Written evidence from Phoenix Group [PPS0043]

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1. Executive Summary

1.1 Introduction

1.1.1 The Phoenix Group (Phoenix) welcomes the opportunity to respond to the Committee's inquiry into pension scams. Pension scams destroy lives and rob victims of the financial security in retirement that they have worked so hard for. They are a blight on society and adversely impact the reputation of our industry.

1.1.2 Phoenix is a FTSE 100 company specialising in the acquisition and management of life and pensions insurance businesses. Following the recent acquisition of ReAssure Group plc, Phoenix is now the UK's largest long term savings and retirement business with £324 billion of assets under administration and 13.8 million policies (as at 30 June 2020).

1.1.3 At Phoenix we are proud of the work that we do to try to make sure that our policyholders are protected from pension scams as far as possible. We have a team of highly skilled financial crime specialists and additional resources in place in our Customer Operations and Legal teams dedicated to preventing both pension scams and financial crime in all its forms.

1.1.4 Phoenix has been at the forefront of the industry's work to combat pension scamming for many years. You may be aware that, in partnership with the Pension Scams Industry Group (PSIG), we have helped to develop the amendment to the Pension Schemes Bill which the Chair of the Committee has kindly agreed to table when the Bill is returned to the House of Commons. We are extremely grateful both to the Committee Chair and to Nigel Mills MP for their support.

1.1.5 (paragraph submitted in confidence to the committee)

1.1.6 Our responses to the specific questions are detailed in Section 2 and the proposed actions complement the vision for improvement set out in Section 1.3. We would welcome the opportunity to discuss these actions with you if that would be of help to you and to the Committee in your deliberations.

1.2 Current Position

1.2.1 PSIG is chaired by Margaret Snowdon OBE and it is a voluntary group comprising individuals from across the industry who give up their time to try to prevent pension scheme members from falling victim to the scammers. PSIG has now produced two updates to the Code of Good Practice originally issued in 2015. The Code has, without question, been instrumental in helping trustees and administrators better protect pension scheme members from the scammers.

1.2.2 Similarly the Pension Scams Industry Forum (PSIF) (a sub-group of PSIG) which Tommy chairs has helped share knowledge of schemes and entities of concern across the industry and has played a significant role in the protection of pension scheme members.

1.2.3 PSIG also forms part of Project Bloom, the multi-agency initiative chaired by the Pensions Regulator which aims to tackle the problem. Its membership consists of the Financial Conduct Authority (FCA), the Money & Pensions Service (MaPS), the Insolvency Service, the National Economic Crime Centre (NECC), the National Fraud Investigations Bureau (NFIB), the Serious Fraud Office (SFO), HM Treasury, the Department for Work & Pensions (DWP), the Information Commissioners Office (ICO), the Pensions Ombudsman, the Pension Protection Fund (PPF) as well as PSIG.

1.2.4 The regulators have expressed their appreciation for the work of the group and, in particular, the support provided to the joint FCA and Pensions Regulator ScamSmart campaigns. The work of PSIG complements and informs the work of the FCA and the Pensions Regulator in the fight against pension scamming.

1.2.5 The cold-calling ban has been in place for some time now and the ScamSmart campaign has also been relaunched and features TV, radio and online messaging. The regulators have also taken action following the pandemic to further raise awareness and to protect UK pension scheme members. The new Defined Benefit transfer warning letter is an example of their excellent work.

1.2.6 All of this is encouraging .but there is much more that needs to be done and additional actions are clearly required to combat the scammers. The pandemic has shown us that fraudsters will look for every opportunity to exploit the situation for their own ends. Action Fraud has seen a dramatic rise in instances of fraud since the arrival of Covid-19.

1.2.7 We need to get better at sharing information of potential scammers across the industry. It cannot be right that one pension scheme member is better protected than another simply by the fact that they happen to have their pension with a trustee or provider which takes the threat of pension scamming seriously and both follows the PSIG Code of Good Practice and has dedicated resources and financial crime expertise in place. We need to offer all pension scheme members such protection and ensure that robust controls are in place within every scheme.

