ICAEW
REPRESENTATION 71/18

TPR AND FCA JOINT STRATEGY

Issued 19 June 2018

ICAEW welcomes the opportunity to comment on the *TPR and FCA joint strategy* published by TPR on 19 March 2018, a copy of which is available from this link.

This ICAEW response of 19 June 2018 reflects consultation with the Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

ICAEW connects over 150,000 chartered accountants worldwide, providing this community of professionals with the power to build and sustain strong economies. This response has been prepared in consultation with ICAEW's Corporate Finance Faculty and its Finance and Management Faculty.

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MAJOR POINTS

1. This ICAEW response contains some high level comments, rather than answering the specific questions.
2. Previously, the ICAEW has advocated a single regulator, although we acknowledge this may now be more problematic given that prudential regulation has been transferred to the PRA (which sits below the BoE, whereas the FCA sits below HMT). However, our view remains that a single regulator for work based pensions is preferable. If the two separate regulators continue, the interaction between them should not result in undue delay. We are aware of a case involving TPR and FCA where joint engagement by the regulators was apparently slow and, to have been more effective, should have been concluded several weeks sooner than was the case. There is also a need for the two regulators to work together in a consistent fashion, for example, see our comments below regarding master trusts. Another example of inconsistency is the DWP is currently consulting on clarifying and strengthening investment duties of pension trustees (to be legislated in October 2018), whereas the FCA is only proposing to consult on extensions to the remit of IGCs in the first quarter of 2019. It would be helpful if such proposals for IGCs were considered at the same time, and were consistent with, those proposed for trustees.
3. The consultation uses the regulators' existing powers and functions as a starting point. However, these may change based on the outcome of other consultations (for example, the DB White Paper will give rise to a series of consultations on DB regulation over the next year or so) and therefore this strategic review risks becoming out of date quite quickly and should be linked to other consultations which overlap.
4. Given Master trusts and contract-based schemes with Investment Governance Committees (IGCs) are effectively trying to offer equivalent products, there needs to be a more holistic approach to their regulation and risk management as they are currently under different regulatory frameworks with, as an example, different levels of assurance available (there is the Master Trust Assurance Framework, but no equivalent assurance on IGCs). A similar issue is likely to arise with the proposed introduction of a regime for DB consolidation vehicles (heralded in DB White Paper), which could look like alternatives to PRA regulated solutions like buy-out.
5. The FCA and TPR focus on investment costs and transparency, whereas there seems to be a gap relating to administration and governance costs, and we note that some other jurisdictions require disclosure of 'cost per member' which could provide more meaningful information.

RESPONSES TO SPECIFIC QUESTIONS

Q1: FCA and TPR's remits intersect in some areas. Do you see this working effectively, or are there areas where this could be improved?

Please see our comments at paragraph 2 above regarding the need for the two regulators to work together more efficiently and in a more consistent fashion.

Q6: Are there any further opportunities for FCA and TPR to support the delivery of value for money, either singly or together?

Please see our comments at paragraph 5 above, regarding disclosure of administration and governance costs.