AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

AMPS Response to CP18/17 – Retirement Outcomes Review: Proposed changes to our rules and guidance (Q1-33 and 47-49)

The Association of Member-Directed Pension Schemes (AMPS) is the main trade body concerned with the interests of those professionally involved in the administration and trusteeship of those types of pension scheme for which the members determine the manner of investment. Those scheme types are principally small self-administered schemes (SSAS) and self-invested personal pensions (SIPP).

~~**About AMPS:**~~

~~**History:**~~

- ~~Founded in 2005 to provide a collective voice and lobbying forum for representatives of the self-invested pensions industry (Self-Invested Personal Pensions, SIPPs, and Small Self-Administered Schemes, SSAS)~~
- ~~Formed by merging the Association of Pensioneer Trustees and SIPP Provider Group in anticipation of the simplified pensions regime introduced on 6 April 2006 ("A Day").~~

~~**Structure:**~~

- ~~Managed by a Committee of ten elected members~~
- ~~Monthly Committee meetings with a formal agenda~~
- ~~Sub-Committees dealing with various key areas: Compliance, HMRC Technical, Legal and Platforms~~

~~**Membership*:**~~

- ~~Approximately 150 SIPP Operators including James Hay, Suffolk Life and AJ Bell~~
- ~~Membership operates/administers the vast majority of both SIPPs and SSAS~~
- ~~Number of SIPPs under administration: 1m+~~
- ~~SIPP assets under administration: £125bn+~~
- ~~Number of SSAS under administration: 16,000~~
- ~~SSAS assets under administration: £26.5bn+~~
- ~~Law firms which specialise in pensions and compliance issues~~
- ~~Information technology firms which provide ancillary services to SIPP/SSAS operators~~
- ~~Independent compliance firms~~

~~**Objectives:**~~

- ~~To provide an industry forum for the exchange of views and knowledge for our members~~
- ~~To interact with government departments and regulators on industry issues~~
- ~~To liaise with other Industry bodies in areas of mutual interest~~
- ~~To provide a source of informed comment to the media~~

~~**Activities:**~~

- ~~Engagement with HM Revenue & Customs, Department for Work and Pensions, The Pensions Regulator, HM Treasury and Financial Conduct Authority~~
- ~~Providing training to our membership through regular targeted conferences and workshops~~
- ~~Issuing regular newsletters to our membership~~
- ~~Reporting items of interest on the membership website and facilitating open discussion and forums~~
- ~~Responding to government-led and regulator-led consultations~~
- ~~Maintaining close links with other industry bodies including the Association of British Insurers (ABI), Tax Incentivised Savings Association (TISA), Investment and Life Assurance Group (ILAG) and Wealth Management Association (WMA).~~

~~* Membership data based on latest estimates~~

Responses to Questions

Formatted: Justified

Formatted: Pattern: Clear

Formatted: Normal, Space After: 0 pt, Line spacing: single, No bullets or numbering

Formatted: Normal, Space After: 0 pt, Line spacing: single, No bullets or numbering

Formatted: Normal, Space After: 0 pt, Line spacing: single, No bullets or numbering

Formatted: Normal, Space After: 0 pt, Line spacing: single, No bullets or numbering

Formatted: Normal, Space After: 0 pt, Line spacing: single, No bullets or numbering

Formatted: Normal, Left, Space After: 0 pt, Line spacing: single

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

Chapter 3 – Protecting Consumers from Poor Outcomes

Q1: Do you agree with our current high-level thinking on the key elements of our potential remedy? If not, what would you suggest?

In our opinion, investment pathways are likely to be neither appropriate nor suitable for many of our members' customers and as such we disagree with the high level thinking set out within the paper on this potential remedy. Far higher client engagement has already been identified by FCA research (77% of clients already know exactly where funds are invested), suggesting that poor client engagement is of considerably less concern than other sectors of the retirement market. In our experience, customers generally have an adviser in place to assist with their retirement and investment decisions but they should not be forced to seek drawdown advice in order to take benefits. Changes to the rules around unadvised drawdown will potentially have a significant impact on existing clients and to access for current and future direct clients (this will include clients who no longer have an adviser in place, whether through their own choice or due to their adviser exiting the industry). There is also the risk of customers experiencing increased adviser charges if this becomes compulsory to access benefits.

Many of our members do not have the permissions, resources or expertise to provide default investments directly and outsourcing is unlikely to be viable as responsibility for overseeing these would still sit with SIPP provider (the same limitations that would impact providing these directly would also apply in relation to an oversight responsibility). A SIPP is an open architecture product that doesn't influence investment strategy in accumulation. Therefore providing investment solutions at decumulation is likely to be seen as unnecessary or confusing to customers who may understandably ask why similar options were not provided to them during the accumulation phase if this is considered important at decumulation.

Investment pathways rely on broad assumptions, creating the risk that these are too broad and simplistic and actually lead to poorer customer outcomes as clients may not engage sufficiently and see these as an easy 'default' option. This may lead to them disengaging yet further with retirement planning and increasing the problem already identified by the FCA as potentially existing within the retirement market. There is a further challenge regarding reconciling this with existing FCA expectations around risk profiling, obtaining sufficient information on client circumstances etc.

If the proposals around investment pathways are to be implemented it is strongly recommended that SIPP operators are excluded from scope of these proposals on the basis that the risks identified within the retirement market in general that these proposals seek to address do not exist to anywhere near the same extent within the SIPP sector and the substantial challenges to adopting these proposals in *this sector.*

Q2: Does the approach we are considering taking adequately capture the objectives of non-advised consumers entering drawdown who might use the investment pathways? If not, what would you suggest?
The proposed approach does not take into account the risk profile of the customer, investment experience, attitude to risk, loss etc. If customers see this as a simple default option, they may well simply select an option without appropriate consideration and end up with an inappropriate investment solution. It is unclear to what extent it is envisaged that providers should assist with this process and seek to challenge or validate the responses provided to ensure they are accurate and appropriate, i.e. what responsibility would the provider be considered to have if the client subsequently challenged the appropriateness of the option selected?