1.2.8 We also need the ability to refuse to make such transfers when sufficient scamming concerns are identified. Identifying warning signs through improved intelligence will be of limited use unless you can subsequently act on this intelligence, and many millions of pounds are still being transferred to schemes where there are serious concerns that the member may about to lose all or part of their pension savings. The further amendment to the Pension Schemes Bill is essential in our view and it would represent a significant step-forward if the amendment was accepted.

1.3 Vision for improvement

1.3.1 In essence, there are four key elements to our vision of the way forward:
• Improved prevention. We need to give trustees the ability to refuse transfers when sufficient concerns regarding pension scamming are identified. They do not have this at present.
• Improved intelligence. We need to be much better at capturing and sharing intelligence across the industry and with our regulators and law enforcement.
• Improved good practice. We need to ensure that good practice is a *requirement* for the industry rather than merely an *option*.
• Improved victim support. We need to ensure that our tax system treats pension scam victims fairly and as victims rather than active participants in the scam. We also need to ensure that victim support services are available and can be readily accessed by those who need them.

2. Question Responses

2.1. What is the prevalence of pension scams?

2.1.1 The true scale of the issue is not known. We would highlight the statement made previously by Charles

Randell, Chair of the FCA, who observed that:

2.1.2 "We don't know exactly how many people have been scammed into transferring their pension pots to fraudsters, or skimmed by bad advice to switch to inappropriate, high risk or poor value investments, but it's clear that it could be a large number. And we've identified that over 5 million pension savers are at risk of falling for the tactics used by scammers." Note 1

2.1.3 We know, of course, that victims lost an average of £82,000 in 2018 and that some individuals have lost more than £1 million. These figures are based on only those losses which are reported however and it is acknowledged that the true figure may be much higher. We have seen estimates of annual losses of anything between £4 and £10 billion quoted in the UK press.

2.1.4 The challenges in terms of industry reporting are outlined in detail in response to Question 2.4 but we would also highlight that victim reporting is also significantly less than it should be and masks the gravity of the situation. Many victims are extremely reluctant to admit that their investment may have been a scam and that they have been duped. For victims of old style early access or "liberation" scams, they may well be worried that disclosure will mean that they will face an unauthorised payment tax charge. More fundamentally however, the nature of most of pension scamming activity where most scams are not liberation scams but rather investment scams which feature either high-risk investments or excessive fees being charged, the member may well not be aware that they have been scammed for a number of years. It is possible that they will not realise that they have been scammed until they try to access their pension savings. It is therefore the extent of this potential "timebomb" when victims do realise that they have been scammed that makes the scale of the issue so difficult to quantify.

2.1.5 As the financial impact of the pandemic continues to accelerate and as the furlough scheme support is withdrawn, there is a real fear that many pension scheme members will be even more susceptible to offers of early access to pension cash and that we will see a return of pension liberation schemes. We are already seeing an increase in online adverts promoting both early access to pensions and offers of free pension reviews.

2.1.6 From a Phoenix Group perspective, only a very small percentage (less than 5%) of transfer requests exhibit some form of warning signs of a potential scam, but the volume of transfer requests which are processed is considerable and equates to hundreds of millions of pounds. The fact that the vast majority of transfers are made to perfectly legitimate and well-established schemes should not disguise the scale of the issue and the nature of the risk to UK pension scheme members.

2.1.7 We would however also highlight that the current government definition of a pension scam is as follows: "The marketing of products and arrangements and successful or unsuccessful attempts by a party (the "scammer") to:

• release funds from an HMRC-registered pension scheme, often resulting in a tax charge that is not anticipated by the member
• persuade individuals over the normal minimum pension age to flexibly access their pension savings in order to invest in inappropriate investments
• persuade individuals to transfer their pension savings in order to invest in inappropriate investments where the scammer has misled the individual about the nature of, or risks attached to, the purported investment(s), or their appropriateness for that individual investor."

