

Review of Pensions Institutions

Response by Prudential plc

Introduction

- 1 We approach this consultation primarily from the perspective of a company which provides defined contribution pension scheme solutions to the pre-retirement and post retirement markets. Our main focus is in how the pensions regulatory landscape will evolve in the run up to the introduction of personal accounts in 2012.
- 2 Our view in that context is that the main regulators of DC pension schemes should not undergo any significant structural change but need to work more effectively together and with the industry. We see the regulators as including not just FSA and tPR but also DWP, HMRC and the Ombudsman – all must work together to develop a coherent approach.
- 3 We make some specific suggestions below on ways in which closer working might be achieved but we also believe there is merit in considering an overseeing forum. This might be similar to the FSA's Practitioner or Consumer Panels. The forum would have a right to be consulted before the regulators made their decision. The regulators would have to include relevant Government Departments. The objective would be to provide a sense check of plans to ensure that they are consistent in content and timing across different regulators and types of pension regimes, including personal accounts. We acknowledge that this may seem like another layer of regulation but, especially in the complex and changing environment leading up to 2012, we believe it would help deliver a better result than we saw, for example, with pensions simplification.

Bringing the PPF and tPR closer

- 4 We believe the objectives of tPR and PPF are significantly different and, as a result, do not believe that merger is appropriate. PPF essentially runs an occupational scheme, whereas tPR regulates workplace schemes.
- 5 Although we disagree in principle that merger is appropriate, we have considered other aspects and also feel that, even if it were right in principle, it would be too soon to merge. The separate organisations are developing well and need time to focus on their respective objectives before the diversion of merging was imposed.
- 6 Any merger would have to be subject to a cost benefit justification, which we are intuitively not convinced exists. The costs involved would also have to include the costs for the industry in updating literature, etc.
- 7 None of the experience we have would suggest that we would be helped by a merger.
- 8 We do however believe that where there is a commonality of interest then PPF and tPR should work together to reduce costs both for themselves and for industry. Pension scheme data collection, risk analysis and scheme databases are examples where we would expect to see co-ordinated working – we do not know how far along this path PPF and tPR have gone.

9 We do not see personal accounts as relevant in this context.

Bringing the FSA and tPR closer

10 Our strong view is that, at this stage, it would be unhelpful to merge. However, more needs to be done to deliver effective joint working. This will be essential in the run up to personal accounts to ensure that a level regulatory playing field exists for all types of workplace schemes (personal accounts, occupational trust based schemes and group personal pension/stakeholder).

11 Employer regulation should be a tPR responsibility as far as administration is concerned, and an FSA responsibility as far as advice to members and potential members is concerned.

12 The following areas of overlap need effective joint working by FSA and tPR:

- Member protection in workplace DC schemes (including GPPs and personal accounts)
- Member protection in risk sharing workplace DC schemes may be a grey area depending on what risks are being shared and by whom
- Member communications / disclosure in workplace schemes (including GPPs)
- Information sources
- All transfers, though in particular transfers from a DB to DC environment

13 Evidence for the need for more effective joint working includes the following:

- More transparency on the joint working between tPR and FSA on specific issues and consultations
- Multiple information material on the same issues is produced by FSA, tPR, DWP.
- The requirement to inform people about OMOs was introduced at different times for occupational and contract based schemes
- In Sandler products, there were different messages from FSA and tPR on default funds
- There is lack of linkage with FSA requirements in the transfer inducements guidance, and only negative aspects are considered

14 We make the following suggestions for how joint working could be made more effective.

- There would be advantage in taking the same approach to forward planning, publishing similar documents setting out their plans for future regulation. The regulators should also liaise on their plans to see any shared issues, poor or inconsistent timings, etc. Examples might be ensuring that any disclosure regime changes resulting from FSA's review are tied in with tPR's requirements and DWP's requirements. Or the relaxation in protected rights requirements arising from the Pensions Bill has co-ordinated implementation and does not give rise to multiple one-off costs to the industry. It is generally more efficient for firms to review a process once rather than continually going back over the same process due to different requirements or timings from different regulators.
- Where there are shared responsibilities, there should be a jointly produced document of requirements adopted by all the regulators sharing responsibility.

