

Review of Pensions Institutions

Prudential submission to the Institutional Review: 09 February 2007

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We are very glad to have the opportunity of providing input to your review of the regulatory landscape for pensions in advance of your consultation document being published. Prudential is a significant provider of pensions to the market and it is from that perspective that we comment below. We would be happy to expand and discuss any of the issues raised below or in your consultation paper when published if that would be helpful.

In general our dealings with both the PPF and tPR have been good. PPF is pragmatic, consults widely, researches thoroughly, and has an open approach. tPR works much better than OPRA, shows a willingness to consult and take views on board, acts proportionately, and is always responsive. We can expand on these aspects in our response to your formal consultation if appropriate. The purpose of this input, however, is to flag the areas where we have more concern.

Positioning

Although there would be benefit in having a single regulator for pensions, this is probably not a realistic proposition. We have not only FSA, PPF and tPR to consider but also HMRC, DWP and the Treasury. Our general approach, therefore, is to advocate greater clarity around the responsibilities of each regulator and more transparent and effective working together.

The focus of this input is defined contribution schemes. These are clearly of growing importance and will be given further prominence by the introduction of Personal Accounts in 2012. References to DC schemes in this letter include Personal Accounts.

Overlapping responsibilities

In terms of overlapping responsibilities, we would highlight that both FSA and tPR have an interest in protecting members of different types of DC schemes. This risks different requirements on schemes because of differing approaches by the regulators rather than any intrinsic difference in the schemes. This has to be avoided. It can be done either by making member protection in DC schemes (including non workplace schemes) the province of one regulator only, or by more effective and transparent communication between the regulators.

Regulators may reach different conclusions on the actions which should be taken because their remits are different. If any overlapping responsibilities across different types of scheme remain, the remit for each regulator in that respect

should be the same. We believe the remit must include considerations of the risks that people will not save in a pension, as well as any risks through participation. Regulators should also take a consistent approach to principles based regulation, especially in relation to any overlapping aspects.

Taking the important example of member communication, many of the issues which people joining, or already members of, DC schemes will need to consider will be the same no matter what kind of scheme it is. The issues of debt levels and means tested benefits are the same when people join or review their membership. Fund choice questions are largely the same, though trustees have an important role here. The way in which retirement benefits are taken raises the same issues no matter what kind of DC scheme it is. We therefore believe that a good outcome is that communication material for people contains the same key messages, bringing out any nuances of difference caused by the different governance structures of the scheme if appropriate. Single sets of material with multiple regulator branding would be a good outcome. We also believe that the timing and extent of any material should be consistent.

There is also a need to develop a shared understanding between FSA and TPR of the risks and benefits of different risk mitigation approaches for DB schemes, taking into account the relative strength of the employer covenant and any alternative provision, and the regulatory requirements applying to each.

Improved working together by regulators

We advocate in general that the regulators work together in a transparent process either through joint consultation or lead consultation covering all relevant regulators, and with a joint response. The regulators must include Government departments and in particular HMRC and DWP for this purpose. There is ample evidence that this approach has not been followed in the past (eg different timing and content of requirements on disclosure, multiple sets of literature).

There would be advantage in all regulators 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

Cost benefit justification for change must remain key, even though a more co-ordinated approach may lead to a desire to change existing regulation. There will be occasions, for example, aligning disclosure regimes where change would be good in principle. However, it is also important that any changes thought desirable in principle are subject to cost benefit justification, which may lead their not being implemented, or being delayed until a time when other changes are needed.

Coverage of regulation

In terms of coverage of regulation, there is little or no specific regulation of the employer's choice of provider/administrator and fund manager (including default fund if there is one), other than for stakeholder. Any increase in regulatory burden on employers may discourage them from continuing their (voluntary) workplace schemes. But the role (if any) of the regulators if an employer choice is shown to be inept must be clear.

European dimension

On the European dimension, DWP and tPR are showing increasing openness in working with industry to analyse European initiatives, including the latest proposals for a European Directive on pension portability. This dialogue should continue to be encouraged to ensure early representation.

With different pension models and varying levels of funding, comparison across the EU-27 is difficult. Furthermore, the lack of clarity on the definition of workplace schemes in Europe and the UK may be seen as unhelpful, but is also flexible to allow appropriate national responses. Reclassification in this case, for example, would however have potentially significant unintended consequences.