2.1.8 There are therefore three aspects to the current definition. The first bullet point relates to pre-55 access, the second to post 55 access and the third may be at any point pre-retirement. In terms of the second criterion, we would suggest that such access is largely unseen by the industry. We would not know what the member intended to do with the funds they had accessed unless they offered this information in our engagement with them.

2.1.9 FCA research (Note 2) has found that vulnerable consumers may be more likely to fall victim to scams. They may be specifically targeted through unsolicited approaches, or more likely to be persuaded to disclose personal financial details. Their research has shown that older consumers who may be lonely are more likely to be at risk of being scammed.

2.1.10 We would stress, however, that a diverse range of individuals fall victim to the scammers. Further FCA research (Note 3) has found that those with a university degree are 40 per cent more likely to accept a free pension review from a company they've not dealt with before and are 21 per cent more likely to take up the offer of early access to their pension pot. Both are common scam tactics. .

2.1.11 The regulators have also warned that "overconfidence" can lead to savers missing signs of a scam. Almost two thirds of people felt "confident" making pension decisions with a similar proportion saying that they would trust someone offering pensions advice out of the blue. Those who consider themselves smart or financially savvy are just as likely to be susceptible to being scammed.

2.2. What are the current trends in pension scams?

2.2.1 Prior to the introduction of the Pension Freedoms, the main form of scam was the early release of cash from the pension scheme (typically before age 55).Although some of these liberation scams are still being perpetrated, now when cash can be withdrawn legally from age 55, the majority of today's pension scams are investment scams with the investments in unregulated, high-risk, overseas investments. These have included hotel and property developments, biofuels, renewable energy bonds, bamboo plantations, and forestry.

2.2.2 Alternatively, the scams may take the form of investments in more conventional funds but within an unnecessarily complex structure usually featuring the purchase of structured notes or investment bonds which hides a myriad of fees and charges. This "fractional scamming" or "skimming" sees multiple entities taking a cut and the value of the underlying investments can be destroyed. Some discretionary portfolios have featured share trading accounts in which trading activity generates substantial commissions for the trader, to the clear detriment of the member.

2.2.3 The complexity of today's scam models poses significant challenges not only for trustees and administrators, but also for the regulators and police in understanding what is going on and identifying the numerous parties which can be involved. The industry will typically identify warning signs of a potential scam (red flags) rather than definitive criminality unless, for example an overseas adviser is acting without the appropriate pension transfer permissions in which case it would be considered an offence under the Proceeds of Crime Act 2002 (POCA). We are also aware that many scammers will refer their victims to the FCA website to highlight their registration and that they are permitted to undertake business in the UK.

2.2.4 The PSIG Code of Good Practice also highlights the issue of what have been termed "international Self Invested Personal Pensions (SIPPs)". Members seeking such transfers are frequently resident overseas with the transfer being facilitated through intermediaries and advisers outside the UK. In addition, some UK residents are also being targeted. In some cases, it is clear that the scammers are playing on Brexit fears as they look to facilitate investment overseas but through a UK registered SIPP.

2.2.5 Even if checks identify concerns, the overriding challenge for trustees, providers and administrators is the fact that, as the transfer is to a UK SIPP, a statutory right to transfer is likely to exist. This is a major issue and many millions of pounds are being paid under discharge to international SIPPs of concern. In such cases, because of the legal right to a transfer, the transferring scheme may only be able to highlight the concerns to the member in a discharge or indemnity letter, but not to refuse to transfer. The international SIPP route has been the favoured "modus operandi" of the scammers for some time now and it is this exposure which has prompted the development by the Phoenix Group and PSIG of the proposed amendment to the Pension Schemes Bill which is due to be tabled when the Bill is returned to the House of Commons. The amendment is further referenced in our response to Question 5.

2.2.6 Scams have also broadened to include "secondary scamming", where someone who has been scammed is approached by a third party, often a claims management company, which, for a fee, offers to attempt to recover the lost money. When they fail to do so, the individual is even further out of pocket. There have been examples recently of the same individuals who had been involved in the transfer advice reemerging at claims management companies to pursue claims on behalf of pension scheme members who had been advised to transfer by the very firms which they had been employed by and which had provided the original advice.