Q3: Do you agree with our suggestion that firms should only offer 1 investment solution in respect of each of the objectives? If not, what would you suggest?

The proposed option provides simplicity but may lead to inappropriate investment decisions being made if the customer doesn't consider other options that may be more appropriate to their needs. Therefore this could be seen as too simplistic as a solution.

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

Q4: Do you agree with our suggestion that firms should not be permitted to provide a single investment solution to cover all of the objectives? If not, what would you suggest?

If investment pathways are introduced as proposed, it is agreed that it is unlikely a single solution would appropriately cover all objectives as currently stated.

Q5: Do you think that firms should offer investment solutions for all the investment pathways? If not, what would you suggest? If a firm does not offer an investment solution for a particular investment pathway, should it be required to enter into an arrangement with another firm to provide it?

There would not seem to be any reason to insist on a firm providing solutions to all investment pathways so again this would seem a reasonable proposal if investment pathways are implemented.

Q6: Do you agree with the approach we are considering taking on prescription around the investment solution and risk profile of investment pathways? If not, what would you suggest?

While providing firms with flexibility should support greater innovation, the downside of this may be a lack of consistency between solutions, making it difficult for customers to compare these, if considering several different providers solutions. As one of the FCAs objectives is to increase competition and aid customer comparison, there is therefore a risk that this approach could compromise this objective.

Q7: Do you agree with the approach we are considering taking on permitting firms to use pre-existing investment solutions to offer an investment pathway? If not, what would you suggest?

This is likely to reduce implementation costs where firms have existing solutions available but again could lead to challenges in terms of interpretation, consistency and ability to easily compare products. This could unduly influence the market in favour of investment firms with a SIPP offering, compared to truly bespoke SIPP providers that may be unable to offer such provision or whom would have significant resource and cost challenges if they were to implement these proposals in future due to the fundamental changes that would be required to their business model, product and service offerings etc.

Q8: Do you agree with the approach we are considering taking on allowing firms to offer investment solutions other than investment pathways? If not, what would you suggest?

It is agreed that firms should be able to offer more appropriate solutions where available as this will help to ensure the most appropriate customer outcomes are achieved in line with the objectives of these proposals.

Q9: Do you agree with the approach we are considering taking for the choice architecture to be implemented by firms? If not, what would you suggest?
It is very difficult to assess the proposed approach at present, as this is not something that many of our member firms offer (nor have the permissions/solutions/expertise to offer currently). Significant changes would be required to implement this and until this is explored in more detail, it is difficult to identify where the potential challenges may lie. An obvious risk is that if a customer needs assistance with their investment choice, whether this approach will provide sufficient information assistance for them to make their own choice, if not firms may be expected to advise the client on the most appropriate option. While a 'backstop' option has the benefit of ensuring a decision is made, even if the customer doesn't engage with the process, this may end up as a default option through client inertia (which is well documented in FCA research as a behavioural economics risk) and lead to risks of inappropriate customer outcomes.

Q10: Do you agree that investment pathways should also be made available to advised consumers? If not, what would you suggest?

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

It would seem reasonable to make these available to advised customers where the firm/adviser wishes to do so but given the intention behind these proposals, this should be down to the individual firm to decide, rather than something the provider has to make available to advised customers. These proposals may not be popular with advisers, who may view providers offering these as potentially encroaching upon their role.

Q11: Do you agree with the approach we are considering taking on how we should define advised consumers for the purposes of the application of our rules on investment pathways? If not, what would you suggest?

Some clients will have received advice on the investments held within the SIPP at the point of establishment and these will not change upon entering drawdown. However, they may not seek advice around taking their retirement benefits and so could be considered to be entering into drawdown on an unadvised basis. This definition doesn't seem to cover such a situation and so further consideration may be needed to ensure this definition appropriately covers the typical scenarios providers are likely to come across in practice.

Q12: Do you agree with the approach we are considering taking in relation to circumstances where consumers are designating funds to drawdown on multiple occasions? If not, what would you suggest?

This could be seen by some customers as an unnecessary barrier to obtaining their pension (industry experience already suggests that risk warnings have been perceived as such by some customers). Therefore it may be better as a starting point to ask customers if their objectives remain the same and if so whether they wish to revisit the investment pathways? If this is an ongoing requirement this could lead to customers removing all funds from the pension to avoid these perceived barriers to access, again exacerbating an existing concern. There are also practical difficulties in terms of how this would be administered by providers if different tranches of their overall pension pot are subject to different investment pathways, given that splits between crystallised and uncrystallised elements of the pension for example tend to be on a notional basis and so there is no assignment of particular assets to one or other. As such, it is unclear how for example it is then determined how disinvestments are dealt with, growth/loss is allocated etc.

Q13: Do you agree with the approach we are considering taking to require firm review of investment pathways on an annual basis? If not, what would you suggest?

Again it is difficult to fully assess the extent of the implications of this proposal for providers who do not provide any investment products currently. One potential issue is what firms would then be expected to do with existing customers if any issues were identified through the annual review, would they then need to advise clients to move to a different solution (which they may or may not have the permission to do)?