- 15 It is worth noting that a co-ordinated approach may lead to a desire to change eg to align disclosure regimes. However, any changes thought desirable in principle must also be subject to cost benefit justification, which may lead to their not being implemented, or being delayed until a time when other changes are needed.

Bringing the PO and FOS closer

- 16 We would neither advocate nor resist their merger. The different constituencies which fund the regulators would need to be considered.
- 17 We agree that the current set up does cause confusion for some customers (and firms!). However, we have not had any major problems as a result of having two separate bodies. Where cases have had to be passed between the two, this has worked well.
- 18 The different governance set ups and particularly routes for appeal have to be considered by firms. A common approach would be helpful in assessing the risk and impact of different cases.
- 19 The different approaches and skills would need to be carefully brought together. For example, the overall total volumes being dealt with would require the type of process currently used by FOS.

Are any changes to PPF Ombudsman functions or boundaries needed?

- 20 We believe it is too early to assess this.

Are any changes to TPAS functions or boundaries needed?

- 21 We agree that TPAS should remain separate from tPR.
- 22 TPAS may have a role in the wider “advice” picture being considered by Otto Thorensen’s group and no decisions should be taken on changes in isolation from that group’s conclusions.

Are any changes to FSCS functions or boundaries needed?

- 23 No changes needed

Are any changes to Pensions regulator tribunal functions or boundaries needed?

- 24 No changes needed

Impact of Pension reforms

- 25 The compliance and regulatory environment for personal accounts are not yet clear. We believe that HMRC could play a useful and cost effective role in ensuring employer compliance. Care would have to be taken to ensure that HMRC costs incurred were charged back to personal accounts to avoid anti competitive taxpayer subsidies to the latter.
- 26 Compliance costs could be significant depending on how proactive a regime applies to the 650,000 employers involved. Personal accounts will be characterised by the involvement of employers who have not voluntarily set up a pensions scheme and who may not be so inclined to support it. Consequently, costs may be higher than for the current employer database. It will be important

for costs for personal accounts compliance to be ringfenced and charged back to personal accounts.

- 27 A similar issue arises in relation to advice and guidance for personal accounts. We believe that all relevant regulators must develop a consistent view across all types of DC pensions on issues such as whether people should opt out of auto enrolment or not. Regulatory costs in this respect also must be appropriately shared, including with the personal accounts scheme.
- 28 Pension reform will have other implications for ongoing DC schemes which, if they are to be exempt, will have to adopt auto enrolment. It will be important that the key messages which people receive on joining and at other key points are the same for personal accounts, occupational schemes and group personal pensions. If any differences exist they must be justified. This will require FSA, tPR, Ombudsmen and Government departments to work together and in the same timeframes.

Other developments

- 29 Although we agree that markets are evolving with longevity hedging instruments and capital solutions, we do not see any need to change the structure of regulation as a result. It would be particularly important if more than one regulator was involved that a consistent approach was agreed and it was clear that all relevant regulators supported the approach.

Other issues

- 30 There is little or no regulation of the employer's choice of provider/administrator and fund manager (including default fund if there is one), other than for stakeholder. Larger employers are better positioned to operate suitable processes and are likely to do so. You might consider applying a greater regulatory requirement, in particular, for schemes which will exempt their employers from having to offer personal accounts. However, the additional regulation may be a further disincentive on employers to continue good schemes. It may be worthwhile considering guidance on what processes employers should consider using.
- 31 Any merger will require consideration of the funding of a joint body, and how this differs from the current position.
- 32 Any expansion of activity to cover personal accounts will require consideration of how the share of cost relating to personal accounts should be charged to the personal accounts scheme.
- 33 The speed of the current consultation and the fact that it is simultaneous with, rather than after, the imminent NAO review of FSA and tPR is unfortunate.
- 34 There are numerous drivers of change at present so there may be advantage in stability in some areas! However, if there are changes, it is important that they are harmonised with other changes in the same area so that cost and disruption are minimised.

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