Response by TISA to The Work & Pensions Committee Inquiry: Protecting pension savers – five years on from the pension freedoms: Pension scams

Renny Biggins, Head of Retirement

September 2020

About TISA

The Investing and Saving Alliance (TISA) is a unique and rapidly growing membership organisation. Our mission is to work with our industry members to improve the financial wellbeing of all UK consumers to **deliver practical solutions** and devise innovative, evidence-based strategic proposals for government, policymakers and regulators that address major consumer issues.

TISA membership is **representative of all sectors** of the financial services industry**:** We have **over 200-member firms** involved in the supply and distribution of savings, investment products and associated services, including the UK's major investment managers, retail banks, insurance companies, pension providers, online platforms, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

Complementing our development of consumer policy and commitment to open standards and governance, TISA has become the **pre-eminent membership body for the delivery of digital industry initiatives**, including:

- **Open Savings & Investments -** a fundamental component of Open Finance which will enable our industry to become fully digitally enabled
- **Digital ID** - enabling easy access to all digital services by creating a single, reusable, secure ID owned and controlled by the consumer
- **TISAtech -** the new generation digital marketplace connecting Financial Institutions with FinTechs
- **TISA Universal Reporting Network (TURN) -** an industry-designed blockchain data solution for the collection & dissemination of EMT data

Contents

Executive Summary

TISA welcomes the opportunity to provide a response to The Work & Pensions Committee's Inquiry: Protecting pension savers – five years on from the pension freedoms: Pension scams.

Pension scams have been around for several years in one guise or another and evidence shows that this is a growing risk, which can damage consumer confidence in the wider pension system. Since the introduction of Pension Freedoms, schemes and administrators have experienced an increase in suspicious transfer requests. Indeed, transfers are widely acknowledged as an area particularly vulnerable to fraud. A recent XPS survey showed that 'red flagged' transfers had risen from 13% in June 2018 to 34% in June 2019, with the total value of pension funds potentially at risk totalling circa £73 million. The Pension Scams Industry Group (PSIG) research findings estimate total losses to pension schemes at around £10 billion.

The impact of COVID-19 has for many, had a detrimental impact on household finances leading to an increase in vulnerable customers. The hospitality and retail sectors have been particularly hard hit, so scammers may try and target these groups. Individuals and households who are struggling are more likely to be lured by the false promises that are made by scammers.

Reducing an individual's potential exposure to scams, the continuation of promoting an increased awareness/understanding through various channels and the tightening of relevant legislation all play an important part in helping to reduce criminal activity.

We must, however, acknowledge there is no silver bullet and as the government and industry's anti-fraud measures evolve, new scams will also evolve.

Increased government and industry collaboration is required, to ensure that existing and new scam activity can be identified at the earliest possibility and expertise and real time operational experiences can be leveraged, to drive forward further innovation and change to combat this activity, increase consumer confidence and keep losses to a minimum.

Question Responses

1. What is the prevalence of pension scams?

Pension scammers are a huge scourge on society, typically targeting those of retirement age who have had the opportunity to accrue larger private pension pots. These scammers wreck lives and households, meaning planned retirements are ruined, people are forced into working for longer to try and recover a fraction of the lost money, living standards can be greatly reduced, mental health can be severely impacted and in worst case scenarios, people end up taking their own lives.

The actual scale of pension scams is hard to quantify. It is generally accepted that only around one half are reported, with various industry research indicating this could be down to an unawareness of who to report this to, the actual need to report it, the reluctance to report due to the self-consciousness of being 'taken in' by a scammer or not even realising they have been a victim of a scam at the time. Some may also not report a scam as they become aware that they will incur an 'unauthorised payment' tax charge rom HMRC.

Complaints logged with Action Fraud alone showed in August 2020 that almost £31 million has been taken by scammers since 2017. FCA/TPR in their latest ScamSmart campaign have warned that pots of all sizes are targeted, ranging from £1,000 to £500,000. The average victim in this 3-year period was a male in their 50s.

Pension transfers are widely acknowledged as an area particularly vulnerable to fraud, XPS reported that the number of 'red flag' transfers incidents rose from 13% in June 2018 to 34% in June 2019, with the total value of pensions potentially at risk during this period totalling circa £73 million.

The impact of COVID-19 has, for many, had a detrimental impact on household finances, leading to an increase in the vulnerability sector. Individuals and households who are struggling are more likely to be lured by the false financial promises that are made by scammers. Periods of recession and downturn are, for scammers, a window of opportunity, where the financial impact on households leads to an upturn in the number of scam victims. This can also provide additional opportunities to scammers in finding a 'hook' with a suggestion that occupational pensions may not be safe, due to potential company insolvencies.

It is worth noting that some of our member firms have not reported high numbers of scams within their Workplace DC books of business.