Apart from the challenges around how this process would work, would this then open up the provider to complaints should the previous solution outperform the new one, or if there is generally poor performance from the investment pathways offered? Warnings could be included setting out the limits of the providers responsibilities but given the significant departure from the accumulation phase, where no options are provided to customers regarding potential investment choices, customers are likely to consider that offering investment pathways involves at least some level of endorsement of the selected option and therefore a corresponding level of responsibility upon the provider.

Q14: Do you agree with the approach we are considering taking for ongoing disclosure to consumers about investment pathways? If not, what would you suggest?

A concern here would be that FCA research has already identified that customers are receiving too much paperwork and are not engaging with this. As such, the increased paperwork these proposals would generate will, therefore potentially exacerbating these already identified risks.

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

While no particular questions are included in respect of charges within the consultation paper, the clear reference to 0.75% as a starting point would appear to set an expectation on the likely cost of the investment pathways. It is clearly very difficult for non-investment providers to comment on the appropriateness or the practicalities of a solutions with such a charging structure but an obvious concern is that this places undue focus on cost compared with other relevant factors, creating a 'race to the bottom' where low cost is considered the primary selection criteria, reducing choice and innovation in the market and reducing access to a broad range of solutions to meet the whole spectrum of customer needs. There would seem to be a risk that this leads to a sharp increase in passive, tracker type funds designed to meet this cost criteria, irrespective of performance compared with active fund management, which again may not be the desired customer outcome.

Q15: Do you agree that we should apply our remedies to the whole of the non-advised drawdown market, including SIPP operators serving this market? What would be the costs and how would the market respond?

Many SIPP operators do not have the permissions, products or experience to provide these remedies at present, so if they are to be applied to SIPPs this would require significant changes to business models, regulatory permissions, product range and staffing. The cost and time required to develop these solutions would be substantial and at this stage extremely difficult to assess.

Given the results of FCA research as to the levels of understanding and engagement from SIPP customers, this would appear to be a hugely disproportionate and currently unworkable solution for many of our member firms. If action is considered necessary for SIPP customers, it is strongly recommended that this is subject to separate review and consultation for a tailored approach that reflects the way SIPPs operate and are used. While initial research has been undertaken by the FCA, this would appear to have involved a limited sample size and does not appear consistent with the experience of member firms, particularly those involved in the recent round table event, where this consultation paper was discussed with the FCA at length.

Q16: Do you think we should consider carving out from our remedies those SIPP operators focused on advised consumers and sophisticated investors? If so, how do you think we should do this? Should we consider an alternative proportionate solution?

SIPP customers will often be advised but may not always seek advice at the point of drawdown and this is not currently something providers would necessarily insist upon currently. Similarly, clients may well meet the definition of high net worth or sophisticated but providers may not currently require a client to meet this criteria, whether advised or not, or even regularly capture it (though it may be captured incidentally for other purposes on occasion, such as if a customer is looking to make a non-standard investment). Firms may be able to restrict access to their products to such clients going forward, if they are unable/unwilling to offer investment pathways. However, this raises the issue of how existing clients are treated if there was no such restriction when they took out the product and it is not a regulatory requirement as such that is forcing the change, rather it is the changing regulatory requirements not being able to be practically met by the firm. This is likely to viewed by customers as further unnecessary complexity and barriers to access and potentially exacerbate customer disengagement with pensions.

Q17: Do you think that we should limit the scope of application of our rules on the investment pathways? What would be the impact on the SIPP market if we don't limit the scope?

The scope of these proposals should definitely be limited if they are to be implemented as the potential impact otherwise could be significant for bespoke SIPP operators and highly disproportionate when compared with the benefits the proposals are likely to provide for customers in this sector. Many firms couldn't provide investment pathways at present and many providers could not or would not wish to implement the widespread changes to permission, business model, product lines etc required to facilitate this. It is difficult to accurately assess the likely impact on the SIPP market but it is likely to lead to a significant reduction in customer choice, without potentially the appropriate corresponding

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

customer benefits in this market, in addition to substantial additional costs on both an initial and ongoing basis.

Q18: What would be the costs and challenges of the different options set out? Are some more likely than others to distort the market? Are there ways to mitigate the impact of this?

One of the biggest challenges of all the proposed options is the impact upon existing customers, who may not meet this criteria and suddenly find their access to their pension restricted. Additional information could be captured regarding client status (e.g. sophisticated/HNW etc) or to devise an appropriateness test (though there is always the risk that customers will simply select the required answers to 'satisfy' the test) but if a firm doesn't offer investment pathways and a client doesn't meet the criteria, they would then be forced to change providers to be able to access their pension. While providing exemptions will reduce the number of clients impacted, market distortion is still likely in all instances as firms which are already able to offer investment pathways will have an advantage over those firms that do not have this ability presently.

Q19: Would SIPP operators be able to demonstrate that their consumers are advised and/or sophisticated/high net worth investors?

For many firms, this will not currently be captured for all clients (though possibly for some, such as when considering acceptance of a non-standard investment proposal). For new clients this could be built into the application process but obtaining this for all existing clients won't be possible as even if all clients are contacted to request this, not all of them will respond. As such, the relevant information to determine whether a client can access their pension on an unadvised basis may not be given to the provider until the point where the customer wishes to take benefits, at which point the provider may need to explain to the customer that unless they seek advice they will not be able to access their pension.

Q20: How might an appropriateness test work in practice?

FCA guidance on what would be expected for this test would be welcomed so that firms have a clear understanding of what is expected of them in relation to this requirement, should this be implemented.

Q21: Should we not apply the remedy to non-advised consumers who have self-selected an investment strategy even though these consumers might benefit?

SIPPs are by definition 'self-selected' and so any non-advised client would meet this criteria, unless they provided no investment instruction at all and funds remained in cash (something that is very rarely seen in practice and that providers are naturally likely to question).

