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Rt Hon Sir Stephen Timms MP
Chair of the Work and Pensions Committee
House of Commons
London
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29 September 2022

Our Ref: C220801F

Dear Sir Stephen,

RE: British Steel Pension Scheme (BSPS) redress scheme

Thank you for your letter of 1 August, including your feedback on our consultation[1] (CP 22/6). As you are aware, CP 22/6 includes proposals to introduce a consumer redress scheme to ensure that consumers who received unsuitable advice to transfer out of the BSPS, and suffered financial loss as a result, receive redress. The consultation closed at the end of June and we are currently reviewing the responses that we received. If we decide to implement a scheme, we will aim to publish a policy statement, including final rules, later this year.

In your letter you ask if people who have already received compensation from the Financial Services Compensation Scheme (FSCS) but whose losses exceed FSCS compensation limits will be included in the proposed consumer redress scheme, and what will happen to FSCS claims in the pipeline when CP 22/6 was launched. You have also asked how lump sum payments under the redress scheme will be adjusted to ensure someone on means-tested benefits is not disadvantaged. Finally, you asked how we are going to ensure firms calculate and pay redress in accordance with our guidance.

People who have already received FSCS compensation in the proposed scheme or have submitted an FSCS claim when CP 22/6 was launched

Under our proposal, customers of firms that have failed (who may or may not have already submitted a claim to FSCS) will not be included in the scheme. This includes people who have already received compensation from the FSCS. Our proposal stipulates that authorised firms would need to follow detailed rules when assessing suitability of advice and, where appropriate, calculating and paying redress. Customers of firms that have failed will not be included in the redress scheme because there is no longer an authorised firm to carry out the scheme steps and pay redress.

Customers of firms that go out of business before the scheme starts can make a claim to the FSCS, if they haven't already done so. If a scheme is implemented, for any firms that go out of business after the scheme starts, where possible FSCS will proactively assess claims that are within the scope of the scheme (without the customers needing to make a claim). FSCS will also calculate redress in line with the scheme rules and will pay compensation up to the relevant limit. The FSCS compensation limits therefore apply to customers of firms that have failed after

[1] https://www.fca.org.uk/publication/consultation/cp22-6.pdf

and before any consumer redress scheme is implemented (as well as customers who have already received compensation from the FSCS).

The FSCS's operating costs and compensation payments are funded by levies on financial services firms. FSCS compensation limits were last reviewed between 2016 and 2018. In light of feedback received, we increased the limit from £50,000 to £85,000 for certain categories of claim for firms declared in default by the FSCS from April 2019 onwards. This limit was considered to represent an appropriate balance between consumer protection and the cost to industry levy payers, which are ultimately passed on to consumers.

Last December we published the Compensation Framework Review discussion paper[2]. In this paper, we explained that we thought that current compensation limits are set at an adequate level to cover a reasonable proportion of customers' claims but that we are interested in hearing views from stakeholders on whether changes should be made. We are currently considering next steps, including whether it might be appropriate to reconsider whether the current limits continue to provide an appropriate level of consumer protection. If, following a public consultation, a decision was made to increase the limits, it is likely that the increased limit would apply to customers of firms declared in default from a date in the future, rather than to consumers who had already received compensation. We will publish a Feedback Statement later this year.

Adjustment of lump sum compensation to take account of means-tested benefit entitlements

You note our view in CP 22/6 that redress should be paid as a lump sum to the consumer in line with our current methodology for calculating redress for non-compliant pension transfer advice. Since publishing CP 22/6, we have published CP 22/15[3], which sets out the findings of a comprehensive review of the methodology and some proposed changes.

In CP 22/6, we said we assumed that redress calculation rules for the BSPS redress scheme would be based on our general methodology. In CP 22/15 we have confirmed that this remains our intention. While we have proposed some differences for cases covered by the BSPS redress scheme (see Chapter 8 of CP 22/15[4]), the expectation that redress payments are adjusted to take account of means-tested benefit entitlements will apply to all cases.

We discuss the adjustment of redress payments to take account of the consumer's tax position and any means-tested benefit entitlements in Chapter 7 of CP 22/15[5]. It is our understanding that such entitlements are only likely to be affected by cash lump sum payments. So, our proposal that as much redress as possible should be paid into the consumer's defined contribution pension by augmentation should reduce the scope for their entitlements to be affected.

