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COMMENT

Time to consolidate the regulators?

By **Tom McPhail |** March 18, 2024

Does having two regulators for the pensions sector demonstrate value for money, asks Tom McPhail.

We should look at consolidating the regulation of UK pensions by bringing together the Financial Conduct Authority (FCA) and The Pensions Regulator (TPR) into one combined organisation.

It is not difficult to offer reasons why this is a bad idea, so before I go on to offer my thoughts on why we should have this discussion now, let me attempt to briefly acknowledge some of the counter-arguments.

The FCA and TPR are fundamentally different organisations, with different histories, different geographical locations and different ways of working. The whole structure of trust-based workplace pensions, including defined benefit (DB) schemes is materially different to the tens of thousands of firms regulated by the FCA.

In addition, the legislative histories, the Acts of Parliament that created the two organisations and under which they now operate, mean that unpicking the current framework and bringing them together would be a huge undertaking.

So why do it and why do it now?

Because the current framework only makes sense if you're looking in the rear-view mirror. Because running two separate regulators is an obscene waste of money and because the convergence of pension provision in recent years is making the dual structure redundant.

The decline of DB and the congruence of trust- and contract-based defined contribution (DC) schemes mean the existence of two regulators is causing more problems than it solves.

Converging paths

The FCA was born out of the Securities and Investments Board, which became the Financial Services Authority in 1997, which then became the FCA in 2013.

TPR was born out of the Occupational Pensions Regulatory Authority, which itself replaced the Occupational Pensions Board.

Both can trace their heritage back to the 1980s and both have evolved very significantly from what they once were. They were created to serve different constituencies, yet increasingly they are both doing the same thing, while having to bend over backwards to eliminate inconsistencies in their respective approaches.

Workplace pensions used to be very distinct animals from the investment, insurance and advice firms overseen by the FCA; now, not so much – and in the future, perhaps even less so.

Both regulators are trying to implement similar but different value for money frameworks. Both regulators are trying to manage the process of individuals converting DC pensions into a retirement income.

Master trusts are having to serve both regulatory masters concurrently. The same will be true of collective DC schemes, which will be simultaneously a workplace scheme regulated by TPR and a retail proposition regulated by the FCA. Auto-enrolment regulations on one side, Consumer Duty and the FCA Handbook on the other.

Does any of this make any sense?

Who pays?

Separately, but related, is the ludicrously complex structure of levies and subsidies that fund the Money and Pensions Service (MaPS). This too only makes any sense when looking in the rear-view mirror.

When I reviewed MaPS for the Department for Work and Pensions (DWP) a couple of years ago, I wanted to challenge this highly complex funding model but was told the funding structure was off-limits. This should be looked at now.

TPR employs around 1,000 people and has a turnover of £100m. The FCA employs over 4,000 people and has a turnover of around £700m.

They each have their own boards, audit, risk and remuneration committees, their own offices, their own websites, branding and communications teams. They have their own pension scheme, their own HR departments, their own sustainability and diversity programmes. Who pays for all this?

In the end, the customer pays for everything; before that the industry pays for its own regulation in the form of levies.

Value for money

Does having two separate regulators represent good value for money? I suspect not.

And here's the final point of this article. Only politicians can address this question.

Turkeys don't vote for Christmas. Neither the regulatory staff at TPR and the FCA, nor their counterparties in the DWP and the Treasury are ever going to voluntarily engage with this question.

In theory, Harriett Baldwin and Stephen Timms, chairs of the Treasury and Work and Pensions select committees respectively, could challenge this status quo. Realistically, though, it's only going to be properly scrutinised if the government decides to take it on.

It is too late in this parliament to open this can of worms. I'd like to see whoever forms the next government take a proper look at this question.

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