2.2.7 In addition to the international SIPP route, we still see many transfers of concern being made directly to overseas schemes (QROPS). Malta and Gibraltar are typical destinations for these transfers. Although overseas intermediaries and advisers are involved, these are generally scams being perpetrated by UK ex-pats on fellow ex-pats. As mentioned previously however, UK residents are also being targeted.

2.2.8 Less common but still a feature is the takeover of dormant schemes in the UK as a mechanism to facilitate the transfer of funds. The establishment of single member Small Self-Administered Schemes has also been a favoured approach with typically no active employer involved. Unregulated introducers and lead generators are also a common feature and, as we know from our engagement with Project Bloom and indeed from communications from our regulators, organised crime families are behind a great deal of the pension scamming activity.

2.3. What are the common outcomes of pension scams for perpetrators and victims?

2.3.1 We can only imagine what it must be like for people who have fallen victim to a scammer and to have signed their financial future away literally at the stroke of a pen. For many others, the reality is all too stark. Sadly some victims have taken their own lives.

2.3.2 The following is a quote taken from a Mail On Sunday article from an ex-pat now living in Spain – one of many who fell victim to a complex scam facilitated by a firm of advisers based in the Costa Brava:
2.3.3 "It has changed our lives. We are devastated because the fruits of all our life's work have gone and I feel embarrassed and guilty. We are praying that we can get something back – or at least that people will end up in jail."

2.3.4 Another victim of the same firm lost everything, his pension, home and savings. A victim of a separate scam told the BBC how both she and her husband had transferred their pension pots and that the story the fraudster told was convincing and came when they were at their most financially vulnerable:

2.3.5 "He was just perfect. I did not think for a second that anything was amiss. I asked questions, he had the answers to everything. I still feel very angry. I feel very angry that we haven't had any compensation and that at our age, we are having to start from scratch."

2.3.6 As we referred to earlier in our response to Question 2.1, for victims of pension liberation scams, not only do victims suffer at the hands of the scammer, there is the additional burden of punitive tax charges (typically 55% of the transfer value) which are levied by HMRC. This is also referenced in our response to Question 2.8.

2.3.7 In terms of any recompense for victims, the Financial Services Compensation Scheme (FSCS) may provide limited reimbursement but only for UK registered schemes and investments. If a UK-regulated adviser has given bad pension transfer advice the FSCS may be able to pay compensation up to £85,000. If the adviser is still trading, the victim can complain to the Financial Ombudsman Service (FOS).
2.3.8 It has been encouraging to see action by the regulators and indeed the Courts in terms of restitution of funds to victims. Examples are the £13.7 million ordered to be paid back to victims of the Friendly Pensions Limited (FPL) scam in 2018 as well as the FCA's recent High Court action against Avacade Limited and Alexandra Associates (UK) Limited which saw the Court order that £10.7 million should be paid back to the victims.

2.3.9 The FCA's case concerned the activities of Avacade Limited (in liquidation) and Alexandra Associates (UK) Limited trading as Avacade Future Solutions (AA) and their directors. The two companies provided a pension report service and made misleading statements which induced consumers to transfer their pensions into self-invested personal pensions (SIPPs) and then into alternative investments such as HotPods (office space available for rent), tree plantations and Brazilian property developments.

2.3.10 More than 2,000 consumers transferred in the region of £91.8m from their pensions into SIPPs. Approximately £68m of that amount was invested in products promoted by Avacade and approximately £905,000 was invested into a product promoted by AA– a fixed rate bond relating to a Brazilian property development. From these investments Avacade and AA earned commissions in the region of £10.7m. Many of the underlying investments have failed or are in liquidation.