Scammers are sophisticated individuals and organisations, capable of adapting to meet changes in legislation and levels of market awareness. Unfortunately, to an extent, the industry will always be playing catch-up. It is therefore essential that Government and industry maintain ongoing collaboration, engineering working/reporting practises and legislation changes designed to combat this activity.

2. What are the current trends in pension scams?

Pension scams have rapidly increased since the introduction of pension freedoms in 2015. Typical scam tactics are detailed below:

Pension Liberation – this was a high activity scam targeting typically the under-55s before 2015. It provided consumers with the option for early access to their pension, or sometimes referred to as a pension loan. Whilst it is perfectly legitimate to access a pension pot before 55, there are associated tax implications as this is classed as an 'unauthorised payment' with penalties of up to 55% of the amount accessed levied on the individual. A seemingly tax efficient way of being able to access a pension pot early will look attractive, particularly to those in financial difficulties with no alternative funds to use.

The liberation company will charge a percentage on the amount accessed and the consumer is generally unaware they have incurred a tax bill until they receive notification from HMRC. In many instances, the money is already spent and the tax bill cannot be repaid easily. Since the introduction of pension freedoms, this type of scam is less common.

Investment Scams – this has become a common scam since the introduction of pension freedoms. Consumers aged 55 and over can access their pension pot entirely in one withdrawal (subject to PAYE). One type of this type of scam targets this age group and promises higher investment returns if the money is transferred into a different investment vehicle. During periods of low interest rates, which we have experienced for many years, the promised returns become even more appealing, which in turn increases the chances of a scammer succeeding.

These are often unregulated overseas investments and will not provide the promised returns. In addition the fund is typically reduced through excessive fees and charges. In many instances the investment does not exist at all and the pension fund is completely lost. The transfers themselves which enable overseas investment are often to International SIPPs. However, the SIPP firms themselves are operating as legitimate registered pension schemes and are FCA registered.

The other type of investment scam involves transferring to another pension such as a SIPP, with the promise of higher returns based on the suggested investment option. This may often be to an Unregulated Collective Investment Scheme, where the money is entirely lost. Instances have also occurred where the funds are managed by a Discretionary Fund Manager (DFM) within the SIPP wrapper and it is the DM who is the scammer.

Whilst a pensions cold calling ban was introduced in January 2019, scammers may ignore this altogether, or swerve this with a reference to investment rather than pension. The ban also only applies to UK companies, so some cold callers will set up companies outside of the UK which are not impacted by this law. Many may contact through social media, email or text to avoid the banned telephone method and a typical entry route is with the promise of a 'free pension review'.

Secondary scams have also emerged, where a scam victim is approached by a third party, who are often appearing as a Claims Management Company offering to attempt to reclaim the lost money for a fee.

3. What are the common outcomes of pension scams for perpetrators and victims?

Victims can and have lost all of their pension savings, which has a devastating impact on their personal and household lifestyles. This can result in individuals and households having to work through retirement whilst physically able in order to bring in some income to live on and supplement any other form of retirement income they still have. Aside from the impact on physical wellbeing, having your retirement dreams which may have been planned for years effectively 'go up in smoke' can and often results with a mental health impact, where the financial and lifestyle loss cannot be comprehended or endured. Marriages collapse and family homes have been lost. Some individuals have even taken their own lives.

Some scam victims are subsequently hit with an unauthorised payment charge from HMRC. The pension provider in a few cases have met this charge where the individual cannot. However for many and who have been truly scammed through liberation, a subsequent charge on top of losing their pension savings is the final straw and many cases exist where the individual cannot make this payment without making life changing decisions such as selling the family home.

Others may be a victim of a secondary scam where they receive a call from a Claims Management Companies (CMC) who offers to retrieve the lost money for a fee. In some instances, the adviser closes down without fulfilling their obligations and opens as another CMC or sells the book of claims to a tied third party. The FCA are clamping down on advisers closing down (leaving all claims falling on the FSCS) and re-opening under a new name (known as phoenixing) but they need to be aware of this type of activity too.

Given that a high number of pension scams go unreported, there will be many scammers who will benefit from their fraudulent activity and go on to live in comparison to their victims, a life of luxury. There have been instances of scammers being caught and sent to jail and ordered to repay the money which has been illegally obtained.

4. How are existing enforcement tools being used?

The TPR/FCA joint pension scams strategy ScamSmart has been successful in generating an increased awareness of pension scams. In the first 55 days post launch in 2018, website visits increased by 462%. The strategy needs to continually evolve with ongoing and regular campaign communications issued. For as long as pension scams are in operation and money is lost, an awareness campaign is required. Whilst many have seen the ads on television, there appears to be less coverage on social media, which is a medium that scammers are/will use as an entry route. It would be good to see coverage extend to other channels.

