Response by TISA to DWP consultation: Helping savers understand their pension choices

Renny Biggins, Head of Retirement

renny.biggins@tisa.uk.com

August 2023

About TISA

The Investing and Saving Alliance (TISA) is a unique, rapidly growing membership organisation for UK financial services.

Our ambition is to improve the financial wellbeing of all UK consumers. We do this by convening the power of our broad industry membership base around the key issues to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA membership is representative of **all sectors of the financial services industry.** We have **over 240-member firms involved in the supply and distribution of savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

As consumers, the financial services industry and the economy react to and recover from the effects of the pandemic, the importance of the three key pillars of work that TISA prioritises has never been more apparent:

- **Strategic policy initiatives that influence policymakers** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of **consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments**.
- TISA is recognised for the **expert technical support provided to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering **MiFID II, CASS, ESG/RSI, operational resilience, Cyber Risk, SM&CR** and a range of other areas.
- **Digital transformation initiatives** that are driving ground-breaking innovation and the development of industry infrastructure for greater operational effectiveness and revenue promoting opportunity for firms. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives – **TISAtech** (a digital marketplace that brings together financial institutions and FinTechs for greater collaboration and innovation) and **TURN** (TISA Universal Reporting Network – a digital platform providing a secure data exchange for financial services using blockchain technology) – alongside projects **Digital ID** and **Open Savings, Investments & Pensions**. This reflects TISA's commitment to open standards and independent governance.

TISA

Executive Summary

TISA welcomes the opportunity to respond to the DWP consultation - Helping savers understand their pension choices.

Retirement choices are complicated. Consumers need to be able to make informed decisions and as such, we fully support the introduction of a decumulation framework for DC occupational schemes. We are all strong advocates of simplicity and consistency in the pensions framework to promote engagement and understanding. The importance of this work being undertaken in collaboration with the FCA is significant as all DC savers are exposed to the same risks, have the same needs and should have equivalent opportunities and protections in place, irrespective of which regulatory regime their pension pot(s) are subject to. The operation of two distinct decumulation frameworks would undermine the objectives of this initiative as well as what we are trying to achieve more generally with the pension framework and consistent consumer journeys.

DC consolidation is at the heart of current/pipeline regulatory change and government policy. Decumulation is a personal journey and as schemes become bigger, the unavoidable risks associated with providing default style decumulation arrangements for the unengaged masses increase. Particularly if these are inflexible and do not provide the opportunity to make different retirement choices at later stages in the retirement journey. This risk remains for those who are making proactive decisions, as many individuals do not have a realisation or understanding of the range of risks that they are exposed to with some retirement options, such as investment and mortality risk. Strong governance, support, guidance, education and effective communications are therefore crucial to the success of the framework.

There is a significant amount of existing and pipeline regulatory change, including Value for Money, New Consumer Duty, CDC, Pension Dashboards and Small Pots. We encourage the DWP to consider all change in the round, to identify overlaps and create a prioritised timeline which acknowledges not only the scale of change but allows synergies to develop, whilst creating cohesion in the wider pensions framework.

We also fully support further investigation into the potential benefits and risks of a CDC in-decumulation model. This has the potential to address some of the key retirement challenges that individuals face, however it appears that more research and modelling is needed in this area, to enable future discussion and decisions to be made on an informed basis.

We look forward to ongoing involvement with the progression of the decumulation framework and the integration of this into the wider schedule of pension change.

TISA

Question responses

Question 1 – Should it be up to trustees to determine the other suitable suites of products?