Q22: Should we instead not require firms with small numbers of non-advised consumers to offer investment solutions for any of the investment pathways, but require them to refer consumers directly to another provider for investment pathways?

There are likely to be practical difficulties with this e.g. if customers are no longer advised due to adviser leaving the market etc. This could also lead to firms turning away any potential direct client at a certain point so as not to breach the limit applied to such clients.

Q23: Do you agree that the IGC regime should be extended to investment pathways? If not, what alternative regime would you propose?

It is difficult to comment on any wider implications but for SIPP market, this would generate additional costs in addition to the substantial costs for implementation of these requirements. Given the figure already quoted of 0.75% for annual charges, this is likely to cause further pressure on value for money over other factors, restricting variety, innovation and a range of solutions suitable for all customer needs.

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Q24: Do you consider that a requirement for independent oversight should apply to other decumulation products (ie not only to investment pathways)? If so, why?

It is difficult to see how this would work for other investments held within SIPPs and a potential issue may be whether IGCs have the knowledge and expertise to assess the range of potential investments held within SIPPs. Even if this expertise is available, the end result is likely to be further increases to the costs involved, which is likely to increase costs for clients ultimately and therefore in itself have a detrimental impact on value for money.

Q25: Do you think we should carve out from the requirement those providers which only provide decumulation products for advised consumers, or those in less need of protection? How would this work?

Notwithstanding the above comments, if these proposals are implemented, given the costs of doing so, this should be only for those in greatest need of protection and not rolled out for all customers.

Q26: Do you have any other issues or concerns about the proposals?

A significant concern for AMPS and its members is the fact that drawdown appears to be viewed as a distinct product, when within the SIPP industry this is simply a standard feature of the SIPP product. The client will be looking at the accumulation and decumulation phases together in considering the product and is no more likely to move to another product at decumulation than at any other time in the life of the product. In addition it is not clear from the paper how drawdown transfers should be treated. Similarly, a SIPP is an open architecture product where, within certain boundaries, customers are free to select their own investment choice. Given the freedom offered during the accumulation phase, to then seek to influence investment decisions, though the provision of investment pathways, at the point of decumulation is likely to be a confusing and potentially unwelcome development from a customer perspective. The investment pathways requirements could therefore be perceived by customers as a significant barrier to taking their retirement benefits and may well result in more clients removing all funds from their pension to avoid repeatedly having go through this process, therefore exacerbating, rather than addressing one of the issues these remedies seek to resolve.

Treatment of existing customers will be a significant challenge and depending upon how the market reacts to the eventual proposals, those looking to enter into unadvised drawdown may find their ability to do so severely restricted if firms choose not to offer this due to the requirements for investment pathways to be offered, if they continue to service such clients. Strictly speaking, this would not be a regulatory requirement but through choice by the provider if they are unable to implement this requirement, something that customers may find difficult to understand or accept and potentially increasing complaints volumes. More importantly, their ability to take their pension without incurring additional fees for advice they do not want or require may be limited if there is insufficient take up by SIPP providers for the continued offering of unadvised drawdown.

Q27: Do you agree with our current thinking that a single, default investment pathway is unlikely to be suitable in drawdown? If not, please provide reasons why you disagree.

A single default investment is unlikely to be suitable to capture the needs of all clients. However, similarly, it is questionable to what extent increasing this to 2 or 3 solutions, based purely on the client's objectives at the point of retirement and ignoring various other factors is likely to be suitable either and could cause further confusion for clients and generate a greater lack of engagement through the perception that they can choose a default option, irrespective of its suitability to their own personal circumstances.

Q28: Do you agree with the approach we are considering taking to require making investment wholly or predominantly in cash an active choice? If not, what would you suggest?

It is standard practice within the pensions industry for a transfer from one scheme to another to take place in cash, therefore most pensions (SIPPS included) will start off in cash, before funds are

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

invested. For a SIPP this requires the customer (or their adviser) to provide an investment instruction to enable funds to be invested. It is understood that the FCA views this as defaulting in cash, even though the reality is that the vast majority of customers will look to move the funds into an investment as soon as possible upon receipt unless they have a good reason to do otherwise (e.g. funds being held in cash to fund an imminent property purchase, concerns over short term market volatility etc). Our members experience would seem to be that there are not significant numbers of clients inappropriately retaining funds in cash and as such it is difficult to see a case for regulatory intervention in such circumstances.

Q29: Do you agree with the approach we are considering taking in relation to mandating warnings to those making an active choice to invest in cash? If not, what would you suggest?

The fact that a pension established through transfers from other schemes will typically be in cash at commencement, is not considered to equate to an active choice to invest in cash. However, notwithstanding this, wording explaining the risks of not investing proceeding to invest these funds could be incorporated into the SIPP establishment process going forward without too much issue and would appear a reasonable and proportionate method of mitigating any perceived risks in relation to retaining funds in cash.

Q30: If relevant to you, what have you done – or what do you plan to do – about your current drawdown consumers who have already been ‘defaulted’ into cash until now, but who are unlikely to be best served by this investment strategy for the remainder of their retirement?

As previously, stated, our members would not consider customers to have been ‘defaulted’ into cash, this is simply the way the SIPP will typically be established. In the vast majority of cases, investment instructions for funds will have been provided within a short timescale following receipt of the funds into the SIPP bank account or the customer will have a valid reason for retaining them in cash and will have therefore made an active decision to do so. Many customers will have established the SIPP well in advance of entering into drawdown and their investments will not have changed between the accumulation and decumulation phases (unless through a conscious decision by the customer). This is not therefore considered to be an issue that requires further intervention from the regulator or from providers from a SIPP market perspective as customers are not ‘defaulting’ into cash at the point of entering drawdown.