The introduction of a potential 25% charge on transfers to QROPS has resulted in transfers of this type falling from a high of 20,100 in 2014/15 to 4,400 in 2019/20.

The FCA work relating to DB transfer advice has impacted on the number of transfers taking place and the contingent charging ban which comes into effect on 1 October 2020 should also play an important factor in this area.

Some of our member firms have stated it isn't obvious that HMRC are taking a particularly proactive approach to monitor newly established schemes. Administrators are adopting the PSIG Code of Practice to ensure a consistent approach.

5. What more can be done to prevent pension scammers operating?

Whilst the cold calling ban was a welcome introduction, this doesn't extend to 'factory gating', where lead generators meet prospective clients in person and make the introductions to unscrupulous financial advisers. Whilst government has confirmed this will be kept under review, it would be another avenue of opportunity closed to scammers, should this practice become outlawed. This practice was notably highlighted in relation to the British Steel Pension Scheme.

It would also be another loophole closed if the ban was extended to include social media, emails and texts, which are now an everyday method of communication and not considered unusual to receive out of the blue.

Lastly, the ban should be extended to include all investments. Less than 2 weeks after the cold calling ban came into force, one business was able to dodge the rule by cold calling prospects about an 'investment performance review'. This wording avoids the rules about cold calling to discuss pensions.

6. What more can be done to prevent individuals becoming victims of pension scams?

We believe that the statutory right to transfer should be removed if certain warning flags are identified during the transfer process. We acknowledge that this may be difficult to implement from an operational perspective and we therefore need to be careful when agreeing exactly what the warning triggers are. It is important that the requirements for firms are prescriptive and unambiguous and do not create automatic and blanket statutory removals for certain pension scheme types.

Whilst acknowledging that the secondary legislation will be difficult, pension schemes need this power to protect their members from being scammed out of their pension funds. This single amendment would be a huge setback for pension scammers.

Should this amendment not be acceptable, an alternative would be to make the statutory transfer right conditional on the member, discharging the ceding pension scheme of all liability in respect of the transfer if;

- the receiving pension scheme was connected to a pension scam,
- the ceding scheme had established there was a material risk of a pension scam, and
- the ceding scheme had very clearly warned the member of the risk.

The final discharge signed by the member should then act as a final strong warning to the member against proceeding with the requested transfer.

This could be achieved by using the Pension Schemes Bill to insert a new paragraph in section 99 of Pension Scheme Act 1993, similar to Paragraph 2A of section 99.

If both amendments are discussed together, this should highlight the inherent inequity in a pension scheme both being legally obliged to transfer when there is a material risk of a pension scam and also being liable for any consequential loss caused by that identified risk.

7. What role should the pensions industry have in preventing scams?

The Pension Scams Industry Group's (PSIG) Code of Practice covers the due diligence processes that should be adhered to in order to combat pension scams when transfers are processed. Firms should be familiar with this document and extract the relevant sections to incorporate in their internal processes.

There could be greater collaboration between government and industry, using expertise from such groups as PSIG and industry real time operational knowledge, to drive forward further innovation and change to combat scam activity.

Firms should take time to regularly review their Vulnerable Customer policy and ensure this is robust and flexible to changing requirements. A way of assessing an individual's vulnerability at the start of a transfer process could be considered. We are mindful that we would not want to extend the transfer process for all transfers and this could be linked into the Q6 response relating to the statutory right.

Assuming the Pensions Dashboards will be operating on a 100% coverage basis in the future, a way of identifying and monitoring UK pension schemes will need to be created, to ensure that coverage is maintained and that rogue schemes are not participating. The creation of such list, if available to industry would be a great asset in the due diligence process for pension transfers.

Please also see our answer to Q6.

8. Is HMRC's position on the tax treatment of pension scam victims correct?

Where a consumer has been a victim of pension liberation i.e. accessing their pension before the minimum age (and not subject to ill health) and it is clear they were not made aware of the tax consequences beforehand, it seems unduly harsh to penalise these victims further by imposing a tax penalty on them of up to 55% of the original amount accessed. Many of these individuals have already used the proportion of money they received once the liberation company had taken their fee and be in a vulnerable state once they become aware of the consequences of their actions.

9. Are public bodies co-ordinating the response to pension scams?

The joint TPR/FCA ScamSmart awareness campaign and supporting website content has been successful in generating awareness and directing people into what to do in the event they have been a victim of a pension scam.

There could be greater collaboration between government and industry, using expertise from such groups as PSIG and industry real time operational knowledge, to drive forward further innovation and change to combat scam activity.

An All-Party Parliamentary Group on Pension Scams was established n March 2020 and we hope this can play an important role in the reduction of scam activity.

In order to monitor and be an effective force against pension scammers, a single body should operate with ultimate responsibility for setting and co-ordinating the approach.