Decumulation in retirement is a highly personalised journey and it is impossible for trustees to know what is appropriate for each and every one of their members. As such, any form of 'default' which is designed for a large cohort (i.e. those who do not want or are unable to make decisions) will be more appropriate for some and less so for others. In other words, there will always be winners and losers – the ratio of which will be impossible for trustees to know. Given the Government agenda of 'big is better' this further exacerbates the issues of creating an 'off the shelf' solution for the masses/unengaged. This is the most important and over-arching challenge that needs to be recognised and addressed in terms of trustee liability and consumer outcomes. The former, of which, should be included within the remit of the ongoing consultation into **Pension trustee skills, capability and culture: a call for evidence.** It is worth noting that the 2021 TPR DC scheme survey showed that over a third of trustees had never read or were not aware of the TPR's codes of practice. Similarly, research by TPR in 2019 with trustees found that one in five felt the trustee board either didn't have or didn't have access to the knowledge needed to run the scheme. It is therefore crucial that any shortfalls in trustee knowledge identified in the call for evidence is acted upon and taken into account when considering a decumulation framework and associated responsibilities.

This issue is not exclusive to default style decumulation solutions, with similar challenges extending out across the entire decumulation suite. With that in mind, we would ask for clarification on what the definition of 'suitable' is in the context of the question and if taken literally, guidance on how trustees can make such determinations without any knowledge of individual circumstances.

Notwithstanding the above, as a minimum, we believe there should be a core set of decumulation options which schemes should be mandated to offer (either directly or through a partnering arrangement) within their suite of products, based on existing retirement needs and behaviours. This delivers consistent decumulation options for members of all DC occupational schemes subject to the decumulation framework. Any additional options offered should be at the discretion of the scheme trustees.

Question 2 – What can government do to help a CDC-in-decumulation market emerge?

The main focus should be on ensuring that an appropriate and robust governance framework is in place which provides strong consumer protection and the opportunity for pension providers to operate these schemes on a commercial basis.

Although member communications are to be considered in a separate consultation, it will play such a crucial role in the success of CDC that it cannot be precluded here. Part of the strong consumer protection requirement needs to focus on mandatory communications and the outcomes these are designed to achieve. We know that pensions are typically perceived negatively, with low levels of consumer trust and a framework which is confusing and complicated. Add in the additional complexities which comes with CDC and we will have a big hurdle to overcome in terms of member understanding. Whilst CDCs may be packaged up as a product which removes the need for member decision-making and comes with the intention of paying an escalating retirement income for life, the associated potential risks of income reductions, zero or smaller increases and loss of access to future flexibility in the retirement journey need to not only be communicated but understood, before scheme entry can take place.

The outcome of the FCA advice/guidance boundary review, currently underway, will be significant. The outcome must enable providers to have full confidence in the communications that they are sending, in terms of not unintentionally breaching the boundary. The review outcome, the launch of CDC and in the future pension dashboards, provides a good opportunity to consider the timing and content of pension communications more generally, as many are not engaging or understood.

As stated in TISA's Call for Evidence response, we are not aware of any meaningful research that has been carried out on CDC-in-decumulation models in isolation. **Given the positioning of CDC in the consultation, we would appreciate it if the underlying supporting evidence could be shared with industry.** The absence of such data makes it challenging to comment on a model which is largely unknown, the answers of which would help shape the framework.

Questions which will influence how the market emerges and who this option would be appropriate for include:

- Will transfers out be permitted?
- Will there be single life and joint life options available in respect of death benefits?
- How does this fit into the regulated advice framework?
- How are vulnerable customers and those with impaired lives accommodated?
- Will Value for Money (VfM) apply from its launch and how will it apply?
- Will scheme entry have to be a proactive decision or will employer schemes be able to default members into these schemes in a similar way to how Defined Benefit operates?

Question 3 – We would welcome views to understand what are the minimum requirements that trustees should put in place for members facing decumulation?

A recurring theme in our response is the need for timely and clear communications covering the potential benefits and risks. Whatever the final framework comprises, one of the key outcomes has to be that members are making informed decisions and are aware of the potential risks and benefits of all options.

Minimum requirements will also be impacted by the liabilities which will be placed on trustees through the implementation of the decumulation framework.

As a general principle, members should be able to easily access all of the core decumulation options through any scheme without detriment or barriers.