Q31: Do you think we should require firms to issue warnings to consumers who are invested in cash on an ongoing basis? If not, what would you suggest?

The benefits of providing repeated warnings to clients regarding would appear questionable, notwithstanding the fact that this is not considered to be a significant issue for SIPPs. Generating an increase in the volume and/or frequency of paperwork is unlikely to increase client engagement and may well have the opposite effect.

Q32: Do you agree with the approach we are considering taking in relation to a minimum limit and the cooling-off period? What minimal limit would you suggest? If you do not agree with the approach we are considering taking, what would you suggest?

If these proposals are implemented then a minimum limit makes sense and £30k would be consistent with the DB advice limit already in place and therefore would seem a reasonable figure to use.

Q33: What impact do you think our proposals on preventing ‘defaulting’ into cash would have on the business models of SIPP operators? Do you think this change would be appropriate?

As SIPPs will typically commence in cash (through either initial contributions or transfers from other schemes), this would again have a significant detrimental impact upon firms, with questionable corresponding benefits, as clients will typically invest soon after funds are received or will be consciously have chosen to retain funds in cash e.g. for a property purchase, due to concerns over market volatility etc. This will require significant changes to administrative procedures, impact ability to

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

use automated pension transfer systems and could potentially generate new risks in relation to financial crime, establishing ownership of assets etc.

Chapter 4 – Improving consumer engagement with retirement decisions: 'Wake up' packs, retirement risk warnings and reminders

Q34: Do you agree with our proposals on 'wake-up' packs? If not, how should we change them?

Bringing forward the date of first contact would seem reasonable as this addresses the concerns identified by research over this occurring after customers have already reached a decision over their pension funds.

Q35: Do you agree with our proposal to mandate specific retirement risk warnings alongside 'wake-up' packs? If not, how should we change it?

There is benefit to a specific warning around early access to a customer's pension funds being provided but there is a concern that if this comes from the provider it may not be received as intended and may instead be perceived as a further barrier to access as retaining the funds based upon the perception this is provided in the interests of the firm rather than the customer. Regarding other risk warnings, further guidance on FCA expectations around what this should entail, the information it should be based upon etc would be helpful. Firms often hold limited customer information and this may not be consistent (e.g. some clients may provide details of dependents via a nomination of beneficiary form, while others may not), leading to inconsistent application of risk warnings.

Q36: Do you have any further comments on our proposals for retirement risk warnings?

If generic risk warnings are to be introduced it would make sense for specific wording to be provided so that firms are all using these consistently. A document could be produced by the FCA/Pension Wise that all firms could include with the wake-up pack (this may also assist with the warning around early access to funds as it would address the concern raised above).

Q37: Do you have any comments on our proposals for the reminder?

We would question whether it is appropriate for firms to comment upon availability of Pension Wise appointments when this is outside their control. If specific reference to when they are available is to be included this will generate ongoing work for firms to determine what date needs to be used and to update this regularly. Given that take up rates are low in all cases the benefits of this would not seem to support the additional requirements for firms.

Chapter 5 – Improving consumer engagement with retirement decisions: 'Wake up' packs, retirement risk warnings and reminders

These questions are not relevant to the products and services provided by most of our members so no response has been provided for this section.

Chapter 6 – promoting competition by making the cost of drawdown products clearer and comparisons easier

Q41: Do you agree that key information should be summarised on the front page of KFIs?
As the summary information repeats, rather than replaces the information currently within the KFI, it is difficult to see how the aim of avoiding excessive information is being achieved by this requirement, though the general principle of summarising key information on the front of the KFI seems reasonable.

Q42: Do you agree that the summary information should show a one-year single charge figure expressed as a cash amount?

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

A potential problem with the proposed approach is that this leads to undue focus by the customer purely on the first year charges, rather than considering all charges across the life of the product. Firms may be tempted to discount or reduce initial fees in order to provide a lower single year charge and influence customer selection, even though this may lead to unfavourable customer outcomes in the longer term.

A focus on purely first year charges would seem at odds with the concept of a retirement product being a long term investment and while admittedly less simple to understand for some clients the current reduction in yield figure would appear a more relevant and appropriate measure of the overall cost of the product.

Q43: Do you agree that information in KFIs should be presented in real terms (that takes account of inflation)?

The proposed approach should assist customers in understanding the figures and placing them into context but may cause difficulties in terms of facilitating easy comparison with annuity quotes provided in nominal terms. A consistent approach among all providers would certainly be beneficial though.

Q44: Do you agree that a KFI should be provided when a client is accessing drawdown as an option or variation under an existing contract or UFPLS option under an existing contract, and also the first time they take an income (where this happens later)?

This would seem a reasonable approach to adopt.

Q45: Do you agree that firms should provide regular client communications for those who have withdrawn tax free cash but not taken an income?

The concern with this proposal is whether this will be effective, given that customers who are reading the client communications in detail are far more likely to already be more engaged with the decision making process and actively considering their circumstances.

Q46: Do you agree that firms should regularly remind consumers to consider reviewing their decisions, particularly investment choices, rather than reminding them how to obtain advice?

If customers are considered to need reminders around reviewing their investment choices it would seem appropriate to include within this information around obtaining advice too, rather than replacing this requirement.

Q47: Do you agree that consumers should receive information on actual charges paid expressed as a cash amount?

Information on actual charges paid will usually be readily available to a client and so the benefit of duplicating information this would appear questionable, particularly as the relevant fees and charges for a product would have already been disclosed prior to establishment. It is unclear from this paper what exactly it is hoped will be achieved by introducing this requirement?

