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Board Paper - For Discussion

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Annex(es)	Annex 1 – DB Pension Transfer supervision since 2015
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1 Introduction

1.1 This paper reflects on the work undertaken by the FCA in response to the risk of harm to members of the British Steel Pension Scheme (BSPS) following its restructure. The paper:

- discusses learnings from that work which could have wider application across the FCA;
- sets out some reflections on why we are able to act promptly and effectively; and
- describes our current and planned work on defined benefit (DB) transfer advice.

1.2 Whilst this paper only covers supervisory work, supervision and Policy have worked closely together on the issue of DB transfers. Policy have recently published PS18/6 which sets out changes to rules and guidance for transfers, and CP18/7 which introduces proposals and discussion questions on further measures aimed at reducing harm in this area (e.g. banning contingent charging).

2 Decision

2.1 For discussion only.

3 Discussion

Background

3.1 In April 2015 pension freedoms gave people greater flexibility for accessing and using pension savings. Members of DB schemes can only access the freedoms if they transfer out to a Defined Contribution (DC) scheme. Since 2015 transfer values offered to members have reached historically high levels. These factors have led to a large increase in members of DB schemes seeking advice on transferring.

3.2 A feature of the pensions market is that regulation is split between the FCA (responsible for contract-based pensions and regulated advice) and the Pensions Regulator (TPR) (responsible for trust-based pensions). While the FCA regulates the advice on DB transfers, DB scheme trustees and administrators are not FCA authorised (but are regulated by TPR).

3.3 Our strategic approach to our supervisory work has initially focused on those advisory firms which were most active in DB-DC advice, as well as acting on intelligence on specific firms. We have done three phases of firm assessments starting in 2015, the fourth phase beginning later this year. Annex 2 provides further details.

3.4 The specific, targeted BSPS work complemented the project work programme. The BSPS restructure meant that all members had to decide on staying in the existing scheme (which would be put into the Pension Protection Fund), being transferred to the new BSPS scheme (which provided lower benefits) or transferring out. Members had little time in which to make the decision, and given the concentration of members in certain regions the demand for advice was far higher than local firms would have previously handled. We received intelligence which suggested that some firms were not providing suitable advice.

3.5 We identified that the risk of harm to BSPS members was high, and took quick action through:

- arranging meetings with advisers in key locations to remind them of our expectations and gather intelligence;
- the proactive collection of information from firms advising BSPS members, and;
- assessments of firms' advice practices and business models.

We assessed advice practices at 26 firms and identified 10 with business models or advice processes that could lead to widespread harm for their customers. All 10 firms agreed to stop providing pension transfer advice,

3.6 Annex 1 provides a chronology of events relating to BSPS.

What did we learn?

3.7 We have dedicated teams who, at short notice, are able to pivot and focus on a new issue to protect consumers, with great impact. And although there was some public criticism of the FCA's response, our teams maintained a high level of confidence and this was reinforced by senior management's vocal support of our work – in particular in our response to the Work & Pensions Select Committee which clearly addressed external criticism.

Reasons why we could take prompt and effective action

3.8 The skills, knowledge and experience we have developed through our Retail Investment supervision strategy equipped us to act effectively in relation to BSPS. We obtained intelligence on the ground from Live & Local firm surgeries, and used our Live & Local workshop team to rapidly organise and present BSPS seminars. We used our standard system for file reviews based on our suitability assessment tool which was developed and tested over 1,000 times as part of the Assessing Suitability Review.

3.9 We were able to have impactful firm visits and assess firm's business models and issues quickly to get effective outcomes because we had done this as part of the Pension Scam team's work and DB-DC phase 2.

Creating 'regulatory beacons'

3.10 The BSPS supervision activity created a "Regulatory Beacon". We worked quickly and effectively to arrange and deliver a series of external events: seminars for advisers; public meetings; targeted letters to advisory firms; regular public statements of our work; and the publication of the names of the firms which had given us voluntary requirements (VREQs). This 'Beacon' had an impact far wider than the firms directly involved in our work. Many more advisers are now aware of the standards we expect and the possible consequences if they fall below them. Engaging directly with firms in this intensive and diverse way is likely to have a greater impact on their practices than simply publishing communications.

3.11 The events of British Steel were thrust upon us, but we could consider proactively creating similar 'Regulatory Beacons' in other areas of Supervision and across the FCA, where we want to have a quick high level impact in relation to a particular issue, a cohort of firms and/or a particular geographic area. Regulatory Beacons would be planned, focused, high intensity short bursts of supervisory work which could include a mixture of seminars, media, firm visits and targeted firm-specific communications.

Data

3.12 To identify higher risk firms in a large population of advisory firms we rely on data. Our standard sources of data on advisory firms are regulatory returns which do not cover DB transfers, and provider's product sales data (PSD) returns which have proven to be inaccurate. We have received useful, though incomplete, information from providers through the temporary retirement income data returns, which was used to identify firms for phases 2 and 3 of our DB transfer work.

3.13 The lack of accurate and timely data on transfers meant that for our BSPS work all the information gathering we did had to be reactive and ad hoc. As the scheme administrators were not regulated we could not require that they provide us with data, . ; it took time for us to collate the information ourselves from their records, through visiting their offices on two occasions.

