Rt Hon Frank Field MP  
House of Commons  
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4 October 2018

RE: PS18/20 – Improving the quality of pension transfer advice

I am writing to let you know that today we have published a Policy Statement¹ on Improving the Quality of Pension Transfer Advice. This sets out our response to our March consultation. As this is an area of interest to the Work & Pensions Committee I wanted to provide you with some further information on the publication.

Background

As you know, the suitability of pension transfer advice has been a particular focus for us in the last few years.

The new rules we have published today focus on the transfer of safeguarded benefits, including for Defined Benefit (DB) schemes. These build on those we introduced earlier in the year,² alongside the March consultation paper I mentioned above. Together, they provide a framework which raises the standards of advice and gives firms additional clarity on the quality of advice we expect them to deliver to consumers.

Our policy work in this area takes into account the findings from our continuing supervisory work on DB pension transfers. In particular, the new rules and guidance aim to address the causes of unsuitable advice we have seen.

Changes to our rules

Our policy statement confirms we are taking forward most of the proposals put forward in our March consultation. The new rules and guidance include:

- raising qualification levels for pension transfer specialists (PTSs) to require them to obtain the same qualification as an investment adviser. This ensures that a customer’s full circumstances are taken into account so that overall suitability can be assessed.
- guidance to clarify our expectations that advisers should be exploring clients’ attitudes to the general risks associated with a transfer, in addition to their attitude to investment risks,

• guidance to illustrate how firms can carry out an appropriate 'triage' service, without stepping across the advice boundary, by providing generic, balanced information on the merits of pension transfers,
• a requirement for firms to provide a suitability report regardless of the outcome of advice.

Adviser charging models

I am conscious that the Committee has recommended that the FCA should ban contingent charging on DB transfer advice.

As part of our consultation we sought views on whether to intervene in the charging structures used by firms advising on DB pension transfers (for example, by banning contingent charging). We also asked about the impact of imposing restrictions on charging models and how any restrictions should be implemented. It is important that we build a full understanding of the potential impacts of any action we were to consider.

We received responses from across the pensions industry, consumer groups and also took account of the findings from the Committee’s recent inquiries. The responses were typically polarised in favour of and against a ban on contingent charging, with a small majority of respondents arguing against a ban. We set out a summary of the responses in our Policy Statement.

Based on all the feedback we have received, we believe we need to carry out further analysis before deciding whether to consult on any changes to our rules relating to charging models. However, I want to explain our rationale behind this decision.

The responses we have received reinforce that this is a complex area. There are a number of potential consequences and interlinked issues that need to be worked through and carefully considered in order to decide whether, and what, intervention may be necessary. For example, while there is an inherent conflict of interest in contingent charging models, some respondents stated that the evidence did not suggest a causal link between contingent charging and unsuitable advice. Respondents have noted that we have seen poor advice where non-contingent charging had applied (for instance, some Enhanced Transfer Value exercises).

Furthermore, charging models are only one of the potential drivers of unsuitability, and they need to be considered among various other factors; for instance, advisers not carrying out full fact-finds to consider the client’s complete circumstances. These are areas we are addressing through our policy and supervisory work.

Perhaps most significantly, it is clear that any changes to our rules could have serious implications for the supply and demand of advice. There could be detriment for consumers who do want to transfer and for whom it may be a suitable choice. This is further complicated where those consumers cannot afford to pay for advice out of their own funds.

Vulnerable consumers, in particular, could be adversely impacted including those with lower than average life expectancy. For these consumers, a transfer out of a DB pension may well be suitable, but they may not have the available funds to pay for advice should it not be possible to deduct the fee from their pension funds. Data collected from our recent Financial Lives survey suggests that 67% of UK adults aged 45 and over with a DB pension they have not yet accessed, have savings of £5,000 or less. To put this into context, in our 2017 Consultation Paper on pension transfer advice, we said that the average fixed cost of pension transfer advice was
£3,250. We are conscious of these issues, which is why we need to carefully consider the impact of any interventions.

We are also conscious of existing supply issues that, it has been suggested, are arising from Professional Indemnity (PI) insurers declining to provide cost effective cover. Any interventions we take in this market need to take these trends into consideration.

Given these factors, and because of the significance of this issue to all stakeholders in the market, we need to carry out further analysis of the issues, drawing on our supervision work.

We also need to consider how interventions will fit in with a number of other workstreams, such as the post-implementation reviews of the Retail Distribution Review and the Financial Advice Market Review which will look at adviser charging more widely. It is important that we do not consider pension transfer charging models in isolation. If we consider that changes are appropriate we will consult on any new proposals in the first half of 2019.

Starting assumption

In our March Policy Statement we stated that we were retaining the “starting assumption” on suitability for the time being and not moving to a more “neutral” starting position, as some referred to it. We had previously consulted on moving the starting assumption in our 2017 consultation.

The reason for not changing the assumption was because we considered that it was inappropriate to change the guidance at that stage, given the suitability findings from our supervisory work published in October 2017, and the review of advice given to British Steel Pension Scheme members. We also wanted to consider the starting assumption in conjunction with any proposals on adviser charging models as we consider that the issues of charging and the starting assumption are linked.

Given the developments in the market since we published our March consultation, we continue to believe it appropriate for advisers to start from the assumption that a transfer will be unsuitable. We will continue to review the position as we undertake further analysis of charging models.

I hope this letter is helpful in setting out more detail on our publication. I would welcome the opportunity to discuss this work with you in more detail and will ask for my office to take this forward with yours.

Yours sincerely,

Andrew Bailey
Chief Executive