed in our Call for Input.

Responses

Working in partnership

Q1: FCA and TPR's remits intersect in some areas. Do you see this working effectively or are there areas where this could be improved?

2.2 Responses to this question divided into two distinct categories. On the one hand, those who believe there are issues that could be solved by the establishment of a single pensions regulator. On the other, those who suggested where we could improve our current cooperation in certain areas to ensure no notable difference in outcomes for consumers because of any regulatory differences.

2.3 Specific areas identified were:

- guidance around the disclosure of climate risks
- merging the Pensions Ombudsman and the Financial Ombudsman Service
- more help at the point when members access their retirement savings, ie guided decumulation pathways to make the pension freedoms work
- providing thematic examples of best practice on complex issues
- investment vehicles receiving 'liberated' funds
- different standards being applied to essentially the same issue

2.4 Specific concerns were raised about Defined Benefit (DB) to Defined Contribution (DC) transfers, Small Self-Administered Schemes (SSASs), master trusts, the pensions dashboard, communications to members and scams.

Our response
While the establishment of a single pensions regulator is a matter for the government, this proposal has been considered previously and not proceeded with. We believe that the current regulatory framework allows us to work well together, mitigating any risks to our objectives through collaboration.

We acknowledge the strength of the views expressed in relation to the importance of the pensions dashboard and the proposal that the Pensions Ombudsman and the Financial Ombudsman Service should be merged. We will raise both suggestions with the government, who are responsible for these matters.

We describe what we will do to improve our current cooperation in our Strategy, ie:

- joint assessment of risks and harms
- joined-up working on cross-sector initiatives
- communications around joint work

We go on to identify three key areas where we intend to work with others:

- informing the public debate when we have useful evidence to share
- assessing the regulatory perimeter and, where we see gaps in our responsibilities, flagging them with the relevant organisation for consideration
- providing relevant support to others, including through the coordination of cross-sector initiatives

We confirm:

- our ongoing focus on addressing pension scams
- what we are doing to improve member/consumer outcomes from DB transfers
- the initiatives we are undertaking, or have planned, in relation to guided pathways, master trusts, and communications to members and scams.

Areas of focus

Q2: 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?

2.5 One respondent suggested that we should have arrived at our list by working backwards from the end users' experience. However, most respondents agreed with the areas we identified. Their comments focused on the themes they think we should focus on most or widening the scope or impact of individual themes. Some respondents offered themes they thought should be added to our list.

2.6 Another respondent wanted us to be clearer as to what we mean by the term 'well run' as it appears in our CFI and to define what good outcomes for consumers are.

2.7 Some respondents question the assumption that consumers are necessarily willing or able to engage with pensions choices. Others suggest that upskilling consumers and requiring the sector to use simpler terminology may potentially help, but recognise that these may be issues better addressed by others.

2.8 Comments on specific themes included:

- the scope of 'supporting good choices…' is potentially wider than currently reflected in our regulatory approach
- both organisations should have the regulatory objective of promoting good long term saving and investing habits
- we should offer more clarity around our plans to make pensions safe and to help consumers and members to engage with their pension
- a focus on cost transparency/disclosure and value for money

2.9 One respondent expressed some cynicism about pension strategies in general, noting that we don't mention the pension scheme registration process and urging that single member SSASs be brought under TPR regulation.

Our response
We are pleased that most respondents agreed with our list. We note that some respondents wanted greater clarity as to what we mean by terms such as 'well run' and our plans in each of the areas identified. We hope that our Strategy provides that clarity, while setting out exactly what our plans are in each of these areas.

Getting saving off to a good start: access to pensions

Q3: 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?