3.14 To improve our ability to identify higher risk financial advisory firms we are currently considering three areas:

a. **Fresh and regular data on the pension transfer advice provided by authorised advisory firms.**

   Our ability to act quickly is inexorably linked to how up to date our data is;

b. **Data from multiple sources.**

   Multiple data sources would allow us to cross-check the data we receive; and

c. **Good intelligence.** Often data may tell us which firms are doing a lot of something, but it is intelligence which can help identify quickly which firms maybe doing it badly. Our British Steel work may have been a watershed in this regard – encouraging more firms and pension schemes to contact us with their concerns. We are working with TPR and the Pensions Advisory Service (TPAS) to co-ordinate communication with schemes and members and improve information sharing (as detailed below). We also need to consider how we could improve our intelligence gathering from social media.

Could we have acted faster?

3.15 Once we had information suggesting that BSPS transfers could lead to significant harm we responded immediately. We could have taken action earlier if we had received information from third parties at an earlier stage.

We have subsequently met with TPR to discuss new information sharing protocols, which had they been in place for BSPS could have brought forward our firm assessments by several weeks.

3.16 If we had decided immediately to visit the BSPS administrator's offices to collect data on the advisory firms involved we may have reduced the timeline by two weeks. However the practical and legal obstacles to obtaining information from the scheme administrators and overcoming their concerns about sharing the data would have made it challenging to have done this sooner.

3.17 We set out below how we have engaged with TPR recently to ensure that in future we are alerted at an early stage to schemes that may be at risk of increased transfer activity.

3.18 Prior to the Pensions Freedoms changes we identified that transfer activity could increase from April 2015, and that the risk of unsuitable transfers leading to harm was likely to be greater. Starting in October 2015 we focussed on identifying and assessing firms which were increasingly active in the market. Could we have done more in 2015 to consider the types of scenarios which could lead to harm? If we had done this we may have considered the possibility of a large corporate restructuring its pension scheme (with members required to choose between options), with a regional concentration of staff, and limited local advisory capacity. However, the particular circumstances of the BSPS restructure were unusual if not unique, and without the benefit of hindsight, it is hard to see that we would have identified this very specific risk with the information available to us at the time.

4 Potential harm arising from the proposals

4.1 Not applicable.

5 Alternative Options

5.1 Not applicable.

6 Recommendations from other committees (if appropriate)

6.1 Not applicable.

7 Next Steps

Further supervisory project work on DB transfers

7.1 As part of DB to DC phase 3 we will, by the end of June, have carried out 18 firm visits and up to 144 client file reviews. The DB to DC phase 4 data request to all 3,100 firms which hold the pension transfer advice permission will go out in November 2018

After phase 4 is completed we will evaluate the supervision and policy work done on DB transfers.

Working with TPR and TPAS

7.2

7.3

7.4

Expanding the 'Regulatory Beacon': Working with pension schemes

7.5 One advantage of a 'Regulatory Beacon' is that it encourages people to contact us.

7.6 We have also contacted six pension schemes directly to see if they have experienced an uptick in transfers and which advisory firms are involved. The information received no concerns about advisory firms.

7.7

7.8 We are setting up a central database to allow us to collate information from different sources on the firms involved in DB transfers. This will allow us to amalgamate data from a variety of sources to provide a better view on which firms are active in the market and for which schemes, and will also enable us to validate data submitted by firms by cross referencing to the database. Initially this database will include details from our BSPS work, the three phases of DB transfer project work, and data from the pension schemes we have contacted. In total this will initially cover 767 firms out of a total of around 3100 firms which hold the pension transfer advice permission.

Project planning

7.9 Our current project planning framework does not specifically include scenario planning for events that might require us to act quickly to mitigate harm. While predicting such events will always be challenging, including a specific requirement to consult with a wide range of stakeholders on possible events that could occur during a project, and to plan for these may enable us to take preventative action sooner and also identify which areas across the FCA, for example EMO, would need to be involved earlier.

Annex 1

DB to DC Pension transfers - Supervisory work since Pensions Freedoms

Our strategic approach to our supervisory work has initially focused on those firms which were most active in DB-DC advice, as well as acting on intelligence on specific firms. This work has so far consisted of three phases, with the fourth phase beginning later this year.

Phase one began in October 2015 and ran through to March 2016. During this time we issued a formal request for information to six pension transfer advice firms which led to 29 detailed file reviews from four of those firms. We visited three firms and following the visits we provided formal feedback to each based on our findings. The results of this work were, of the files we reviewed:

- 24% (7) contained suitable advice
- 35% (10) contained unsuitable advice
- 41% (12) it was unclear whether the advice was suitable or not.

Phase two of this work began in December 2016. This phase considered an additional 16 firms, resulting in a review of 71 sample files. We visited nine of these firms. We found, of the files we reviewed:

- 38% (27) contained suitable advice
- 34% (24) contained unsuitable advice
- 28% (20) it was unclear whether the advice was suitable or not.

Following this work we had further conversations with a number of the firms. Four of these firms offered to voluntarily vary their permissions resulting in them no longer providing pension transfer advice.

Phase three of this work began in June 2017 to look into the significant increase in transfer activity; this work is continuing. Most recently, in December we sent a formal request for information to 45 firms. We are now reviewing advice files for 18 firms and

We are currently planning our fourth phase of work which will involve writing to all regulated firms that hold the pension transfer permission to collect and analyse data. This will allow us to build a detailed picture of the entire UK market.