



Review of Pensions Institutions

The ABI's Response to the consultation paper on emerging issues

Introduction

1. The Association of British Insurers (ABI) welcomes the opportunity to respond to this consultation paper. The ABI is the trade association for Britain's insurance industry. Its nearly 400 member companies provide over 94% of the insurance business in the UK. It represents insurance companies to the Government, and to the regulatory and other agencies, and is an influential voice on public policy and financial services issues. ABI member companies hold up to a sixth of all investments traded on the London Stock Exchange, on behalf of millions of pensioners and savers.
2. Responses to the specific questions posed in the consultation paper are set out in the Annex to this response, but the main points are set out below.
3. The ABI is doubtful of the value of reviewing the structure of these institutions so soon after they were established. More time is required to allow them to develop, and it would also be helpful if the review could take account of the results of the current NAO reviews of the FSA and tPR.
4. However, the institutions involved in pensions regulation (particularly the Pensions Regulator and the FSA) do need to work much more closely together in developing policy and communicating with the public. This also applies to other organisations, including the DWP and HMRC. The aim should be a common regulatory framework for all pensions, even if it is delivered by different regulators, working together.
5. The conclusions of this review should be taken forward in parallel with work on the detail of the new Personal Accounts regime. The same regulatory framework should cover personal Accounts alongside other pensions, and the Personal Accounts scheme should make a fair contribution to regulatory costs.
6. At this stage, instead of organisational change, the Institutions review should consider ways of ensuring that the regulators work together more closely. Options might include revising or developing new Memoranda of Understanding between the institutions; creating statutory duties to consult with each other; establishing an advisory board of practitioners and consumers to ensure that regulatory ideas are scheduled according to a commonly-agreed timetable and sense-checked before implementation; or possibly extending the remit of the FSA's consumer and practitioner panels to include tPR issues.

Questions for Consultation

Is there a good case for bringing the PPF and TPR closer together?

The ABI does not believe there is a case for merging the Pensions Protection Fund and the Pensions Regulator. It is too soon to consider this sort of structural change. Merger would be an unnecessary diversion from the core activities of these institutions and could disrupt the positive reputation that they are building. The Institutions Review should also be mindful that the costs of transition would have to be borne by pension schemes, putting them under additional pressure.

More fundamentally, it is important to be aware of the risk of a conflict of interest between the roles of the two institutions – for example where the Pensions Regulator has to have regard to the impact of clearance decisions on the PPF. The PPF needs in particular to remain independent, and clearly at arm's length from Government.

Possible changes short of merger might include moving the PPF's educational role (for example, giving guidance on how the fund works) to tPR. The institutions should also continue to work closely together on pension scheme data collection.

Is there a good case for bringing FSA and TPR closer together?

The ABI does not believe that these organisations should be merged at this time. The costs of change – which would be borne by schemes – could well outweigh any benefits.

There is, however, a strong case for more clarity on the boundaries between the regulators. As a general principle, regulation of employers should be for tPR as far as administration is concerned, and for the FSA in relation to advice to members and potential members.

There should also be closer working between the two organisations. FSA and tPR should aim to reduce differences and inconsistencies between their approaches and reporting requirements, and could even be given a formal duty to work together. Particularly in the run-up to the introduction of Personal Accounts, working together will be important to ensure a level playing-field for all types of workplace pension schemes.

There are examples of overlapping responsibilities between tPR and the FSA. Issues include member protection in workplace DC schemes, member communications and disclosure. Where there are shared responsibilities, there should be only one joint document setting out the requirements, which the regulators should work together to produce. Changes in these areas are likely to be beneficial, but they should nonetheless be subject to Cost Benefit Analysis before being introduced.

Similarly, the organisations producing information material (FSA, tPR, DWP and TPAS) should work together to produce single versions of each document.

Finally, there should be more joint forward planning between the regulators – for example in the preparation of business plans – so that regulated schemes and insurers can more easily see the overall position and plan their own use of resources effectively.

Is there a good case for bringing the PO and the FOS closer together?

In terms of the functions of the two Ombudsman schemes, there is not a good case for bringing them together. The Pensions Ombudsman deals mainly with maladministration and the Financial Ombudsman Service deals mainly with mis-selling cases. There is a significant difference in their approach, in the type of cases handled and in the way that the cost of the Ombudsman's work is charged back to the industry. The two Ombudsman schemes appear to work well together and handovers from one to another are handled smoothly. The two schemes have developed their own areas of expertise and should concentrate on continuing to improve the handling of their existing cases.

Having said that, there could well be advantages in bringing together the PO and FOS on a single site, with shared common services and the option of more easily transferring resources from one scheme to the other as required. This should be considered carefully, whilst maintaining the distinctive features of the current arrangements. There may also be scope for additional joint information to explain the respective roles and responsibilities of the schemes.

Are any changes to PPF Ombudsman functions or boundaries needed?

The ABI does not believe that any changes are needed at this early stage. It is possible that the Pensions Ombudsman's remit could be broadened to cover PPF and Financial Assistance Scheme cases, but the arguments for this are not yet made.

Are any changes to TPAS functions or boundaries needed?

It is possible that changes to TPAS may be necessary, but this has to be handled carefully, since TPAS depends on volunteers, who make a valuable contribution at a low cost. Care should be taken not to overload them. In particular, the suggestion of merging TPAS with tPR should be resisted. Such action would be likely to lead to the dissolution of TPAS. The future of TPAS will be considered as part of the Thoresen review. The Institutions Review should await the conclusions of that review before making any decisions in this area.

Are any changes to FSCS functions or boundaries needed?

No changes are needed. The FSCS's role is very self-contained. A separate FSA review of FSCS funding is already under way, and a consultation paper was issued on 20 March.

Are any changes to the Pensions Regulator Tribunal functions or boundaries needed?

The ABI does not see the need for any changes here, though these might need to be considered if the PPF and tPR were merged.

Impact of pension reforms

The Government needs to consider how Personal Accounts will be regulated. The current plan is to establish them as a multi-employer occupational scheme – which would imply regulation by the tPR.

The Government needs to ensure that the Personal Accounts scheme is not self-regulating. Personal Accounts should be regulated alongside occupational and personal pensions – and the regulatory approach taken for all workplace pensions needs to be as similar as possible. As we said in our response to the Personal Accounts white paper, regulation should be proportionate to the risks of different types of employer-sponsored pension and Personal Accounts, and should treat the same risks in the same way, whatever the type of scheme.

In the run-up to 2012, there will need to be additional communications with employees about pensions. The FSA, tPR and Government departments should work together on the key messages employees receive on joining their employer and at other points. The messages should be consistent whether the employee is offered a Personal Account, an occupational pension scheme or a GPP or group stakeholder pension.

Given the wider range of employers to be covered by Personal Accounts, including many who have not previously been involved in pension provision, there may be a higher risk of non-compliance. There may be a role for HMRC in ensuring employer compliance, which would be a natural addition to HMRC's existing role in policing compliance with the minimum wage legislation.

Other developments

The ABI does not believe there is a need to change the structure of regulation at this stage to cover evolving market developments (for example, longevity hedging and other capital solutions). The existing regulatory arrangements appear capable of dealing with these developments.