Q48: How do you consider this would best be achieved by firms?

As previously stated, this information is likely to be commonly available already, setting this out separately will further increase the volume of paperwork received by clients.

Q49: What would you estimate to be the cost of these changes?

Without carrying out research into this subject with our membership it is not possible to provide any estimate of the potential cost of implementing these changes.

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

~~Q2: Do you believe that risk-based levies could be appropriate in relation to: a) higher risk investment products; b) insurance brokers that choose to place business with unrated insurers; and c) any other types of specific products or services?~~

~~We very much agree that this proposal is the right way to assess future levies. We note that specific comment is made under point 4.8 to increased capital requirements for SIPP operators but this is regrettably unrelated to any levy that SIPP operators face and we will comment on this later in this response to the consultation. We are however aware that the capital regime for intermediary firms was reviewed during 2016 but it is not clear if this review looked at the level of failures coming through the FSCS from intermediary firms and the risk that the business they were introducing/selling was likely to lead to future claims on the FSCS. We would like to see this looked at further before product provider levies per se are introduced.~~

~~There must also be due consideration given to the rules governing pension schemes that themselves allow riskier investments to be made and therefore there is a disjoint between rules put in place through tax legislation as opposed to rules that impact through consumer regulation. Whilst we would subscribe to the FCA statutory objective of consumer protection, there is no consideration for consumers at times being responsible for their own decisions too. Again it is important that a distinction is made between riskier investments, that themselves are regulated, and that may be allowed by a product provider as part of their marketing offering as opposed to advice being given by a regulated intermediary which recommends a particular course of action.~~

~~Where a product provider makes the choice to refuse riskier investments, partly because of the impact from future decisions of the Financial Ombudsman's Service and the suggested potential for higher risk based levies, this may inevitably lead to a lack of choice for consumers which will impede the FCA's competition objectives.~~

~~Finally, on this point, the consultation does not consider if riskier investments should be categorised to make them unavailable to retail customers as per NMPI's and UCIS for example.~~

~~Q3: Do you agree in principle that product providers should contribute towards FSCS funding relating to claims caused by intermediary defaults?~~

~~It is difficult to agree that product providers should provide additional contributions towards FSCS funding where the claim is caused by intermediary defaults. We would expect intermediaries to be sufficiently well capitalised to cover the risk of default based on their individual levels of business and levels of risk to that business. The recent capital consultation for intermediaries should have sufficiently addressed this point. We understand there are examples of some intermediary firms being left in default after only one or two claims leaving FSCS immediately in the position of a scheme of last resort which the consultation is seeking to avoid. If the capital position were sufficiently well calculated then the likelihood of using FSCS resources would be mitigated.~~

~~Despite our objections to a product provider levy we would consider this appropriate if the product provider was implicitly involved in the sale of the riskier investment.~~

~~AMPS is concerned with the ability of failed intermediary firms to re-establish themselves under a new entity and leave past liabilities behind, known as 'phoenixing;. We would wish to see these firms held sufficiently to account which could see restrictions applied to their ability to transact future business, for past liabilities to be carried forward, increased levy payments to be required or higher capital requirement in recognition of their 'phoenixed' status.~~

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

~~**Q4: Do you have any views about the current effectiveness, or otherwise, of PII cover including in reducing the number and cost of claims on the FSCS, and about the role of PII in providing compensation to consumers who have claims against failed firms?**~~

~~We are not in a position to comment on the effectiveness or otherwise of PII cover specifically in relation to reducing the number of claims on the FSCS but we do not see how this could work in practice on a commercial basis. It may be that any changes required under PII cover will lead to a reduction in the number of firms providing PII cover. We would be concerned about any unintended consequences arising from a change in PII requirements without a considered and careful assessment being carried out.~~

~~**Q5: Do you have any views or suggestions about the possible features of more comprehensive, mandatory PII insurance? Do you have any suggestions about other possible tools, remedies or approaches which could be used to reduce the scale of funding currently required by the FSCS?**~~

~~The principle of a comprehensive PII policy is commendable but experience has shown in recent times that exclusions are being written into the policy terms each year and not necessarily because claims have been made but because of developments within industry sectors. If insurance is available on a comprehensive basis to cover all risks that would be helpful but it would seem to go against the principle of insurance and resultant premiums we assume would be prohibitive. It is not clear if the insurance broker and underwriter sectors have been specifically approached to comment on this proposal.~~

~~**Q6: Do you have any views on the impact of a requirement on PIFs to hold more comprehensive PII? For example, what would be its impact on the PII market, the financial advice market and on consumers in general?**~~

~~We are not sufficiently well informed on PII cover for PIFs and therefore unable to provide comment.~~

~~**Q7: Would you support an increase to the FSCS compensation limit in relation to any or each of the investment provision, investment intermediation and life & pensions intermediation classes? If so, do you have any views on what those limits should be?**~~

~~AMPS supports simplifying compensation limits between differing investment categories as this will avoid confusion amongst consumers. This view is unchanged from the response provided by AMPS to CP15/30 in December 2015.~~

~~We do not have any strong views on what the level should be although read with interest the impact on the various limits as outlined in figure 6.3 and point 6.13 of this consultation paper. It might be that a stepped increase in the compensation limit may be advisable so as to gauge the relative impact on the levy starting at £75,000 as per the existing compensation limit for deposits.~~

~~**Q8: Would you support a proposal to differentiate between investment provision and investment intermediation, and to introduce higher limits for either? If so, do you have any views on what those limits should be?**~~

~~The data provided as part of the consultation paper suggests there is little to gain from increasing the limit in investment provision and therefore we would see no immediate benefit of doing so but believe this should be monitored on an ongoing basis.~~

