leading on investments and savings

HMT CONSULTATION RESPONSE

PENSION TRANSFERS AND EARLY EXIT CHARGES

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ABOUT TISA

TISA is a not-for-profit membership association operating within the financial services industry. The focus of our recommendations and actions is improved outcomes for consumers and UK plc with this approach leading to a stronger UK financial services industry.

TISA's growing membership comprises over 150 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 asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, consultants and advisers, software providers, financial advisers, pension providers, banks and stockbrokers.

Having a legacy of focusing predominantly within the tax incentivised products area, TISA has in recent years moved into the broader savings and investments world, extending our standing as trusted adviser over a much greater remit.

TISA has a successful track record in working cooperatively with government, regulators, HMT, DWP and HMRC to improve the performance of the industry and the outcomes for the public. Effective policy and regulation and the creation of efficient industry infrastructure continues to be the major focus for our members. TISA is unique in that it represents the entire financial services 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 improve industry performance and consumer outcomes, putting us in the unique position of being able to constantly challenge the status quo to bring about material improvement.

RESPONSE TO CONSULTATION

TISA welcomes this important consultation and is delighted to present its responses to it below.

RESPONSE TO QUESTIONS
Exit charges and fees (Chapter 2)

The majority of exit charges prevalent today are in respect of legacy products sold by advisers as far back as the 1980's. These products typically had 'initial units' over the first couple of years, against which charges were levied over the remaining term (often to the individuals selected pension date), designed to cover the initial set-up costs and repay the cost of adviser commissions.

With the passage of time since these contracts were first sold, the instances of exit fees being applied and the level of those fees has significantly reduced. FCA's own research finds that 83.6% of those individuals aged 55 or older are not liable to exit charges. Similarly, 89.6% of those individuals under age 55 are not liable to exit charges.

Individuals tended to wait until their selected retirement date, or close to it, with few opting to buy an annuity at an earlier age due to the reduced income this would provide.

However, the new pension freedoms has dramatically changed this position and individuals are now looking to access some or all of their pension pot prior to their original retirement date.

A distinction should be made between exit charges written into a contract many years ago (as described above) and those charges recently introduced by firms on existing products since the new freedoms were introduced. Although the former shouldn't be exempt from an 'appropriateness and fairness test', the latter is clearly a breach of TCF Outcome 5 which says that "Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint".

In view of this, it seems appropriate to review the balance between the need to recoup legitimate (fair and reasonable) expenses and the ability for individuals to access the new pension freedoms.

1. **Do you have any evidence as to the scale and quantum of fees and charges that individuals might incur for leaving their scheme or accessing their benefits early?**

   We do not hold such information.

2. **Are you aware of any evidence of charges that are levied at, or above, an individual's selected pension age? Are there any examples of customer detriment as a result of late exit penalties, and charges at an individual's selected pension age?**

   Exit charges typically cease to apply at the individuals selected retirement date. In terms of charges, we have no evidence of customer detriment at their chosen pension date.

   An example of when an exit charge might apply after an individual's original chosen pension date would be where they changed their original chosen pension date by deferring it before they reached their original chosen pension date. In that situation, a provider might extend the period over which it recouped its set-up costs until the revised later pension date.

   This ignores the possibilities of a market value adjustment in relation to a conventional or unit-linked with profits fund, or any potential delay in accessing benefits within a property fund or any type of suspended investment fund.

3. **In your view, what would constitute an 'excessive' or unfair early exit charge? Please include any fees and charges that you would consider to be outside this definition and why.**

   TISA considers any charge which attempts to profit from an individual exercising their right to exit early should be considered excessive and unfair. As such exit penalties should be limited to recouping legitimate set up expenses and the cost of any commission paid to an adviser. They should not be used to recoup and subsidise future profits which the provider was expecting to make over the term of the contract.

   Independent Governance Committees should compare the comparative value of staying and leaving, ensuring that the level of charges are fair and reasonable.

4. **Are you aware of any evidence of exit charges impacting on individuals' decisions to access the flexibilities? Are there any examples of individuals losing out as a result of not being able to access the flexibilities in these circumstances?**

   Assuming that an individual's pension arrangement did not offer any pensions flexibility options and that the individual had chosen a pension date after their 55^{th} birthday, they would have the option to:

- maintain their investment in their existing pension arrangement until their chosen pension age (thereby avoiding any exit charge); or
- transfer into another pension arrangement on their 55th birthday, or at any later date before their existing chosen pension date (thereby incurring an exit charge).

So the loss to an individual in these circumstances is either the inability to access the freedoms without cost (by way of a penalty free transfer), or the financial impact of suffering the charge in order to access the freedoms.

FCA data collection showed that while there are some large charges (as a % of fund value), most individuals do not incur any charge on exit, (see table below). It is worth noting that some of the large percentage reductions will translate to small monetary amounts. However, some of the small percentage reductions could be quite significant in monetary terms, which could act as a barrier to individuals accessing the flexibilities.

