

## **TISA RESPONSE TO DWP's CONSULTATION PAPER**

### **BETTER WORKPLACE PENSIONS: PUTTING SAVERS' INTERESTS FIRST**



## **INTRODUCTION**

**TISA is a not-for-profit membership association operating within the financial services industry.**

TISA's membership comprises over 145 member firms involved in the supply and distribution of savings and investment products and services. These members represent many different sectors of the financial services industry, including banks, stockbrokers, asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, consultants and advisers, software providers, financial advisers and pension providers.

Having a legacy of focusing predominantly within the tax incentivised products area, TISA has in recent years moved into the broader savings and investment world, extending our status of 'trusted advisor' to the authorities over a much greater remit. This has been welcomed by our members and the authorities as a natural progression.

TISA has a highly successful track record in working cooperatively with government, regulators, HMT, DWP and HMRC to improve the performance of the industry and the outcomes for consumers. Policy and regulation continues to be the major focus for our members with regard to corporate responsibility.

TISA and its members' remit is evolving into a clearer focus on pro-active consultation in the regulatory world in order to influence policy and associated regulation before its creation, rather than reacting to issue policy directives. This will help to ensure a more considered policy creation from the authorities.

What makes TISA unique is that we cover the entire industry, incorporating cross sector policy, industry and technical expertise. Whilst we maintain a solid partnership with government, the regulators and wider industry, we remain independent and develop neutral views and opinions. This impartiality is reflected in our ability to drive development projects which improves industry performance and puts us in the unique position of being able to constantly challenge the status quo to bring about material improvement. At the forefront in all of our recommendations and actions is to consider national and consumer outcomes.

## **RESPONSE TO CONSULTATION**

### **GENERAL COMMENTS:**

TISA welcomes the introduction of minimum governance standards together with improving transparency of costs and charges for all money purchase workplace pension schemes. We are concerned however, that with the FCA consulting separately in respect of workplace personal pension schemes there is a danger of inconsistency and potential confusion with the requirements for occupational money purchase schemes. We believe that the only way to achieve greater transparency of charges (that are consistent and comparable across all types of schemes) is through the implementation of a single disclosure regime across all workplace pensions. It is reassuring to see that the work currently underway at European level to improve transparency (through IORP II, MiFiD and PRIIPs) is being considered to ensure that the totality of the requirements work effectively together.

In terms of the charge cap, TISA remains fundamentally opposed to the concept of a charge cap and remain strongly of the view that alternative ways should be explored to introduce increased competition and improved outcomes for savers. We feel it's better to rely upon independent trustees exercising their fiduciary duties than the imposition of a charge cap, particularly where transactional costs are excluded from the cap. There are many industries outside of financial services where the market is healthy and competitive with the end consumer getting good value for money without that market being artificially controlled by a charge cap. We also feel that the regulations should explicitly state the sanctions or other penalties that trustees may face where the charge cap is breached.

TISA would welcome the opportunity to discuss this important consultation with you further.

### **SPECIFIC COMMENTS:**

#### **1) Establishing a corporate trustee company for Master Trust**

The current wording of the draft regulation 27(4) of the Administration Regulations would imply that if an incorporated trustee is not a professional trustee body, then only individuals can be directors. This is not helpful, as many Master Trusts currently have a sole professional corporate trustee. We believe that it is reasonable for a professional trustee to be appointed as a director of a new incorporated trustee, and this is clearly envisaged as an option by paragraph 104 of Chapter 2 of the Command Paper. However, as currently drafted, it would not be possible to appoint a professional trustee to the new corporate trustee board other than in an individual capacity. Is this the department's intention?

## **2) Clarity on charges for additional benefits**

We would welcome confirmation from DWP that additional insurance benefits, such as death in service cover, are excluded from the charge measures. A number of employer sponsors consider these to be valuable benefits for scheme members and may wish to continue to offer these benefits as part of their qualifying workplace pension scheme, particularly where the benefit has been actively selected by the member.

### **RESPONSE TO CONSULTATION QUESTIONS:**

#### **Q1.**

a) Does the definition of “relevant scheme” (regulation 2) meet the policy intention of protecting members of schemes used for automatic enrolment from higher and unfair charges?

Yes.

b) Does the definition of “relevant scheme” (regulation 13) meet the policy intention of ensuring that workplace schemes are well governed in members' interests?

Yes.

#### **Q2.**

Do the draft regulations (regulations 4(3) and 4(4)) meet the policy intention of excluding from the charge cap members of qualifying schemes who have the advantage of a third party promise?

We would welcome confirmation from DWP that with profits plans which provide a meaningful guarantee to pension savers would be classed as a 3<sup>rd</sup> party promise. This would include “unitised” with profit funds which provide savers with a minimum return on their pension savings (e.g. a guarantee that the unit price will never fall in value). These guarantees can only be offered as a result of the capital support available from the provider of the guarantee. Therefore, it seems unreasonable to include these costs within the definition of the charge cap.

