Rt Hon Frank Field MP
House of Commons
London
SW1A 0AA

Dear Frank Field

28 March 2019

Our Ref:

RE: PS19/7 - Finalising the Directory

Thank you for your letter of 14 March 2019 relating to the publication of our ‘Finalising the Directory’ Policy Statement. You have asked a couple of questions about reports there could be a 12-month period where advisors would not appear on the FCA Register or the new Directory. You are concerned that this would create a 12-month hiatus on defined benefit transfers over £30,000, and what you feel is a lack of obvious mitigation.

Before answering your questions, I thought it would be useful to provide some background to offer some insight and context behind the publication of our Policy Statement earlier in March.

Background and context

As you will be aware, the Senior Managers & Certification Regime (SM&CR) came into effect on 7 March 2016. Initially this applied to banks, building societies, credit unions, the largest investment firms that are regulated by both the Prudential Regulation Authority (PRA) and the FCA, and branches of foreign banks operating in the UK from December 2018.


The SM&CR requires firms to take more responsibility for the fitness and propriety of their staff. Firms will be responsible for assessing their staff and ensuring that they are suitable to carry out certain functions. This in effect means increased oversight and more accountability by firms and individuals for their actions. A consequence of this is that fewer individuals will appear on the Financial Services Register as holding ‘active FCA approval’ for certain functions and roles (these are often referred to as ‘Controlled Functions’, or CFs).

As set out in our Policy Statement following the extension of the SM&CR, firms have 12 months to certify individuals whose roles are no longer approved by the FCA. For roles the FCA no longer approves, historic records will be maintained on the Register.

Your questions

1. [Was it] the FCA’s intention for there to be a break in DB transfers?

As you will be aware, consumers are legally entitled to transfer out of a defined benefit scheme if they wish to. It is not the FCA’s intention to interfere with that right, and our rules do not have that effect. And as you know, our firm position is that it is unlikely to be in a consumer’s best interest to transfer out of a defined benefit scheme. We have introduced new, and strengthened many of our existing, rules to protect consumers in this area.
I wanted to pick up on one of the other points in your letter which is relevant here around financial advisers not appearing on the Register. I want to reassure you that this will not be the case.

When consumers are seeking advice from a regulated financial adviser, they are getting this from a firm - and firms will stay on the Register. The changes being made relate to controlled functions within the firm. In other words, consumers will need to get advice from an authorised and regulated financial advice firm - as is the case now.

As we have set out previously, our work on our Register is quite a significant exercise. During this time we would suggest consumers and trustees continue to use our Register, but equally they may want to speak to The Pensions Advisory Service (TPAS) or the Money Advice Service’s website for information on how to find a regulated financial adviser. Our Contact Centre would also be able to help with any queries relating to specific firms.

2. If not, what mitigations have been planned and when will the FCA publish the details?

From December 2019 firms will have 12 months to certify individuals whose roles are no longer approved by the FCA. During this period, our Register will remain active and publicly available for anyone wishing to search for historic records. From the period beginning in December 2019 until the Directory is launched, we are looking at what arrangements should be put in place. This could include utilising the information and databases of the accredited bodies - but to reiterate, this would be on an interim basis. Part of that work will involve how we communicate the interim arrangements.

In the meantime, as cited in their guidance, The Pensions Regulator requires pension scheme trustees to check that an advisor’s firm has the correct permissions (individuals do not hold permissions) and that the firm appears on the Register. Following the extension of the SM&CR, trustees will still be able to verify these details as firms will continue to be listed on the Register without interruption. As a result, trustees will still be able to carry out members’ benefits transfers subject to meeting existing requirements.

Before I conclude, I just want to emphasise that we are aware of the concerns you have highlighted and we are working to ensure the interim period between December 2019 and the Directory becoming operational does not expose consumers to unmitigated risk. Again, any arrangements for that period will be temporary.

I hope that this is helpful.

Yours sincerely,

Andrew Bailey
Chief Executive