2.3.11 We would also highlight the recent FCA intervention in the British Steel Pension Scheme transfer advice episode where the FCA has written to over 7,000 former members of the scheme to let them know that they may have received unsuitable advice to transfer and to encourage them to make a complaint against their adviser. Compensation is awarded by the Financial Ombudsman Service, unless the adviser has gone bankrupt, in which case it is awarded by the Financial Services Compensation Scheme.

2.3.12 Such examples are the exception rather than the rule however and far too many victims face financial ruin with little or no prospect of ever seeing their money again. The position in terms of access to victim support services also seems both fragmented and confused. We need to make it far clearer who victims can turn to and what help may be available.

2.3.13 We are also aware that PSIG is continuing to monitor court proceedings and any determinations regarding the potential for some pension scam victims to claim against the Fraud Compensation Fund.

2.3.14 For the perpetrators of the scams, whilst it is similarly encouraging to see examples of action being taken, the clear concern is that far too many are simply getting away with it and enjoying the fruits of their certainly immoral and very possibly illegal activities. The distinction is an important one, as the complexity of some of the investment scam models that we are seeing have presented significant challenges for not only the industry but also for law enforcement.

2.3.15 It is therefore disappointing that Project Bloom has no specific funding to tackle pension scamming and indeed Project Bloom is not mentioned at all in the government's 2019 – 2022 Economic Crime Plan (https://www.gov.uk/government/publications/economic-crime-plan-2019-to-2022/economic-crime-plan-2019-to-2022-accessible-version). This is also referenced in our response to Question 2.9.

2.3.16 It will also be interesting to see how the various international court cases which are being progressed will impact matters in the UK. The following is an extract from a recent article in www.pensions-life.com:

2.3.17 "Spain and New Zealand are now actively progressing criminal proceedings against scammers. There are early signs that other jurisdictions are starting to wake up as well:

• The scammers at Premier Pension Solutions and Continental Wealth Management are facing fraud and falsification charges in Spain.
• The SFO in New Zealand is investigating the scammers in the $100m Penrich Macro Global investment fraud which was also linked to the Evergreen QROPS scam (run by Stephen Ward and promoted by Continental Wealth Management).
• STM Fidecs in Gibraltar has issued a claim against thirteen defendants for the return of "misappropriated" money in the Trafalgar Multi Asset Fund case (also under investigation by the British SFO).
• The Hong Kong fraud squad is taking a keen interest in the GFS Blackmore Global pension/investment scam."

These cases all relate to scams on UK pension scheme members.
In addition, the following is an extract from a recent International Adviser article

2.3.18 "A group of UK and international investors have launched a multi-million-pound claim against life insurers Quilter International and Friends Provident International. The claim, which has secured litigation funding, centres around what the group alleges was the mis-selling of "high-risk funds" through insurance wrappers to "unsophisticated British and international investors living overseas". The products were described as life assurance policies, but the group said they were "unit-linked" and featured high risk funds which were "entirely inappropriate for unsophisticated investors". The group said that many of the expats are now retired and have lost their life savings.

2.3.19 The case is being brought by UK-based law firm Signature Litigations, which said that the insurers "sidestepped British investment regulations" by selling over £100m ($124m, €112m) worth of these products via the Isle of Man. Both life insurance companies deny any wrongdoing.

2.3.20 Daniel Spendlove, partner at Signature Litigation, which is handling the matter in the Isle of Man Court, said: "Much has been made of the power of litigation funding to level the playing field when individuals take on major companies, and this claim is a perfect example. Potential claimants will be able to seek redress for their lost investments without worrying that, by seeking justice, they will be plunged into further financial difficulty."

2.3.21 The law firm said that Old Mutual International, as Quilter International was then known, and FPI received several warnings prior to the funds collapsing, and "appropriate due diligence would have revealed the potential issues with the funds". Coburn Corporate Intelligence (CCI), the international investigation firm assisting in the management of the claim, has called for affected investors to sign up to the group action claim against OMI and FPI in the Isle of Man.