Ongoing support should also be considered when developing minimum requirements. A retirement could last 40+ years and whilst it is right to focus on support in the run up and at the point of initial access, as priorities change and unexpected events occur over time, further support will be required to nudge members into reviewing their positions and consider whether other options are now more appropriate. The nature of this support needs to be determined but it is an important discussion to be had.

It would also seem logical for VfM to be embedded within the framework from outset, so compliance with these requirements should also be mandated.

TISA

Question 4 – What factors should a trustee / scheme take into account when developing their decumulation offer?

Please see response to Q3.

In addition, if partnering arrangements are to be used, trustees will need to consider where their responsibilities end. We propose that once the hand-off is complete, the trustees' responsibilities end i.e. providing a clean break.

This approach is currently in place today. Generally, when schemes buy an annuity for a member, they step away from the relationship at that point. They don't want to have any oversight responsibilities because that could make the annuity an asset of the scheme, meaning the individual continues to count as a member and on death, the scheme trustees would usually be responsible for making any discretionary decisions on any death benefits available (such as remaining guaranteed payments). It makes sense to continue this approach as ultimately, it isn't them providing the income option at that point.

Linked to this is consumer protection. The FSCS coverage can get very complex and there are some occasions where compensation isn't available because the owner of the asset isn't an eligible claimant. If the decumulation product is deemed part of the scheme (so the scheme is the owner not the member) then if the decumulation provider were to become insolvent, there may be no compensation available if the employer involved with the occupational scheme is a large employer and therefore not eligible.

By stepping away from the relationship, the product moves into the member's own name and generally the FSCS will 'look through' the decumulation trustees and treat the member as the owner, making them an eligible claimant.

Trustees will need to carefully select appropriate partners, however these should fall under the remit of VfM and potentially could have a minimum size threshold requirement applied.

Question 5 – We would welcome views to understand if these are the right questions to capture the majority of ways an individual will want to use their pension wealth?

Whilst we believe the target audience for these questions are members, this could be interpreted as questions that trustees should be asking themselves when developing the proposition.

Either way and especially for a consumer audience, we believe more work needs to be done on getting the balance right between simplicity and creating a level of understanding which covers the benefits and risks of the various options, which should include doing nothing. We believe the proposed question set is too simplistic for what consumers are looking to achieve and development is needed to deliver the right set of questions, whilst making the process simple enough to generate and/or retain engagement. Given the range of options may not be appropriate or available to very small/micro pots, we need to consider if there is a minimum pot size for which this journey is appropriate, with a simpler communication sent out to those which fall under the threshold. This clearly demonstrates the overlapping nature of the current schedule of change, with a functioning Small Pots solution potentially removing this as a consideration (although it is dependent on what is implemented first).

TISA

It is easy to draw comparisons to Investment Pathways with the proposed approach. However, we need to be mindful that whilst investment selection in drawdown is not straightforward, the complexities considerably increase when it comes to retirement choices.

As stated earlier, trustees will not know members' personal circumstances. A guidance and support framework should encourage members to consider all relevant factors, rather than just the pension pot they are about to access. Ultimately a decision needs to be made by the scheme member (or on their behalf) and the framework needs to provide trustees with the confidence that there is no liability, should the member decide that their decision turns out to be inappropriate down the line.

A 'default style' decumulation option could be the focal point for initialising a conversation with unengaged members. By explaining the benefits and risks, this could engage members into considering whether this is appropriate and if not, trigger further thinking into what their key priorities and needs are or seek further support. As trustees will not know what may or may not be appropriate for unengaged members, there needs to be some prescription baked into the process, so all unengaged members receive information about the same 'default style' decumulation option as a starting point. It should not be up to trustees to make these assumptions and it is important that this group receive a consistent starting point to their retirement journey.

Similarly to communication, whilst a consultation on information and guidance will be set out later in the year, these aspects need to be considered here, as a general understanding should have been developed by members prior to receiving these questions.

Question 6 – Are there any other questions we should include in the framework?

