



THE INSTITUTE  
OF CHARTERED  
ACCOUNTANTS  
IN ENGLAND AND WALES

3 April 2007

Our ref: ICAEW Rep 26/07

Your ref:

Secretariat to the Review of Pensions Institutions  
The Adelphi  
Level 3  
1- 11 John Adam Street  
London WC2N 6HT

By email

Dear Mr Thornton

**Review of Pensions Institutions – consultation paper**

The Institute of Chartered Accountants in England & Wales is pleased to submit its comments in response to the consultation paper on how the responsibilities of the pensions institutions are arranged, which was published on 7<sup>th</sup> March by the Department for Work and Pensions.

Please contact me if you would like to discuss any of the points raised in the attached response.

Yours sincerely

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## ICAEW Representation

ICAEW REP 26/07

### REVIEW OF PENSIONS INSTITUTIONS

Memorandum of comment submitted in April by The Institute of Chartered Accountants in England and Wales, in response to the Review of Pensions Institutions consultation paper published by the Department for Work and Pensions in March 2006.

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## **INTRODUCTION**

1. The Institute of Chartered Accountants in England and Wales (the 'Institute') welcomes the opportunity to comment on the consultation paper *Review of Pensions Institutions* published by the Department for Work and Pensions in March 2006.

## **WHO WE ARE**

2. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 128,000 members in more than 140 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 700,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The ICAEW ensures these skills are constantly developed, recognised and valued.

## **GENERAL COMMENTS**

4. Overall, though with some significant exceptions, the ICAEW is in favour of merging the Pensions Regulator (tPR) with the Financial Services Authority (FSA). Similarly, it believes that the Pension Protection Fund (PPF) should be treated in the same way as the Financial Services Compensation Fund as they both have a responsibility to pay compensation.
5. A pension is a form of saving for old age and in this respect is no different from any other form of saving. Many pension arrangements are already entirely regulated by the FSA – non-workplace-based pensions and annuity business. Compensation for many forms of saving is already operated by the FSA which raises levies on insurers and other investment businesses to pay for it. The PPF is simply a form of compensation scheme for one form of saving.
6. From the perception of members of the public, it is confusing to have different regulatory bodies and different sources of information. Partly this is historical. The Treasury has been responsible for the FSA and the Department for Work and Pensions (DWP) for occupational and state pensions. Hence the legislation surrounding pensions and the Regulator and compensation arrangements have grown up separately.
7. Currently, the operations of occupational schemes and the trustees are under the care of tPR whilst the investment managers and custodians (and indeed those trustees who still operate in-house investment function) are regulated by the FSA. As the provision of private pensions through occupational pension schemes is rapidly diminishing, a trend which is likely to continue, it is time to consider the longer term and plan accordingly. In our view, the way forward is to have one organisation responsible for regulating all forms of

pension schemes and planning to merge the functions of the Pensions Regulator into the FSA to recognise the long-term trend should start now.

## **RESPONSES TO SPECIFIC QUESTIONS**

### ***Q1: Is there a good case for bringing the PPF and tPR closer together?***

8. We believe that there should be a separation in the role of protecting pensions and that of the administration of a pool of assets and paying compensation. These are quite separate functions, notwithstanding the fact that one of tPR's statutory objectives is to protect the PPF and this entails close working between the two. This is akin to the regulation of the financial industry by the FSA with the existence of the investor's compensation scheme to compensate those who suffer losses when things go wrong.