2.3.22 Both law firms state that the funds were linked to the collapse of LM Investment Management, which saw investors lose millions invested in funds including the LM Managed Performance Fund, Axiom Legal Financing Fund and the Premier New Earth Recycling Facilities Fund. Victims of LMIM have struggled for years to recoup some of their losses. One individual, who suffered the loss of her £330,000 pension pot, recently took her trustee FNB International to court in Guernsey.

2.3.23 Niall Coburn, principal of CCI, said: "Financial Conduct Authority (FCA) financial regulation quite rightly prevents unsophisticated investors from engaging with these high-risk funds, and it is a scandal that Quilter International and Friends Provident sought to circumvent this, effectively scamming British pensioners out of their retirement savings. We call on all who were impacted by the collapse of these funds to reach out to us, so we can work to secure compensation for the mis-selling of these products.""

2.3.24 Again, we will await the outcome of this case with interest but it is already evident that some SIPP operators may be exposed to Ombudsman determinations and potential litigation if they have not undertaken sufficient due diligence on the investments which are made available via their SIPP offerings. The Berkeley Burke High Court judicial review in 2018 is perhaps the most high profile example in the UK but the July 2020 judgement by Malta's Arbiter for Financial Services is also worth highlighting in view of the potential implications for international SIPP providers.

2.3.25 The Maltese arbiter has concluded that Momentum Pensions Malta was partly responsible for the losses suffered by 55 clients of defunct advice firm Continental Wealth Management (CWM). Momentum accepted business from CWM, which was an unlicensed investment adviser and allowed an unsuitable portfolio of underlying investments to be created within the retirement scheme. The portfolio comprised high-risk structured products of a non-retail nature, which conflicted with the risk profiles of the scheme members. The arbiter concluded that:

2.3.26 "There is sufficient and convincing evidence of deficiencies on the part of [Momentum] in the undertaking of its obligations and duties as trustee and retirement scheme administrator of the scheme." and that "it is also evidently clear that such deficiencies prevented the losses from being minimised and in a way contributed in part to the losses experienced."

2.3.27 He added: "Whilst the retirement scheme administrator was not responsible to provide investment advice to the complainants, [they] had clear duties to check and ensure that the portfolio composition recommended by the investment adviser provided a suitable level of diversification and was inter alia in line with the applicable requirements in order to ensure that the portfolio composition was one enabling the aim of the retirement scheme to be achieved with the necessary prudence required in respect of a pension scheme." Taking into account the role and responsibilities of CWM, "the arbiter considers that [Momentum] is to be only partially held responsible for the losses incurred." Momentum has been ordered to pay complainants 70% of the "net realised losses sustained on their investment portfolio".

2.3.28 The implications for trustees, providers and administrators are clear: we must ensure that our services are provided to the highest possible standards and evidenced by robust and challenging governance. In addition to the cases we have highlighted, the Ombudsman has also shown in previous determination that he will not hesitate to order benefits to be reinstated if sufficient due diligence has not been undertaken or adequate member scam warnings have not been provided.

2.3.29 In this regard, it can also be argued that the industry itself is a victim of the scammer as we bear the inherent resource and operational costs of the additional measures required to combat pension scamming. In addition, we also pay for the increased work of the regulators and the Financial Services Compensation Scheme through the industry levy.

2.4. How are existing enforcement tools being used?

2.4.1 Project Bloom has been instrumental in sharing intelligence which has led to criminal prosecutions and successful convictions. Bloom has also successfully disrupted scammers by taking down websites, adverts, and intervening to secure pension assets that would otherwise fall into the hands of the scammers.

2.4.2 In our view however, more could and should be done to ensure better industry reporting of those companies and individuals suspected of being involved in pensions scamming. A Bloom Working Group has been established to discuss a paper produced by PSIG which outlines both the current issues in terms of industry reporting and also outlines a future vision in this regard.