~~**Q9: Would you support a proposal to seek to make a distinction between pensions-related investment business and non-pensions investment business, and apply higher limits for pensions-related investments? If so, do you have any views on how the distinction might**~~

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

~~**be made and what those limits should be?**~~

~~AMPS would wish to avoid any consumer confusion between pensions-related investment business and non-pensions investment business and therefore we would not support a distinction being made. We are firmly of the view that the underlying investment is the same whether held in a pension wrapper or not and we feel it would be difficult to explain to consumers why any such distinction were being made.~~

~~AMPS continues to be frustrated by continued press commentary under the banner of 'SIPPs responsible for increased FSCS levies' or similar when this is factually incorrect given that it is in fact the investments themselves that have failed rather than the SIPP operator and the SIPP is merely the vehicle being used to house the assets. Any distinction therefore made between pensions related and non pensions related investment business would detract from the actual problem of the failed investment rather than the choice of wrapper.~~

~~I am sure that FCA as our regulator would agree that improving consumer confidence would be a better outcome than inadvertently adding to any concerns that the public may already have about pensions which is already acknowledged as a complicated and confusing part of the financial services industry.~~

~~**Q10: Do you have any comments about the possible risks to investors posed by crowdfunding and whether these might justify introducing FSCS protection?**~~

~~There have already been a number of crowdfunding failures as far as we are aware and we can assume that any investments made by consumers have been lost without any form of recovery. It is not clear what demand you are seeing from crowdfunding investors for protection and whether crowdfunding operators are looking to be included within the compensation scheme.~~

~~You have already highlighted that there is a danger small funding classes do not work and there would be an overspill into the other funding classes if a claim could not be met from the originating funding class. We see no advantage to creating a separate funding class because of this but equally we do not see a natural fit within the existing classes unless you sought to include crowdfunding under investment intermediation.~~

~~We could see an advantage to crowdfunding inclusion if the FSCS funding model were to ever move to a pre-funded model as contribution levies could be carried forward in years where claims are not made or were at a reduced level.~~

~~**Q11: Do you have any comments about the scope of the FSCS and whether promoting financial products, or any other activities, should be included within its coverage?**~~

~~We have no comments per se on whether promoting financial products should be included within the FSCS and note your comment that you do not believe there to be sufficient evidence to warrant inclusion.~~

~~You refer to any other activity and we would therefore take this opportunity to request a revision to the temporary high balances coverage under the compensation scheme. In September 2009, AMPS issued a response to CP09/11 suggesting monies temporarily held in self invested pension schemes be included within scope and provided a number of scenarios where a temporary high balance might be held. We would ask that consideration be given again to this issue and we would be happy to re-issue our response.~~

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

~~**Q12: Do you agree that it would not be justified for the FSCS to utilise a credit facility to further smooth levies, given the costs involved?**~~

~~We agree that there is no justification for FSCS to utilise a credit facility given the additional costs involved which would be passed on to those firms paying the levy.~~

~~**Q13: Do you believe that we should seek to reduce the number of funding classes, in order to reduce volatility of FSCS levies?**~~

~~We would like to see a reduction in volatility of FSCS levies for our members but we would not necessarily wish to see the only solution to this being a reduction in the number of funding classes. It is more important to our members that they feel they are paying a levy from the appropriate class rather than arbitrarily allocated to a class because it is the best fit available. This comes from educating our members and we would be happy to work with FCA and FSCS to ensure our members are correctly categorising their business in order to ensure the most appropriate levy is being paid.~~

~~**Q14: What are your views on the different funding classes we have set out here? Do you have any alternative proposals?**~~

~~We appreciate the thought that has gone into the proposed funding classes but each is based on the principle of a product provider levy which seeks to increase total costs of certain groups that contribute to the levy process.~~

Commented [GB1]: I'm really not sure how to respond to this question. If I have read it correctly our members would benefit from a reduction but much of the payment would be under the term 'provider contribution'.

~~We note the significant reduction in contributions from the Investment intermediation class with any shortfall made up in part by the Life & Pensions provision. It is noted that option 1 seeks to remove some volatility which, we have said previously, is to be welcomed although we have no specific views on which option we would necessarily prefer.~~

~~**Q15: Do you agree with our intention to keep the current class thresholds for intermediary classes, merging the thresholds if appropriate to adopt a revised class structure?**~~

Commented [GB2]: Given the other objections I have raised I think the response to the question is no but any thoughts on how best to respond would be gratefully received.

~~**Q16: Do you agree with our intention to keep our current class threshold of £200m for the investment provision class?**~~

~~AMPS has no specific comments in this area.~~

~~**Q17: Do you have any views on the idea of a fixed levy for smaller firms?**~~

~~Whilst we can understand why a fixed levy has been put forward for consideration, we would still expect small firms to be able to cover any potential call on the compensation scheme and therefore it may be that a fixed levy would not sufficiently address this issue. It is not clear if any analysis has been carried out to assess what losses can be attributed to smaller firms as defined in the consultation.~~

~~**Q18: Do you have any comments on the mechanism by which we would propose to incorporate product provider contributions into the intermediary claims classes, for the various different class structure options described?**~~

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

~~We note the three options put forward and feel that if a product provider levy were to be introduced, it would be appropriate for providers to only contribute to the class of claims with which their products are associated as set out under options two and three.~~

~~What is not clear from the proposals is how product provider is determined or defined and whether it is the contributions to the existing classes that determines what product provider heading a firm falls under. For example many AMPS members are regulated SIPP operators and would not consider themselves to be life insurance providers or investment providers and so for smaller groups, it remains unclear as to which group they would be associated.~~

