PENSIONS AND
LIFETIME SAVINGS
ASSOCIATION

CONSULTATION DOCUMENT: TECHNICAL AMENDMENTS TO THE PENSION PROTECTION FUND AND FRAUD COMPENSATION FUND REGULATIONS

09 SEPTEMBER 2022

CONTENTS

ABOUT THE PLSA

Our mission is to help everyone achieve a better income in retirement. We work to get more people and money into retirement savings, to get more value out of those savings and to build the confidence and understanding of savers.

We represent the defined benefit, defined contribution, master trust and local authority pension schemes that together provide a retirement income to 20 million savers in the UK and invest £1 trillion in the UK and abroad. Our members also include asset managers, consultants, law firms, fintechs and others who play an influential role in the governance, investment, administration and management of people's financial futures.

INTRODUCTION AND SUMMARY

The PLSA fully supports victims of pension scams being compensated. Our members stand ready to contribute their fair share in paying the outstanding claims through the Fraud Compensation Fund. Our mission is helping everyone to have better retirement outcomes and it is wrong that some people have been defrauded of their life savings.

We support the technical changes to the FCF as proposed as they will help professional trustees in the administration and investigation of insolvent pension sham vehicles.

The PLSA does, however, wish to take the opportunity to repeat our call for the need for a strategic review of the Fraud Compensation Fund and all levies; repeated incremental changes such as these proposed exemplify the need for a holistic review of all levies against their intended combined functions and objectives.

The strategic review of the Fraud Compensation Levy could be used to address the following concerns:

- Lack of clarity on nature of claims (such as timing and scale), the type of ceding schemes and whether they were eligible for other compensation schemes.
    - The changing scope of FCF should have resulted in a broader base of contributors to include contract-based as well as trust-based schemes
    - The base of contributors could be broadened further to include regulated advisors especially if the claims could have fallen on both FCF and FSCS
    - The current situation around compensation schemes remains confusing for victims of scams and in many cases it would take a lawyer to interpret the rules
- The distribution between Master Trusts and Non-Master Trusts still results in Master Trusts paying the same aggregate amount as DB schemes by 2030
    - A per member formula for the FCF levy penalises mass membership Master Trusts (and therefore lower earners/less well-off members)
    - There is a case for, at minimum, introducing a banding system as operated by the General Levy, or discounting small pots of £100 or less from calculations

CONSULTATION RESPONSE

Technical Changes to the Fraud Compensation Fund (FCF) regulations

The PLSA supports occupational pension schemes paying their fair share to the Fraud Compensation Fund to compensate the victims of pension shams. Compensating victims of pension scams helps protect the integrity of the UK pensions system as a whole, as well as protecting individual pension pots to help them achieve an adequate income in retirement.

The technical changes proposed are sensible in order to ensure professional trustees are able to cover costs for the work in administering pension shams and schemes in scope of FCF compensation that have exhausted their assets.

However, more generally, the FCF levy applies only to trust-based schemes and overlooks the role of contract-based schemes play.

A strategic review would allow for analysis of, for example, which scheme types pension sham victims have and could be transferring from, as it seems plausible that pension sham victims are just as likely to originate in contract-based schemes as trust-based schemes. We believe that, if this were found to be the case, contract-based schemes should pay their proportionate share of the outstanding claims.

The per member levy structure for trust-based schemes also places a disproportionate burden on those schemes with mass membership. Consideration should also be given to the issue of small pots of £100 or less that are often loss making for pension schemes. Excluding small pots from the formula would reduce the disproportionate burden on mass market Automatic Enrolment schemes of all types, even if only in the short term before a resolution to the small pots problem is found.

We expect there to be benefits from a commitment to build a new more robust compensation regime with the saver in mind. Currently it is possible for victims in some cases to claim compensation from either the Financial Services Compensation Scheme or the FCF. Conversely other pension scam victims, particularly where it has been to a qualifying recognised overseas pension scheme, may not be able to claim against any compensation scheme, at least in the UK. The High Court definition of what constitutes a pension sham versus a pension scam would also leave most pension savers perplexed and require the services of a pensions lawyer to clarify. We believe it is not beneficial for savers to leave the potential for confusion regarding claims to remain unaddressed.

Technical Changes to the Pension Protection Fund (PPF) regulations

We do not have a specific comment on the technical changes proposed, except to note that the need for making the change also highlights the need for having a structural review of levies.

It was only five years ago that there was a consultation on how bridging pensions should be treated by the PPF, so this consultation aimed to help Gap Year students not lose out on dependents' benefits represents another incremental change of the PPF.

A full structural review of the compensation regime, including of all levies, would mitigate the need for small incremental changes; it would test if each levy is fit for purpose, and provide an opportunity to review all the relevant rules holistically against their intended combined functions and objectives.

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