Sandra Graham and David Berenbaum
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

30 October 2019

Dear Sandra and David,

CP19/25: PENSION TRANSFER ADVICE

The FCA Smaller Business Practitioner Panel wishes to raise a number of concerns around the proposals in consultation CP19/25 on charging for pension transfer advice. In May 2018 we responded to CP18/7[1] on improving the quality of pension transfer advice, and encouraged the FCA to take an approach that keeps as many options open to customers as possible. We believe an outright ban on contingent charging would have the effect of shutting down important channels of advice.

We are therefore very disappointed that the FCA is proposing to ban contingent charging, an approach which will, we believe, result in significant consumer detriment. The evidence provided in the consultation does not show a causal link between consumer harm and the charging structure of advice. While we agree there is harm in some areas of the industry, we believe the FCA's conclusions from its investigations, looking at one stage of the customer journey and not the broader process, need to be revisited in order to target the actual harm. We have significant concerns that the consequences of this approach will be that consumers will simply not be able to access the help they need.

The advice process

Defined Benefit pension transfers are an extremely complex area, often dependent upon personal, emotional and practical considerations. The mathematical comparison between guaranteed income versus flexibility is relatively easy to calculate. It is the soft facts that very often hold the key to a client's intentions. Advisers are rightly obliged to know their client before they can advise and therefore should not engage with any preconceptions. Starting from a position that a transfer is not in the client's best interest influences the approach of the adviser, affects the approach of professional indemnity insurers and makes it difficult for a truly objective review of a file by the regulator.

We believe that the focus on the figure of 69% of clients advised to transfer is misleading. This figure focuses on the final stage of the advice process, once clients are very likely to have passed through extensive triage processes and may well represent a population for which a transfer is indeed more likely to be appropriate. We recommend that the FCA should reassess its conclusion about the likelihood of harm by looking more broadly at the whole process before making any decisions which may adversely affect many customers in vulnerable situations.

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[1] https://www.fca-sbpp.org.uk/sites/default/files/sbpp_response_to_cp18-7_improving_the_quality_of_pension_transfer_advice_final.pdf

Mandatory advice

Anyone with a transfer value of over £30,000 is required by law to take advice. The Panel agrees with the FCA's view (in paragraph 1.11) that the proposals will reduce the number of firms able to carry out such business. However, we have seen no evidence that this will be successful in reducing the proportion of unsuitable advice and reduce professional indemnity insurers' risks and premiums over time. Reducing access to advice not only conflicts with the principles of pension freedoms, but ensures that only wealthier investors can access these freedoms.

Options for further discussion – hourly rates

As proposed, it appears that advisers who charge via an hourly rate could be considered to be using a form of contingent charging, as there would be more work required, and therefore a higher fee, for those clients who are advised to transfer. There is no detriment in charging an hourly rate as long as the charges are clearly explained to the client, and many advisers, as is the case with other professions, base their business models on this approach. Currently the decision on whether the hourly-based fee is paid by the client personally or by their pension fund via an adviser charge rests with the client. In practice, most clients prefer an adviser charge and would not be in a position to pay for advice otherwise. We assume the FCA would not see an hourly rate as contingent charging but as yet this is unclear. Either way, we believe the impact upon consumer choice would be similar, closing off access to valuable retirement planning advice on one of the most important financial decisions they are ever likely to make. We recommend further exploration in this area as one of a number of more flexible ways forward for some firms.

We would be happy to discuss any of these points further if required.

Yours sincerely

[Signed]

Marlene Shiels
Chair, FCA Smaller Business Practitioner Panel