2.10 Responses to this question tended to include a small number of general points - mainly around the importance of our trying to educate and engage consumers - and some specific suggestions as to what we might do:

- that the protections provided by the Pension Protection Fund (PPF) be explained with greater clarity
- that fintech could also drive better engagement with pensions as it makes the personalisation of communications possible at scale, eg the pensions dashboard
- helping employers provide communications that do not stray into advice
- TPR should introduce a Senior Managers and Certification Regime (SM&CR), like the FCA's

- we should clarify how we will work with the SFGB
- we should do more on contribution adequacy, lobbying government for primary legislation where necessary
- a single statutory body to be responsible for promoting pensions, either the SFGB or FCA
- provide a safe directory of pension schemes to help improve access to pensions
- we should address any unnecessary complexity in both regulations and disclosures

Our response
As set out in our response to Question 2 - we describe what we will do to improve our current cooperation in our Strategy.

We also describe a joint strategic review of the consumer pensions journey that we intend to undertake which will include our current disclosure requirements.

TPR's master trust authorisation regime includes a 'fit and proper' assessment of all relevant persons involved in the master trust. TPR is working with government to explore the potential of a regime like the SM&CR, for instance in relation to DB superfunds.

Both the FCA and TPR already publish a significant amount of information to help consumers assess potential savings vehicles, eg our recent ScamSmart campaign. While we have no current plans to provide a single directory of 'safe' pension schemes we will re-visit this suggestion if we conclude there is evidence that it represents a necessary, appropriate and effective intervention to protect consumers.

Making sure pensions are well run and funded: effective governance and secure funding

Q4: 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 (eg administrators, investment consultants)?

2.11 Most respondents addressing this question did feel that there is scope for us to do more. Respondents offered a number of specific areas, broadly falling into three categories:

1. governance arrangements – Independent Governance Committees (IGCs), trustees, etc
2. products/services – SSASs, master trusts, etc
3. third parties – investment consultants, administrators, etc

2.12 In most cases the respondents made suggestions about the steps we might take. For example, addressing the variable quality of advice provided by investment consultants, the reintroduction of an approved investments list for SIPPs, greater coordination between us in regulating SSASs and the reintroduction of pensioner trustees.

2.13 More immediate actions include issuing a joint communication setting out our respective governance standards and rules for DC workplace pensions.

2.14 One respondent believes that the outcome of the CMA's investigation into investment consultants should be part of our joint strategy. Another believes investment consultants should be brought within the FCA's remit.

Our response

Most respondents addressing this question did feel that there is scope for us to do more. In our Strategy, we set out the workstreams we will undertake to address these concerns, specifically:

1. Using a broader range of regulatory interventions to address poor governance and administration.
2. Increased regulatory intervention and collaboration to promote data quality and security.
3. Continuing our support of Project Bloom, the multi-agency collaborative group on pension scams.
4. More proactive use of a broader range of regulatory interventions to address DB funding.

We also identify the initiatives we will undertake in support of each of these workstreams.

In September last year, at the request of the FCA, the CMA launched a market investigation into the investment consultancy and fiduciary management sector.

The CMA's provisional decision was published in July. It recommended that the FCA's remit should be extended to include the main activities in that sector.

We welcome the CMA's in-depth work and, in principle, support the steps they have proposed to enhance competition in these markets.

Making sure pension savings are safe

Q5: 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?

2.15 Most respondents offered no comment on this question. Those that did tended to offer specific suggestions:

- that we should impose minimum technical standards

- a public awareness campaign highlighting:
  - how members of the public can identify and report financial crime
  - cyber-security and fraud
- the cold-calling ban to continue to be supported by national campaigns and the right to a transfer to be limited to authorised/safe schemes
- we should be forthright with government whenever they are reluctant to tackle scams

2.16 One respondent suggested that scams would be more difficult to perpetrate if it was more difficult to establish registered pension schemes. Another complained about the 'onerous nature' of HMRC's process for establishing the current registration status of a pension scheme.

2.17 Finally, one respondent wanted the Information Commissioner's Office (ICO) to set minimum security standards.

Our response
The government has:

- committed to introduce a cold calling ban
- announced plans to tighten HMRC rules to stop scammers opening fraudulent pension schemes
- announced tougher actions to help prevent the transfer of funds from occupational pension schemes into fraudulent ones

We will pass on to HMRC and the ICO those suggestions that are not addressed by these actions, but relate to matters that fall within their scope.