Where redress is paid by cash lump sum directly to the consumer (because, for example, augmentation is not possible), it remains our position that firms ensure consumers do not suffer a reduction in income because of the redress payment. Our proposed rules and guidance on this point (see DISP App 4.3.26R and 4.3.27G[6] in the draft instrument at Appendix 1 of CP 22/15) does not specify how cash lump sum redress payments should be adjusted to take account of means-tested benefit entitlements. We understand that compensation protection trusts (CPTs) can be used in these circumstances, with Redress that is paid into the CPT being available for investment. We will continue to consider whether more specific guidance could be provided to firms on this matter.

[2] https://www.fca.org.uk/publications/discussion-papers/dp21-5-compensation-framework-review
[3] https://www.fca.org.uk/publication/consultation/cp22-15.pdf
[4] https://www.fca.org.uk/publication/consultation/cp22-15.pdf#page=72
[5] https://www.fca.org.uk/publication/consultation/cp22-15.pdf#page=64
[6] https://www.fca.org.uk/publication/consultation/cp22-15.pdf#page=123

Finally, in CP 22/15 we noted that we are exploring the possibility of a redress calculator for the scheme. We will also require firms to provide regular data to us. We will use this regular data, along with data and intelligence from our regulatory partners to supervise firms compliance with the scheme and their treatment of consumers using a proportionate and risk-based approach.

I hope that this is helpful.

Yours sincerely,

Sheldon Mills
Executive Director, Consumer and Competition

Work and Pensions Committee

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Sheldon Mills
Executive Director, Consumers and Competition
Financial Conduct Authority

1 August 2022

Dear Sheldon

British Steel Pension Scheme (BSPS) redress scheme

We welcome the consultation on the proposed BSPS redress scheme, which is intended to put scheme members who suffered a loss because of unsuitable advice to transfer, back in the position they would have been in had the advice been suitable and complied with our requirements.[1]

You propose that people who had "already received redress in full and final settlement of claims about unsuitable advice during the relevant period will not be covered by the scheme." The rationale was that "the harm they suffered has already been put right."[2] However, the National Audit Office found that BSPS members had "lost £18 million of redress" because the compensation awarded by the Financial Services Compensation Scheme (FSCS) has been capped. The average loss for BSPS claims resolved by FSCS was £82,600, with individual cases ranging from £0 up to £489,000.[3] Your own estimate is that the BSPS redress scheme will mean that 1,400 BSPS members receive £71.2m in total redress, some £56.1m more than under existing arrangements.[4]

BSPS members who were proactive in taking action and have received capped FSCS compensation may not, therefore, feel that "the harm they suffered has been put right." **It would be helpful if you could confirm whether you intend to exclude people who have already received compensation from the FSCS from the BSPS redress scheme, and if you could explain what will happen to FSCS claims in the pipeline when your consultation was launched.**

A further question relates to the potential impact of lump sum payments, particularly on people in receipt of means-tested benefits. You say that, in line with your current redress guidance, payments from the BSPS redress scheme should be made in the form of a lump sum to the customer (due to the practical limitations of alternatives such as augmenting their personal pension). The redress guidance states that a lump sum payment should be adjusted to take account of the individual's tax position and their "wider circumstances so that they are not disadvantaged by receiving the redress payment" (para 7). The issue of means-tested benefits does not appear to be specifically addressed, although a post on the FCA website says that:

> For wider circumstances, firms should:
> - check if the consumer receives means tested benefit
> - check if any payment would change the consumer's eligibility for means tested benefits
> - adjust the redress payment accordingly so that the consumer is not disadvantaged by the payment[5]

[1] CP22/6, March 2022, para 1.10
[2] As above, para 5.19
[3] Investigation into the British Steel Pension Scheme, NAO, March 2022, para 20
[4] CP22/6, para 1.4
[5] 'We confirm periodic review of pension transfer redress guidance, FCA, 1 September 2021

It would be helpful if you could explain what this means in practice? For example, how a lump sum payment should be adjusted to ensure that someone on means-tested benefits is not disadvantaged? It would also be helpful to know what steps you will be taking to ensure that firms calculate and pay redress in accordance with your guidance.

It would be helpful to have a reply by 5 September 2022.

Yours sincerely,

Rt Hon Sir Stephen Timms MP
Chair