AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

# AMPS Response to the joint call for input to 'Regulating the pensions and retirement income sector: Our strategic approach'

**Q1: FCA and TPR's remits intersect in some areas. Do you see this working effectively, or are there areas where this could be improved?**

As a trade body where our member firms interact with both TPR and the FCA, we very much understand that the way in which they regulate is very different and that TPR for example is unable to be as nimble with regulatory changes as the FCA might be. That isn't always a bad thing however and the concept of codes of practice can work very well.

Outside of the workplace arena TPR has been 'silent' in the main and so it is difficult to see how it has intersected. Even with regulation of Small Self-Administered Schemes (SSAS) by TPR, output from TPR has been limited. We support closer working ties between the two regulators but until we see any output it will be difficult to assess just how successful it will be.

Whilst we understand that both FCA and TPR have remits directly fed down from Government it would be helpful to establish how two way the conversations are as there have been past initiatives where implementation and consumer outcomes have not necessarily dovetailed with initial intent. Examples of this might be decisions made by consumers when they come to take benefits under pension freedoms and decisions made by consumers regarding transferring benefits from DB to DC schemes.

Paragraph 1.11 of the call for input implies that stakeholder feedback is what drives understanding of the risks in the pensions landscape. We would be concerned if this were the case as stakeholder feedback alone is not enough. As regulated firms we are expected to understand our market and our product range and we would similarly expect our regulators to understand the market too, no matter how diverse that market is.

We have concerns that understanding of the self-invested market remains lacking despite AMPS having attended many meetings with the FCA (and TPR). An example of this is reference to art being held in SIPPs under paragraph 3.31. Art has been a taxable investment since 2006 and most pension schemes will not have allowed investment directly into art since then. There are plenty of speculative investments accessed through listed markets and yet these are not referenced.

The announcement that Lesley Titcomb will be stepping down as the chief executive of TPR raises concerns that the strategy at TPR may change and that there could be an impact on the combined strategic approach that has been announced. An assurance that this will not be affected in both areas will be welcome.

**Q2: Do you agree that the areas we have identified are the right ones? If not, which themes would you add or remove from our list? In which areas could the FCA and TPR singly or jointly have the most impact?**

The proposed areas as detailed are all sensible; no person with an interest in the future of good quality pension provision in the UK should find any of those priorities controversial. We mean no negative intention though in stating that this joint call for input is not the first initiative in support of good intentions such as those detailed. Contracting-out of the second-tier state pension in the 1970s; transfer rights and personal pensions (including SIPPs) in the 1980s; income drawdown and stakeholder pensions in the 1990s; pensions simplification in the 2000s; auto-enrolment and pensions freedom in the 2010s: each decade brings 'big ideas' with aims such as those detailed in this latest document, yet the discrete or cumulative effects have included low public engagement with pensions; lack of understanding of pensions among savers, regulators and Government; poor transfer choices; 'unmanaged' drawdown without advice or understanding of the likely long-term effects of given rates of withdrawal; arbitrary rates of contribution without anticipation of the likely income in retirement; inadequate criteria for assessing worthiness of new schemes for registration, leading to pension scams. Any initiative such as this joint TPR/FCA strategy should be seen as welcome, but it is important to recognise that the problems facing the UK population in its need to fund adequately for retirement go far deeper than might be expected to be addressed adequately by regulatory intervention.

With many consultations there is a sense that 'the mind is already made up' and that consultations are being issued because there is a duty to consult rather than because there is a genuine desire to understand the issues that the industry is facing and what concerns they have. Of course, we do appreciate and understand the need to consider consumer protection but industry feedback should be a valuable source of intelligence and for the feedback to be given serious consideration.

Once a policy has been implemented a review of intended outcomes may take place through thematic reviews or sector studies however this might be better achieved by holding additional round table open discussions with trade bodies and industry groups. It is not clear if relevant feedback is given to HM Treasury or the Department of Work and Pensions for legislative changes to be made or considered if intended outcomes aren't being met. If any post implementation analysis shows that the policy intent isn't working change needs to be considered even if this means scrapping the policy.

Other FCA consultations cite concerns about the lack of advice in the decumulation phase of pension schemes yet the call for input states under 3.10 that the number of pension policies sold through advised channels has increased by 8%. There is a danger that statistics of this nature are presented in isolation and that there is a bias towards the bad rather than a balanced view to reflect both the bad and the good. This is an area where we would urge a change in approach.