Turning to the other specific issues raised:

In our response to Question 4 we referred to our continued support of Project Bloom. Concerted action from partners through Project Bloom has had a positive impact, for instance through intelligence-sharing and publicity campaigns on the dangers of scams – such as the recent ScamSmart campaign launched jointly by the FCA and TPR in August 2018.

Our Strategy describes the other initiatives we will undertake in support of this work.

Making sure pensions offer good value for money

Q6: Are there any further opportunities for FCA and TPR to support the delivery of value for money either singly or together?

2.18 Respondents to this question believed there are opportunities for us, singly or together, to support the delivery of value for money (VFM). But there was a range of views about how VFM might be defined and delivered.

2.19 One respondent didn't think that we are currently joined up on this issue - referencing two different terms 'value for money' and 'value for members' - and said they would prefer to see a focus on the underlying issues that influence value.

2.20 Some respondents asked us for an explicit and consistent definition of VFM, although some asked that, in doing so, we avoid too great a focus on price as a proxy for value. One respondent suggested that a working group which combines the expertise within both the FCA and TPR and other relevant stakeholders come together to develop a formula for assessing value for money.

2.21 Other respondents were less concerned with defining VFM than identifying how it might be delivered. They suggested several potential approaches:

- improved transparency on costs and charges
- increased competition
- a review of the effectiveness of IGCs
- compelling trustees and IGCs to conduct more rigorous scrutiny of the fees charged by fund managers and other providers

2.22 One respondent identified risks at the transition to retirement – transaction costs, advice costs and administration and investment charges – that may impact on consumers' VFM.

Our response
We intend to address the concerns raised by respondents through the further development of common principles and standards for VFM and the enforcement of those standards. This initiative is described more fully in our Strategy.

Supporting good choices and outcomes for consumers and members

Q7: 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?

2.23 There was a consensus among respondents that, for consumers to make good choices about their retirement savings, it is essential they are supported by appropriate advice, guidance and information. But views differed significantly on how that advice, guidance and information might best be provided.

2.24 One respondent was concerned that advice is too expensive and was sceptical about the value of guidance services like Pension Wise. They suggested that the industry should support its own charity to provide free advice for those on low incomes and would like us to persuade industry to do so.

2.25 Another respondent wanted the information provided to savers to be clearer and more accessible, using new tools and technology as appropriate. They also felt that consumers should be able to receive and consider information about their pension throughout their lifetime.

2.26 Respondents were reluctant to characterise any vulnerability to making poor decisions as a one-off event. However, some respondents did say the decumulation phase was harder for consumers to navigate since the pension freedoms were introduced.

2.27 More specific suggestions as to what we might do included:

- new rules requiring providers to actively encourage savers to use impartial pensions guidance from age 50
- develop more consistent communications standards
- develop 'rules of thumb' around appropriate contribution levels
- requiring all pension providers to issue simple pensions passports as part of their pre-retirement communications with members
- doing more to support employers to provide information to their employees on the benefits of saving into a pension, eg guidance on what information can be provided without straying into advice

2.28 Generally, respondents wanted more positive messaging from regulators and some felt that we should speak more forcibly and publicly to government about the issues here.

Our response
We acknowledge and support the consensus view that, for consumers to make good choices about their retirement savings, it is essential they are supported by appropriate advice, guidance and information.

We intend to address the specific concerns raised via a new initiative, described in our Strategy:

We will undertake a joint review of the consumer pensions journey, examining how disclosures and information from pension schemes and providers combine with available guidance and advice services to help consumers make well-informed decisions.

As well as the content of communications, the review will consider their timing and method of delivery, and will cover both trust- and contract-based pensions.

This work will be strategic in nature, taking a step back and considering all the previous and ongoing work in this space.