~~SIPP operator firms became subject to a new capital regime from 1st September 2016 and our member firms would be concerned that they are subject to a regime that is in itself a form of insurance and therefore we would question whether they should be subject to an additional levy. We understand the distinction between the two in that one allows for the orderly wind up of a company and the other is an insurance scheme for intermediary defaults or failed investments. Our members would contend that they are not directly involved in the sale of the investments within the wrapper and therefore payment of a levy that compensates for the failure of either the intermediary firm or the investment would be an expense that inherently feels inappropriate for a SIPP operator to pay. AMPS would appreciate the opportunity to understand what business streams put SIPP operators within the scope of FSCS levies as they currently stand and if this will change under the new proposals.~~

~~Q19: Do you agree with our proposals to include protection for client money for debt management activities within the scope of FSCS protection and our proposed funding arrangements?~~

~~We agree with your proposals in this area but share your concern that the funding group will be too small and therefore we support that the group be brought together with consumer credit lenders.~~

~~By setting the compensation level at £50,000 this would however put the amount at odds with other compensation levels under the FSCS and we would suggest that this many need reviewing to avoid consumer confusion which is highlighted in our response to question 9 above.~~

~~Q20: Do you have any views on whether or not coverage should be extended to negligent advice provided by debt management firms?~~

~~Including negligent advice provided by debt management firms within coverage of the FSCS would appear to put them on an equal footing with intermediaries yet it is not clear from the consultation as to what impact this would have on debt management firms and their ability to meet any levies that would become due.~~

~~Q21: Do you agree with our proposals to extend FSCS protection to structured deposits intermediation and to fund it through the Investment Intermediation and Investment Provision classes?~~

~~We agree with this proposal but assume that had this extension existed at the time of the Keydata default then claims against the compensation scheme would have been considerable and therefore we question if any analysis has been carried out to ensure that any additional levy requirements would be sufficient to meet potential claims.~~

~~Q22: Do you agree with our proposed approach to provide FSCS protection for claims relating to fund management?~~

Commented [GB3]: I believe SIPP operators fall under the definition of life insurance providers – under the previous FSA definitions we came under the definition of Life and Pension firms

Commented [GB4]: I'd appreciate feedback on whether I'm positioning this correctly or whether it's a non argument and not worth making any reference to cap ad.

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

~~We agree with your proposal but we continue to have concerns that a pension scheme member as the underlying beneficiary can make a claim on the compensation scheme and pay the compensation back into the same pension scheme under which the claim arises. This leads to the granting of tax relief now and at the time of the original contribution. This is an area that AMPS has raised a number of times with HM Revenue & Customs without reaching a satisfactory conclusion. AMPS would be supportive of FCA discussing this issue with HMRC so that a consistent approach is agreed between all of the Government agencies.~~

Commented [GB5]: Should we ask FCA to pick this up with HMRC?

~~**Q23: Do you agree with our proposed new approach to Lloyd's of London?**~~

~~We understand Lloyd's of London to be unique in terms of how losses are funded and believe that syndicate members or 'Lloyds names' are personally liable for any losses that arise. For this reason we do not believe it to be inappropriate for Lloyd's of London to be included within the compensation scheme.~~

~~**Q24: Do you agree with our proposal for a new reporting requirement on higher risk products in the RMAR?**~~

~~We support the proposal to extend the reporting requirements in the RMAR to cover higher risk products but we would also support a change to the information shown on the FCA register to provide visibility to consumers and product providers that would enable them to identify firms that are distributing higher risk investments.~~

~~It remains unclear what information would be added to the RMAR and whether eligible income would in itself enable there to be a read across into the number of higher risk products that have been distributed.~~

~~**Q25: Do you agree with our proposal to remove the rule relating to paying FSCS levies by quarterly direct debits or should we consider other options?**~~

~~We agree with this proposal and do not have other options to put forward for consideration.~~

~~**Q26: Do you have any comments on our proposed class threshold and tariff measures for the new debt management claims class?**~~
~~No comment.~~

~~**Q27: Do you have any comments on our proposed tariff measures and metrics for calculating the deposit taker contribution for direct sales in relation to structured deposits?**~~

~~No comment.~~

~~**Q28: Do you have any comments on how, in future, we might calculate any provider contributions required from deposit-takers, in relation to structured deposits, if we were to consult in detail on this approach?**~~

~~No comment.~~

~~**Q29: Do you have any comments on our decision to maintain the current tariff measures, except for life and general insurers?**~~

~~We agree with the decision being made to maintain tariff measures.~~

~~**Q30: Do you have any comments on our proposal to bring the tariff bases for insurers into line with the PRA's approach?**~~

Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt
Formatted: Font: 9 pt

AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

~~Whilst the approach of the PRA in this area is outside of the expertise of AMPS, we agree that this seems to be a sensible measure to put in place.~~

~~Q31: Do you agree with our proposal to require firms that must pay some of their FCA/PRA levies on account to also make a payment on account in respect of their FSCS levy?~~

~~We understand why the proposal is being made and we appreciate how this may help firms manage the levy payments and any fluctuations that come with it. However we see no consideration given to alignment of the time periods for both the compensation levy and the management expenses levy so that these are assessed at the same time. That said we still support the principle of an on account payment process.~~

Distribution
This is a public document available on the AMPS website: www.ampsonline.co.uk

Author
Ian Stone~~Geoff Buck~~, AMPS Compliance Committee Member~~Chairman~~, c/o Curtis Banks, 3 Temple Quay, Bristol, BS1 6DZ. Email: Ian.Stone@curtisbanks.co.uk

Dated
~~March 2017~~August 2018

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt

Formatted: Font: 9 pt