The same is true of 'scams'. Much is made of scams involving pension schemes but it must be recognised that scams occur outside of pension schemes too and might be more prevalent outside of schemes since the introduction of pension freedoms. Whilst good news for pension schemes per se in that scams are avoided within a pension scheme wrapper, a scam nevertheless occurs but the emphasis tends to remain on the pension scheme being the bad element.

We think more could be made of the efforts made in convicting fraudsters to counterbalance the bad news stories around failed investments.

Little in the call for input is made of the pension scheme registration process and the timescales involved in registering new schemes. This process needs to improve and be more transparent. Any work that both regulators can do to influence HMRC processes to ensure better delivery of registration and better communication around registration will be welcomed industry wide. Publication of a 'white list' of schemes and pension scheme providers would also help.

Presently one-member SSAS fall outside of the regulatory remit of TPR and there has been talk of them coming under their remit. This would certainly ensure that regulation of all pension schemes is covered. It would also remove criticism and concern that this creates a loophole through which scammers can establish pension schemes in which they carry out activities that fall outside of the normal purpose of a pension scheme.

**Q3: Given our regulatory remits, what more, if anything, should the FCA and TPR do to support people as they start to save in a pension?**

Consideration and understanding of spending priorities across age ranges needs to be referenced. For some time there has been widespread concern that individuals have not been paying into a pension scheme although the success of workplace pension schemes has helped to address this issue.

However, according to recent research conducted by a well known benefits and actuarial consulting firm, in the age range 18-29, saving for a pension is only the sixth highest priority, behind amongst others, day to day living costs, housing costs and managing debt. It is only once individuals reach 50+ that pension savings becomes the top priority presumably as retirement planning comes into sharper focus and as disposable income increases.

The issue behind pension saving is embedded in more soci-economic issues which dissuade individuals from considering saving as being appropriate or worthwhile.

**Q4: Is there more scope for TPR/FCA working, either singly or jointly, in this area? To what extent should the emphasis be on collaboration with a wider group of bodies to improve the advice and services supplied to schemes (e.g. administrators, investment consultants)?**

The current pension scheme framework does not help consumers or practitioners as it remains complex and creates barriers to saving. An overhaul of the system needs to take place to recognise the priorities mentioned above and enable individuals to carry forward greater allowances at later stages of life and without unnecessary tax charges being levied. The continuous tinkering of the framework has eroded confidence in what was once regarded as a flagship savings product. Anything that can be done to correct a bias towards residential properties and ISAs will be welcomed or at least a rebalancing so that pensions stand up as an important part of an overall portfolio of investments.

If FCA and TPR as regulators of pension schemes can directly lobby Government about these issues then this will add weight to any lobbying or representations made by trade bodies and other interested parties to consultations and discussion papers.

As a trade body, AMPS already has regular and ongoing discussions with TPR, the Pensions Ombudsman, HM Revenue & Customs as well as the FCA. We have also been invited to industry working groups and presentations in relation to the Senior Manager and Certification Regime and FSCS funding. These types of open meeting seem to be extremely helpful, often with many of the participants having similar views. We would encourage use of this type of forum for discussion of future issues.

**Q5: How can pension providers and schemes, employers and other firms in the sector improve the security of the money and data they hold? What role is there for FCA and TPR in further driving up standards?**

It is not clear if your starting point is to assume that pension schemes are run badly? If so, why? We are aware that there has been concerns about data in large schemes for some time but we understand there has been a drive to improve this. The implementation of the General Data Protection Regulation on 25th May 2018 can only improve standards in data and security of that data.

The recent introduction of the Scottish Rate of Income Tax by HMRC provided, by necessity, a need for pension schemes to review and cleanse data in some areas.

It should also be noted that scheme administrators are using the TPR's 'Scorpion campaign' material and the Pension Scams Industry Group code of good practice. Firms will also be aware of the FCA's 'Scamsmart' initiative. Work to stop directors of advisory firms from closing down one business and starting another ('phoenixing') need to form part of the FCA's key priorities over the coming year.

