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Better Workplace Pensions
Private Pensions and Stewardship Directorate
Department for Work and Pensions
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27 November 2015

Dear Sir, Madam,

Better workplace pensions: Banning member-borne commission in occupational pension schemes

This is the response of the Financial Services Consumer Panel (the Panel) to the government consultation on banning member-borne commission in occupational pension schemes.

The Panel supports a ban on member-borne commission on occupational pension schemes used for auto-enrolment. However, trustees would find it hard to determine whether a scheme charges commission, and to assess whether switching to another scheme would represent value for money for scheme members. So we strongly favour a duty on providers to comply with the ban.

If schemes move to a model of charging for advice as a percentage fee against members' funds, or a fixed charge deducted from the members' funds, costs need to be transparent. Ideally, members would pay the charges upfront as deducting them from the fund would have an impact on the size of the pension pot.

The proposals mean the Pensions Regulator (TPR) will be directly regulating bodies which are currently regulated by the Financial Conduct Authority (FCA). The government should consider whether joint regulation by the FCA and TPR could be a more effective solution.

Yours sincerely,



Sue Lewis
Chair
Financial Services Consumer Panel

Consultation Questions

The Panel has only answered questions where it has substantive comments.

4. Do you have any comments on our proposal that trustees ask service providers whether commission is present, and on the practical challenges they might face in meeting the requirement to remove existing member-borne commission arrangements?

The consultation paper recognises that trustees are one step removed from the commission arrangement. In order for trustees to exercise the proposed duty effectively, schemes would need to provide standardised information to them that is clear to understand and enables effective comparison and challenge. Even so, it might be necessary to impose a statutory duty on providers to disclose to trustees whether a scheme passes on commission charges to members.

Under Option A, trustees have two options to remove commission: they can attempt to negotiate removal or move to an alternative service provider, the latter of which would require trustees to assess value for money. The Panel's research shows that the full costs of making long-term investments are not consistently and comprehensively defined, nor understood.¹ Changing scheme could incur exit costs and other charges. Against this background, trustees would struggle to assess whether moving to a different scheme is in the long-term interests of the members.

6. Do you have any comments on who should have the duty to comply with the ban, and whether our definition of service provider should include any other person who is providing advice or services to the scheme and may be involved in a member-borne commission arrangement?

We have a strong preference for a requirement on service providers to remove commission-related charges being imposed on members. Trustees do not have sufficient influence, and 'best endeavours' could lead to different outcomes for different groups of consumers.

7. Do you have any comments on our proposed policy on whom the commission ban will protect?

The Panel is supportive of the wide remit of the commission ban.

8. Do you have any comments on: a) how fees for advice or services that the member opts-in to should be paid for?

The options set out in the paper both recover advice or service charges from the fund. So it will not be clear to the member upfront how much they are paying for the advice over the entire term. This approach would also erode the value of members' savings, even for small charges. For example, a 0.5% annual charge reduces a pension pot by 13% and 1% by 24%.² An alternative would be to ask members to pay a fee separately,

¹ https://www.fs-cp.org.uk/sites/default/files/investment_discussion_paper_investment_cost_and_charges.pdf

² Illustrative calculations by the Department for Work and Pensions in November 2013 ("Pensions Bill 2013, Information Pack for Peers")

which would ensure the fee is transparent and does not erode the value of the fund over time.

9. Do you have any comments on the proposal to extend the ban to members accessing decumulation products where these are offered in occupational schemes used for automatic enrolment?

The Panel support the extension of the ban.

11. Do you have any comments on our proposed approach to compliance and enforcement under these options, including the role of trustees?

Both proposals place the burden on the trustee to uncover whether or not the scheme is one that charges commission, yet the consultation paper recognises trustees may not have the authority to influence such arrangements. Ultimately trustees have recourse to TPR, but the first step for TPR is to assess whether the trustees have complied with their obligations. This approach could be time consuming.

The consultation paper recognises that under option B TPR will be directly regulating bodies such as pension scheme providers and asset managers, whereas regulatory oversight of these bodies is with the FCA. The Pensions Policy Institute recently conducted a comparison of the two regulatory regimes³ and found that the FCA regime is designed to prevent negative events while the TPR regime addresses these after the event.

TPR can issue a penalty notice for non-compliance, but this is fixed at £400. Although this penalty notice can be of the type that escalates, it is unlikely that these levels of penalty will act as a deterrent to schemes charging commission. The government may therefore want to consider whether joint regulation would be more effective.

³ <http://www.pensionspolicyinstitute.org.uk/publications/reports/comparison-of-the-regulatory-frameworks-for-dc-pensions>