Other questions could include:

- Have you considered consolidating your pension entitlements as a first step in the retirement process?
- Do you want to be locked into a retirement product for life, or do you want flexibility to make different choices in future years?
- Do you want an option which removes you having to make investment decisions?
- Do you want a product which removes you having to make income decisions?
- DO you want an income that is guaranteed for life?
- Have you taken or considered receiving regulated advice or guidance? (along with the relevant signposting)

Question 7 – We welcome views on whether you see any issues with this approach and whether there are potentially any implications due to the advice/guidance boundary.

It will be important that any future decumulation regime provides schemes the regulatory certainty that they are not breaching advice rules. We encourage the DWP to feed into the FCA/HMT's Advice/Guidance boundary review currently underway to ensure this happens. The outcomes of this may also influence some aspects of a decumulation framework.

Once the review has completed, it should be the responsibility of DWP to ensure that the final proposals are clear and do not create any adverse implications for schemes linked to the advice/guidance boundary.

TISA

Question 8 - Do you have any suggestions for key metrics or areas that would need to be included if the proposed value for money framework was extended to decumulation or suggestions for where proposed metrics may no longer be required?

We believe that the VfM framework should be extended to decumulation from the outset of the new framework. However, this would be a significant piece of work and warrants a standalone consultation.

Question 9 - Do you have safeguards in place for members in the decumulation stage? If so, what are these safeguards and what information do you provide to members?

N/A

Question 10 - Do you use the same charge structure as you do in the accumulation stage?

N/A

Question 11 – We would welcome views to understand what are the practical considerations of partnering arrangements?

If partnering arrangements are to be used, trustees will need to know where their responsibilities end. We propose that once the hand-off is complete, the trustees' responsibilities end i.e. providing a clean break.

This approach is currently in place today. Generally, when schemes buy an annuity for a member they step away from the relationship at that point. They don't want to have any oversight responsibilities because that could make the annuity an asset of the scheme, meaning the individual continues to count as a member and on death, the scheme trustees would usually be responsible for making any discretionary decisions on any death benefits available (such as remaining guaranteed payments). It makes sense to continue this approach as ultimately, it isn't them providing the income option at that point.

Linked to this is consumer protection. The FSCS coverage can get very complex and there are some occasions where compensation isn't available because the owner of the asset isn't an eligible claimant. If the decumulation product is deemed part of the scheme (so the scheme is the owner not the member) then if the decumulation provider were to fail, there may be no compensation available if the employer involved with the occupational scheme is a large employer and therefore not eligible.

By stepping away from the relationship the product moves into the member's own name and generally the FSCS will 'look through' the decumulation trustees and treat the member as the owner, making them an eligible claimant.

Trustees will need to carefully select appropriate partners, however these should fall under the remit of VfM and potentially could have a minimum size threshold applied.

As a general principle, members should be able to easily access all of the core decumulation options through any scheme without detriment or barriers, irrespective of whether this is offered in-house or through a partnering arrangement. However, consumers should be encouraged to 'shop around' before making a provider decision. This is a key FCA message used in the contract-based world, with providers having previously been fined for not consistently informing members of the potential benefits of doing so.

TISA

Question 12 – Should government set out a minimum standard partnering arrangement?

We believe that VfM should be embedded within the decumulation framework from outset and this should apply to all schemes, including those which offer partnering arrangements. As such, we believe this governance should provide appropriate protections for consumers and scheme trustees.

Question 13 –
a) Should all schemes be allowed to establish partnership arrangements or only schemes of a certain size?

Yes, all schemes should be allowed to establish partnering arrangements but it should be considered whether there needs to be a minimal size threshold placed on firms offering partnership agreements.

b) If only a certain size what should that be?

TBC

Question 14 - Is there a role for a centralised scheme to deliver decumulation options, where trustees are unwilling or unable to offer these directly?

We believe there should be a mandated set of core decumulation options that all schemes should offer (either directly or through a partnering arrangement). This should remove the opportunity for schemes to simply not offer options based on an unwillingness to do so.