Charge As % Of Fund Value	Customers Aged 55 Or Older
No Exit Charge	83.6%
0% - 2%	8.8%
2% - 5%	4%
5% - 10%	2%
10% - 20%	1.1%
20% - 40%	0.4%
40% +	0.1%

5. **How could the simplicity and transparency of market value adjustments and other investment deductions (as opposed to exit charges) be improved to increase customer understanding of such fees?**

TISA believes that the answer here lies with providers, schemes and broader financial education.

Providers and schemes should include more information within their annual benefit statements to individuals who hold a conventional or unitised with profits investment, as well as within any other appropriate communications, including websites.

In addition, financial education should be extended in schools, colleges and universities to cover such concepts.

6. **The government would welcome views on the pros and cons of each of the 3 approaches to addressing excessive early exit fees set out in paragraphs 2.26 to 2.30. In particular, the government would be interested in views on particular components of an exit fee or other charges that should be considered to be in scope of any limit, and evidence on what might be the right level for any cap.**

Many TISA members have devoted considerable time and resource into the process of setting up and recruiting Independent Governance Committees (IGCs). We see this current issue of whether exit charges are impeding consumers from exercising their pension freedoms as being inextricably linked with whether the charges providers levy offer fair value for money.

So rather than leaping to a charge cap solution, we suggest that FCA place this issue firmly at the top of the agenda for IGCs. Each firm is different and within firms there are different contracts which may have higher and lower levels of exit charges and it is within the ability of the IGCs to take these particular situations into account.

IGCs should assess exit charges, ensure that they are fair, and ensure that they are properly communicated to customers so that those paying the charge realise why it's there and so are able to appreciate what it covers and why it isn't an exit "penalty".

To introduce a charge cap framework at this point of time would seem to presume that IGCs cannot deliver on important issues like this, and we believe that such a stance from FCA at this point indeed undermines the whole IGC concept.

We cannot comment on the merits of the three proposed charge cap frameworks for the reasons above.

Transfer process (Chapter 3)

Transfer activity is increasing due to the number of people moving employers, being automatically enrolled, as a means to access the new pension freedoms and due to customers' increasing propensity to shop around for better deals both before and at retirement.

It is therefore critical that we address the issue of transfers immediately to introduce a timely, secure and low cost solution that benefits in different ways all parties involved in the transaction.

Across the industry, the key issues in the transfer process tend to relate to the lack of standardisation, the use of paper forms and the need to verify the identity of the various parties involved. We believe all of these could be overcome by simply focusing on:

- Standardised documentation which is universally accepted by providers
- Greater adoption of digital information exchange
- The development of a standardised industry approach that replaces the current and different processes of provider due diligence, to ensure that the identity and integrity of providers is established and maintained.

7. How is the current statutory process working in your opinion, and what more could be done to make the statutory process quicker and smoother?

In the interests of speeding up transfer times, we believe that cancellation rights should be universally applied from the date of transfer, rather than before the transfer was made (as applied in relation to some schemes now). Where such cancellation rights are exercised after the date of transfer, then the ceding scheme should be required to accept the transfer back and to provide the same benefits that applied before the transfer.

There is no universal format for providing transfer information. This can lead to a delay as the receiving scheme attempts to obtain crucial pieces of information and is a particular problem for transfers from final salary/hybrid schemes to money purchase schemes, where a transfer value analysis system report is required. Therefore, agreeing standard information formats for transfers, particularly from final salary/hybrid schemes would be sensible.

TISA would also like to see the block transfer restrictions relating to scheme-specific pension commencement lump sum and protected pension age cases removed.

8. What are your views on adopting a separate process for transfers out where benefits are flexible? What might this process look like, and what, in your opinion, might be the risks of doing so?

A separate bespoke process for transfers out where benefits are flexible should only be adopted if a common standard process applying to both types of transfer results in some form of administrative compromise. When there's compromise in a process there's a risk of error resulting in potential consumer detriment.

9. Do you have any evidence of circumstances where receiving schemes are not accepting pension transfers under the new freedoms, or are putting in place procedural barriers to doing so?

We are aware that some providers/schemes are refusing to accept some transfers unless financial advice has been received, even where this is not required by law.

Although we would not welcome the extension of any form of compulsion (as currently applies in relation to stakeholder pensions) to accept transfers, we would like to see the practice of providers/schemes refusing to accept a transfer in the absence of advice (unless required by law), being banned. To bring this to life why should an individual with a modest pension pot of £25,000 of safeguarded benefits be required to pay for financial advice in order to transfer to access pension freedoms and use this to clear debt? The cost of any advice would be disproportionate to the value of the fund and only result in the debt not being cleared to the extent it otherwise would.

Individuals should be trusted with their own money, signposted to the appropriate information sources and ultimately allowed to make their own informed decisions.

Following a transfer, we believe that the relevant accretion rules should be amended to allow the ceding scheme to pay a subsequent small lump sum to their ex-member as an authorised payment if:

- further money emerges, whether the ceding scheme knew that this was likely to happen (for instance from a dividend payment) or not; and
- the receiving scheme was unwilling, or unable, to accept the subsequent payment.