### ***Q2: Is there a good case for bringing FSA and TPR closer together?***

9. We have received a number of views. Some of our membership voiced concerns about bringing occupational pension schemes under the umbrella of the FSA. Whilst recognising that there are synergies and potential cost savings, there is a view that a 'super regulator', as the FSA would become, might mean a shift of focus away from occupational schemes. It is recognised that tPR has done much to raise awareness and standards by being totally focussed on pension schemes and that this risks being lost if tPR is subsumed into the FSA. In addition, FSA regulates markets and this is not relevant to pension schemes. Members have little choice about occupational schemes, with their employers generally only offering one scheme and transfers being poor value. The need for common protection at scheme level marks out occupational schemes from insurers and other financial institutions.
10. However, there is a general view that this is unsustainable in the long term.
11. At present, we have three main types of employer-sponsored or work-based pension schemes:
  - Defined benefit occupational schemes;
  - Defined contribution occupational schemes
  - Money purchase contract-based schemes, covering personal pensions and stakeholder arrangements, where in some cases the employer does not actually contribute but merely acts as a conduit for contributions.
12. The Pensions Bill currently going through Parliament sets up a new delivery authority for personal savings accounts, which will eventually be run by the Personal Accounts Board. Employers will have to contribute, adding yet another type of work-based scheme and another body to those already involved in delivering pension schemes. It is not yet clear to us how the work of this organisation will fit in with that of tPR and the FSA.
13. What is clear is that the proliferation of bodies involved in pensions regulation and compensation is likely to add to confusion among consumers. The closure of final salary pension schemes and the rapid increase of contractual money purchase arrangements require greater clarity and cohesion in terms of regulation and supervision than is currently the case. From the perspective of a member of the public, it does not matter whether the scheme is an

occupational scheme or a contract arrangement, as long as the promised pension is paid. The distinction may be deemed to be academic in relation to money purchase schemes as even in an occupational pension scheme, the member is most likely to have to choose an insurer to provide the pension at retirement. The trust is merely the vehicle for handling contributions during the member's working life.

14. We need to consider now the structures required to deliver pensions and the level of regulatory supervision over the next twenty years. It could be argued that tPR should take on all responsibilities relating to the administration of pensions. However, the investment side is firmly the remit of the FSA. We therefore believe that the way forward is for the FSA to become the sole authority to deal with all savings in the UK, including pensions.
15. As part of its role, the enlarged FSA should consider whether there is merit in regulating third parties who undertake pension scheme administration. These organisations typically collect contributions from employers and pay pensions, handling cash and paying pensions, just as annuity providers do. At present, such administrators are unregulated, yet they have a crucial role in delivering pensions.
16. The FSA's objectives are set out as
  - market confidence: maintaining confidence in the financial system;
  - public awareness: promoting public understanding of the financial system;
  - consumer protection: securing the appropriate degree of protection for consumers; and
  - the reduction of financial crime: reducing the extent to which it is possible for a business to be used for a purpose connected with financial crime.
17. These objectives are critical for the operation of a sound system of pensions as well as all other types of investments. The FSA's analysis of the role of management sits well with tPR's expectations of pension scheme trustees and tPR has already adopted the principal of proportionality.
18. In addition, the FSA has taken a role in informing the public in its 'money made clear' site. TPR offers nothing like this. It concentrates on educating trustees.
19. Finally, the FSA operates on a principles basis in its regulatory approach, rather than through very detailed regulation, which is the approach for occupational schemes. The deregulatory review for occupational pension schemes should examine the principles-based approach with the longer term view of such schemes being regulated by the FSA.

**Q3. *Is there a good case for bringing the Pensions Ombudsman and the Financial Ombudsman Service closer together?***

20. We are of the view that if tPR and the PPF were to merge into the FSA, then it would be logical to merge the PO and FOS and the PPF Ombudsman.

**Q4. *Are there any changes to TPAS functions or boundaries needed?***

21. TPAS is fundamentally different from the Ombudsman organisations, and this stems from its original foundation as a charity to help people with pension problems. Although it is no longer dependent on charitable donations, it is extensively supported by a very large number of volunteers. We believe it would be highly detrimental to the service if it were to be subsumed within the FSA and strongly recommend that it continues as at present.

**Q5. *Are any changes to FSCS functions or boundaries needed?***

22. We do not believe that any changes are needed, and consider that the Pension Protection Fund could be treated as an equivalent organisation.

**Q6. *Are any changes to the Pensions Regulator Tribunal functions or boundaries needed?***

23. As we suggest the merger with the FSA, consistent changes would be required to tribunal arrangements.

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