**Q6: Are there any further opportunities for FCA and TPR to support the delivery of value for money, either singly or together?**

Value for money is difficult to define and we are not always sure that the metrics being used are necessarily correct and appropriate for the areas where value for money is being tested. For example, there is a push towards Independent Governance Committees and default funds in non- workplace pensions. We have concerns about how this will translate and how successful this will be. A success in one area of the financial services sector does not necessarily guarantee success in another. For example, in the self-invested sector it could encourage malaise and inertia rather than clients actively considering decision making which over time could lead to consumer detriment which all are agreed we are seeking to avoid.

We are concerned that "value for money" risks becoming a weapon for regulators and for public opinion against a pensions industry that has worked hard to promote innovation in an environment of frequently-changing Government policy and of growing cynicism towards financial services. Value for money does not necessarily mean a continual squeeze on costs and charges; it is no less important for customers to recognise value in the services that they receive and that the cost is reasonable and worthwhile.

**Q7: How can FCA and TPR work, singly or together, to ensure that information and advice helps people make appropriate decisions? When are people most vulnerable to taking poor decisions?**

Advice is important and firms do highlight the need for advice to consumers under many different transactions. Advice need not be compulsory and individuals can make their own decision. There needs to be agreement that this can be an agreeable way for some transaction to be carried out subject to acceptance of investments being relevant and appropriate.

Tax rules allow a variety of investments in pension schemes and the FCA has defined a list of standard investments for SIPP operators and there is a concerted move away from non-standard investments which to some degree has limited consumer choice in some areas. FCA data requests on non-standard investments during 2015 and more recently in September 2017 should show a trend towards a reduction in non-standard investments across the SIPP industry. This could be seen as a good thing if its intention was to reduce risk on those who were poorly-placed to accept that risk; though this risks depriving choice to those who would expect to have access to it. Too often regulation is a blunt instrument which, again with good intentions, risks reducing the innovation and appeal of the financial services sector.

There seems to be a drive towards requiring advice in all transactions and it would perhaps be helpful if the regulators made a statement to this effect or otherwise.

Banning contingent charging puts the concept of advice at risk. Without adviser charging clients will be unable to access appropriate products and investments or make relevant decisions. We are concerned that the label of contingent charging is being used when it isn't contingent on the transaction taking place. The advice has been provided and fees agreed with the client.

The fee might be being paid directly in some cases but allowing financial advice costs to be taken from the pension scheme does enable those that aren't cash rich to access advice and have the means for the advice to be paid for. Rather than banning charging it would be better for a cap to be imposed but feedback from advisory firms need to be conducted to ensure such a cap is appropriate.

People might be most vulnerable to making poor decisions when they do not value what they are giving up in favour of what they are choosing, or where the choice is informed by negative factors such as high pressure and desperation. Better financial education might help people make more informed decisions in favour of retaining existing arrangements or choosing new ones, such that advisers might carry less burden of information but might also be less likely to persuade a customer to accept what might not be the most appropriate option.

**Q8: Do you believe that the macro trends that we have identified are those most likely to drive change across the pensions and retirement sector? If not, what are the trends that matter? Which trends should be the highest priority for TPR and FCA? How will those trends (and any other drivers of future risks and opportunities) affect the areas we have identified?**

We are concerned about the recent proliferation of claims management companies targeting pension investors with widespread coverage in the media. Our concern is based on possible consumer detriment where large fees are taken or where compensation was available without the involvement of a third party, serving further to dilute savers' funds.

These firms are moving around industries and seeking to generate business sometimes to the detriment of consumers (e.g. moving on from PPI) Whilst not necessarily being opposed to this we would expect these firms to be properly regulated and that they themselves are not profiting at the expense of the consumer.

We note the publication of CP18/15 and hope that regulation of these entities from 2019 will help deal with this issue.

The risks and opportunities as identified in the call for input seem a well-defined and balanced selection of factors. Of course those variables are set against some timeless principles: that people will always worry about their ability to provide for themselves when their working lives are over; that people's funding for pensions (outside of compulsory contributions) will always be based on ability to pay and on attitude towards saving for pensions relative to competing financial obligations or choices; and that faith in the converting of current saving to worthwhile future income is fragile. Any pensions strategy should recognise these factors and should seek to involve savers in discussion as to how the sector can be made to work for savers. This welcome initiative from TPR and FCA should be seen as a great opportunity.

**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, VAT, Legal and Platforms

**Membership:**
- Approximately 150 SIPP Operators including Hargreaves Lansdown, 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 Personal Investment Management & Financial Advice Association (PIMFA).

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

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