Other relevant workstreams and initiatives are described in our Strategy.

Drivers of emerging risks and opportunities

> **Q8: 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?**

2.30 One respondent felt we should emphasise 'cultural transformation' instead of focusing on macro trends.

2.31 However, respondents generally agreed that the trends we identified were the right ones. Generally, they then identified the ones they believed should be our highest priority and how they believed these will affect the areas identified.

2.32 One trade body's response offered a list of other themes that they felt would also affect pensions in the next ten years:

- greater digital engagement, distribution and integration with other financial products
- peak DB assets and increased activity in the risk transfer market
- innovation in the retirement market
- further consolidation in the DC market
- the rise of master trusts in savings and retirement
- further growth in DC assets and membership

2.33 Another respondent felt that it was important that we monitor the changes in the value, type and average number of pension pots held by consumers and that we should consider regulated 'default' decumulation options and a charge cap for drawdown products. They also cited the introduction of Collective Defined Contribution (CDC) pensions as a potential emerging risk.

2.34 Some respondents felt that we should add political uncertainty/Brexit to our list, asking that we do what we can to contribute to a period of relative stability regarding further changes to our rules.

2.35 Other respondents cited issues such as climate change, fintech and paying for long-term care as important themes.

Our response

We are glad that respondents generally agreed that the trends we identified were the right ones.

We are grateful to those respondents who identified the ones they believed should be our highest priority and set out how they believed these will affect the areas identified. We considered their feedback in formulating our Strategy.

We explain in Section 1 of our Strategy that the pensions sector has changed a lot in recent years, and there are further changes and risks on the horizon. We go on to explore these developments, and how they impact on our work as regulators.

Annex 1
List of non-confidential respondents

Aegon

Ashley Compliance Ltd

Association of British Insurers (ABI)

Association of Consulting Actuaries (ACA)

Association of Member-Directed Pension Schemes (AMPS)

Association of Pension Lawyers (APL)

Association of Professional Pension Trustees (APPT)

B&CE/The People's Pension

BlackRock

Burges Salmon LLP

ClientEarth

Robert Dallas

DRB Pension Assistance

Equity Release Council

FCA Consumer Panel

FCA Practitioner Panel

Federation of Small Businesses (FSB)

Fidelity International

Independent Trustee Services (ITS)

Institute and Faculty of Actuaries (IFoA)

Institute of Chartered Accountants in England and Wales (ICAEW)

Institute of Chartered Accountants of Scotland (ICAS)

Investment & Life Assurance Group (ILAG)
Investment Association (IA)
Just Group
Lincoln Pensions
Low Incomes Tax Reform Group (LITRG)
LV=
Mercer
National Employment Savings Trust (NEST)
NOW: Pensions
Pensions Committee of the 100 Group of Finance Directors
Pensions and Lifetime Savings Association (PLSA)
Pensions Management Institute (PMI)
PricewaterhouseCoopers (PwC)
ReAssure
Retirement Advantage
St. James's Place (SJP)
Scottish Widows
ShareAction
Society of Pension Professionals (SPP)
Standard Life
The Pensions Advisory Service (TPAS)
Transparency Task Force (TTF)
Universities Superannuation Scheme (USS)
Which?

Annex 2
Abbreviations in this document

CDC	Collective Defined Contribution
CFI	Call For Input
CMA	Competition & Markets Authority
DB	Defined Benefit
DC	Defined Contribution
FAMR	Financial Advice Market Review
FCA	Financial Conduct Authority
HMRC	HM Revenue & Customs
ICO	Information Commissioner's Office
IGC	Independent Governance Committee
PPF	Pension Protection Fund
SFGB	Single Financial Guidance Body
SIPP	Self-Invested Personal Pension
SM&CR	Senior Managers and Certification Regime
SSAS	Small Self-Administered Scheme
TPAS	The Pensions Advisory Service
TPR	The Pensions Regulator
VFM	Value For Money

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