We also think the same principle should apply if the individual had originally used some, or all, of their pension fund to purchase a lifetime annuity from an insurance company

10. In your opinion, what more could be done to make the process for receiving firms accepting pension transfers in quicker or smoother?

The receiving scheme should lead the transfer process.

A customer's transfer charter could be introduced with an automatic entitlement to redress if the ceding scheme fails to make a transfer on time and/or fails to provide any associated information which the receiving scheme needs to within an acceptable timescale. Schemes could be required to publish the number and the associated percentage of cases which triggered a transfer redress payment.

See also comments relating to TeX below.

11. What, in your view, is the scope for making the process for transfers more efficient through a standard approach that works for the majority of pension savers? Should this process focus on transfers in relation to flexible benefits? How might this work in practice?

The current system is not working and is failing individuals. This situation will deteriorate with an increase in the volume of transfers generated due to automatic enrolment, accessing pension freedoms and from employees moving jobs more frequently.

The DWP recognised this challenge in their excellent work on the implementation of the Automatic Transfer policy (also known as 'Pot-Follows-Member'). In their draft implementation paper they described a 'federated' model of competitive private technology providers using open standards. This would have provided the catalyst to create an open market for transfers across life offices, occupational schemes, master trusts and SIPP providers, but this policy has now been shelved.

TISA Exchange Limited (TeX) was established to help facilitate the electronic transfer of wrappers and assets between fund managers, platforms, wealth managers and any firm which holds assets on behalf of investors. It was developed by a cross industry initiative, provides a common legal framework and adopted the open ISO 20022 technical standards, which together with associated Service Level Agreements (SLA) creates an environment in which multiple technology companies can create innovative, cost-effective and interoperable solutions.

There are now four companies providing competitive but interoperable solutions, which has resulted in transfer times for Stocks and Shares ISAs being drastically reduced.

The benefits of an open transfer framework include:

- Certainty for providers on their legal obligations and liabilities
- Competition between multiple technology companies providing interoperable solutions
- Flexibility for different parts of the industry to choose their own solution
- No centralised infrastructure or monopoly supplier
- Reduced market risk with no dependency on any single technology supplier
- Improved service and lower costs for individuals

TeX was extended to include pensions in 2014, however this has not yet been widely adopted. It has not been possible for all parts of the pension industry, life offices, occupational schemes, master trusts and SIPP providers, to agree a common approach. Currently the bulk of pension transfers go through the Origo pension transfer system, but this does not interoperate with systems provided by other suppliers. It is unquestioned that electronic messaging is the key to faster, more efficient transfers. In order to enable more providers to use such methods, TISA would like to see an open market operate in the pension space, enabling providers to choose their own supplier. The resulting increased competition can then work to improve efficiency, customer experience and to reduce costs.

The transfer problem must have a common cross industry solution but it seems that the industry needs some prompt from the government or regulators to reach agreement.

TISA firmly believes that TeX is the solution to making the transfer process quicker and smoother for pension transfers and would welcome the opportunity to meet with HM Treasury to discuss how TeX could be best adopted across all parts of the pension industry.

Financial advice (Chapter 4)

The whole issue of financial advice, and guidance, is now the subject of the much broader Financial Advice Market Review (FAMR). To some extent, we anticipate that any changes that arise from this consultation may well form part of the recommendations from FAMR, in due course.

That said, we recognise there are some more immediate issues with people trying to access their pension and the availability of advice, where they are required to take it.

To a large extent, we believe that one of the core issues is the provision of affordable advice, or indeed a more comprehensive version of what can be provided as guidance. At the moment, there seems be a significant gap between what be provided without charge, as guidance, and the level of charge incurred in receiving advice.

Given that many people have pension funds (or guarantees that are valued at) only a little over the £30,000 threshold, paying several thousands of pounds for transfer advice, only to be told that it is unlikely to be in their interests to transfer, is understandably viewed as an expensive obstacle.

In advance of having completed a wider review of advice, a more proportionate response may be appropriate to ensure that we find a balance between the need to protect members from making poor decisions, and the risk of creating barriers to the flexibility.

We are therefore supportive of some form of 'customer control' process introduced for the purposes of people wanting to execute transfers in the absence of advice. It will be critical however that it is thoroughly tested to ensure its effectiveness.

12. What has been the impact of the legal requirement to receive independent advice on the process for transferring pensions with safeguarded benefits?

Some individuals have seen the legal requirement to receive advice as a barrier and so have chosen not to do so, denying themselves access to the freedoms.

Other individuals who are desperate to access funds to clear crippling debt (for example) are aggrieved that they must pay for advice, before being able to do so. This only reduces their ability to clear the debt and in these circumstances any recommendation not to transfer is unlikely to influence the individuals chosen course of action.

13. How could the process for seeking advice in relation to safeguarded benefits be made quicker and smoother, and clearer for individuals, firms, and advisers?

No comment.

General

14. What evidence do you have of wider issues regarding the implementation of the pension flexibilities that need to be addressed?

No comment.