Where minimum requirements cannot be met, these schemes should be forced to wind-up. This can be embedded with the VfM framework for decumulation.

HMRC also recently clarified their position in their July newsletter which adds to a decumulation governance framework:

We'd like to remind pension scheme administrators that pension schemes must be established and maintained wholly or mainly for the purpose of making payments falling within section 164(1)(a) or (b) (authorised payments of pensions and lump sums).

Where a scheme does not allow the payment of benefits or has terms and conditions that suggest the scheme will not pay out benefits on normal retirement (for example if a customer wants to take a pension then they have to transfer their funds to another registered pension scheme first), it is unlikely to be satisfying the wholly or mainly test.

HMRC will consider de-registration of pension schemes that do not meet this requirement.

Question 15 – We would welcome views on if there is an alternative to our approach for legislation that would achieve the same results?

We believe that legislation will be needed, however guidance as an interim measure would help schemes understand future requirements and start developing their propositions.

Question 16 – We want to work with industry during the implementation of these proposals; what timeline should we work to implement these changes?

There is a significant amount of existing and pipeline regulatory change that the pension industry is busy with, including Value for Money, New Consumer Duty, CDC, Pension Dashboards and Small Pots. The DWP needs to consider all change in the round, identify overlaps and create a prioritised timeline which acknowledges not only the scale of change but allows synergies to develop whilst creating cohesion in the wider pensions framework.

For instance, future phases of VfM are to expand out beyond default arrangements. Given there are no default arrangements in decumulation, the outputs from these future phases will be relevant to the decumulation framework, so it makes sense for the prioritised timeline to reflect dependencies such as this.

Given the focus on the potential benefits of consolidation at both scheme and member level, it would be prudent to nudge members into considering whether this is appropriate as a first step in the retirement journey.

The FCA advice/guidance boundary is another area which is currently under review, the outcome of which could have a significant impact on communications, support and guidance.

Question 17 – When we introduce legislation should this only apply to Master Trusts in the first instance?

We agree that a phased approach is appropriate, with the plan aligned to a wider joined-up change schedule i.e. VfM should be in place for any schemes which are brought into the decumulation framework.

Consideration also needs to be given regarding the knowledge that regulated advisers will need in order to advise on the appropriateness of decumulation CDC arrangements.

Question 18 – Do you have views and evidence on how this can be delivered in ways that achieve our policy aims of stimulating CDC in decumulation, enabling Nest to provide the services outlined in this consultation, while ensuring a healthy competitive marketplace?

There is a significant amount of existing and pipeline regulatory change that the pension industry is busy with, including Value for Money, New Consumer Duty, CDC, Pension Dashboards and Small Pots. The DWP needs to consider all change in the round, identify overlaps and create a prioritised timeline which acknowledges not only the scale of change but allows synergies to develop whilst creating cohesion in the wider pensions framework.

For simplicity, Nest should be subject to the same rules and have the same opportunities and options available to it and its members as other pension schemes.

Question 19 - Are you able to quantify any of the one-off or on-going costs at this stage?

N/A

Question 20 - Are you able to provide a breakeven point in pot size for providing certain decumulation products or services? Would this be different for decumulation only CDC's?

N/A

Question 21 - What benefits do you expect there to be from the proposals members/schemes/wider)? Do you think they are quantifiable?

Given the inconsistencies that currently exist within decumulation propositions across DC occupational schemes, the framework will create more consistency, meaning a greater number of individuals having easier access to retirement options.

We are all strong advocates of simplicity and consistency in the pensions framework to promote engagement and understanding. The importance of this work being undertaken in collaboration with the FCA is significant as all DC savers are exposed to the same risks, have the same needs and should have equivalent opportunities and protections in place, irrespective of which regulatory regime their pension pot(s) are subject to. The operation of two distinct decumulation frameworks would undermine the objectives of this initiative as well as what we are trying to achieve more generally with the pension framework and consistent consumer journeys.

Question 22 – Do you think the benefits from the proposed changes outweigh the costs?

N/A