#### **Q3.**

Do the regulations achieve the policy intention of protecting against trustees being restricted to particular service providers, while allowing employers to set appropriate parameters around investments?

Yes.

#### **Q4.**

Do the regulations adequately describe professional trustees?

Yes.

#### **Q5.**

Does the definition at regulation 1(2) capture those schemes described as master trusts in chapter 2?

Yes.

#### **Q6.**



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Do the draft regulations meet our policy intention of ensuring that occupational schemes are well-governed?

Although the minimum standards will go some way to improve governance, it is the effectiveness and ability of the governing body itself that will truly lead to an improvement. For example, although all trustees will have a duty to assess value for money, the process that trustees undertake to perform that assessment could vary considerably. TISA recommends the DWP keeps this on review to determine whether they believe this aspect is being performed adequately, or whether trustees are simply adopting “tick box” exercise without fully delving into the true nature of value for money.

### **Q7.**

- a) Do you have any comments regarding the policy on who should have the duty of compliance with the charges measures?
- b) Do you have any comments about how the draft regulation (regulation 4) meets the policy intention?

See comment above.

### **Q8.**

Do you have any comments on the policy regarding the member borne deductions that fall within the cap, and how the draft regulations reflect the policy intention? These exclusions are:

- a) the non-recurring variable transaction costs which are incurred by a scheme when buying, selling, lending and borrowing underlying investments (“transaction costs” definition in regulation 2)
- b) pension sharing and compliance with court orders (“charges” definition in regulation 2)
- c) winding up costs (“winding up costs” definition in regulation 2)

No comments.

### **Q9.**

Do you agree with the policy on which the draft regulations are based (see regulation 3) – to capture as many workers as possible who made no active or informed choice about their investment strategy, whilst also minimising the risk of capping funds where members made an active choice?

Yes.

### **Q10.**

- a) Do you agree that the draft regulations (regulation 3(3)) should allow members who have made a recent active choice to remain in an arrangement which is not subject to the charge cap?

Yes.

- b) Is the 3 month time period reasonable?

We believe that 3 months is too tight and propose that 6 months is more appropriate.

### **Q11.**

- a) Do you have any comments on the policy about protecting the members to whom the cap applies?

b) Do you have any comments about how the draft regulations meet the policy intention?

No comments.

**Q12.**

Do you have any comments on the policy intention of:

a) imposing the cap on the total fund of the member and not just on contributions made after the relevant date?

As we have previously stated, TISA is against the introduction of a charge cap. However, notwithstanding that position, should a cap be introduced then for administrative ease it should apply to the total fund.

b) prohibiting charge structures other than those set out in paragraph 68 (and reflected in regulation 5?)

No comment.

c) limiting the opportunities for altering charging structures as described above, whilst avoiding locking schemes into particular charging structures indefinitely? (regulation 5 (4))

No comment.

**Q13.**

a) Do you have any comments on the policy described above in relation to the valuation of the member's fund and the period over which the charge cap applies?

b) Do you have any comments on how the draft regulations reflect that policy (regulation 7)?

No comment.

**Q14.**

a) Do you have any comments on the policy regarding opt-in services described above?

b) Do you have any comments on the draft regulation (regulation 8) which reflects that policy?

No comment.

**Q15.**

a) Do you have any comments on the policy in relation to Active Member Discounts?

b) Do you have any comments on the draft regulation (regulation 10) which reflects this policy?

We dislike AMD on principle and support the ban from 2016.

**Q16.**

a) In addition to the questions already asked, is there anything else in the policies as set out in this paper on which you have any comments?

b) Do you have any comments on how the draft regulations reflect the policies explained in this paper?

No comments.

**Q17.**



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Is the scheme return the most proportionate way to obtain information on compliance with the governance standards and charges measures?

Yes.

### **Q18.**

Is the proposed compliance approach to the Chair's Statement, as described in draft regulations 24 and 26 appropriate and proportionate?

Yes.

### **Q19.**

Do the adjustment regulations (regulation 9(2)(a)) reflect our policy intent of providing an adjustment mechanism for occupational schemes which cannot stay compliant with the charge cap, to take action to resolve the situation promptly?

TISA welcomes this sensible and pragmatic approach to assist newly qualified schemes.

### **Q20.**

Do the adjustment regulations (regulation 9(2)(b)) meet the policy intention of providing an adjustment mechanism for occupational schemes when, as a result of an unexpected event; they are unlikely to be able to comply with the cap?

Yes.

### **CLOSING COMMENTS:**

The Department will know that TISA has been very supportive over the years around many of the initiatives the Minister has pursued. However, in terms of the imposition of a charge cap, we believe the focus should instead be on supporting a market already providing low charges, through a better designed regime of consistent governance and disclosure that really works for employers and employees, regardless of the type of money purchase workplace pension scheme.

TISA would welcome the opportunity to discuss this further with DWP following the consultation period.

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