2.4.3 The current requirements (as outlined in the PSIG Code of Good Practice) are that the industry should report any transfers where concerns are identified not just on those where transfers are refused. This reporting
should be to Action Fraud through their online Expert Reporting tool and also to the Financial Conduct Authority (FCA) and to the Pensions Regulator. In addition, where an overseas adviser is acting without permissions, Section 6.2.2 of the Code outlines that:
"In a situation where an overseas adviser deals with a UK resident to move their pension, there may well be two offences:
• (1) fraud by false representation contrary to s2 Fraud Act 2006 and
• (2) carrying on regulated activity without authorization contrary to s19 Financial Services & Markets Act 2000."
And that:
"In such circumstances, a Suspicious Activity Report (SAR) should be submitted to the National Crime Agency."

2.4.4 In addition, and subsequent to the latest version of the PSIG Code, the National Economic Crime Centre (NECC) have confirmed to Project Bloom that the industry should report websites of concern to scam@netcraft.com. Netcraft is a company which provides a triage function for the National Cyber Security Centre (NCSC).

2.4.5 (paragraph submitted in confidence to the committee)
2.4.6 The overall impact of the reporting problems is that:
• The scale of the issue is in no way accurately represented as the reporting grossly underestimates the size of the problem. Current industry reporting reflects only a small minority of the transfers of concern which are being identified.
• Similarly, there is a real risk that emerging trends are masked and that appropriate actions are therefore delayed. This can be the only conclusion of continued reliance on crime categories which are outdated and simply do not reflect industry experience over a number of years.

2.4.7 The key concern is that both issues severely compromise the management information available to police,
to our regulators and to Project Bloom as a whole. The effective analysis and investigation of pension scamming is impaired and ultimately the protection of UK pension scheme members is not what we need it to be. The legislative change which is so essential is also very much hindered if the scale of the issue is not fully understood.

2.4.8 Phoenix shares PSIG's view that:
• We need clarity in terms of who we (the industry) should report to. In essence, Phoenix is in no way precious about which agency we report to but once this has been agreed, we need to ensure that there is an effective means of doing so.
• The industry needs to have the ability to report what it is actually seeing and, as outlined above, the only reporting category available is "Pension Liberation Fraud". It is pension scamming rather than

pension liberation which now accounts for the vast majority of transfer requests of concern. Clearly it is essential that the industry has the ability to report both pension liberation fraud *and* pension scamming, but separately so that the picture is not confused.

• In addition, as part of PSIG's attempts to encourage full industry reporting, the Code of Good Practice outlines that reports should be made whenever any concerns on a transfer request have been identified. When we identify such concerns, there are three possible outcomes:

o The transfer request is refused.

o The transfer request is cancelled by the pension scheme member following our engagement with them when we highlight our concerns regarding the proposed transfer. This can be over the phone.

o The transfer is still paid. This happens when although we have identified concerns on a transfer, there may well be a legal right for the pension scheme member to make the transfer. In such cases, it is common for the industry to request a signed "discharge" form from the member before making the payment.

We need to be able to report on all 3 scenarios. To be clear, this would represent a significant increase in industry reporting but would give a much richer and more accurate picture of scamming activity.

• We also need to address the "money lost and recovered" issue as well as the obvious frustration of the "business victim" constraint. Whoever we ask the industry to report to, we need to make it as smooth a process as possible.

• We also need to rationalise the reporting. Industry reporting should be to a single agency with the other agencies then able to access the industry submissions.

• We must also ensure that industry expectations are properly set in terms of any progress reporting which a firm may or may not receive following the submission of a report. It should be noted that Phoenix is not calling for any progress reporting to be made as we fully acknowledge the obvious constraints in this regard, but we do believe that any reporting system should better set expectations regarding the very low probability of any further response.

2.4.9 The scope of the PSIG paper is limited to industry reporting and specifically excludes victim reporting. The outcome of the discussions regarding industry reporting and the actions agreed may well however influence the approach for victim reporting and this aspect will be progressed separately by the Project Bloom Communications Group following the outcome of the Working Group deliberations. Improving victim reporting
is a specific Action Point for the Bloom Communications Group. Given our comments in response to Question

2.1 regarding the aspect of pension scamming activity which is unlikely to be noticed by the industry, it is essential that victim reporting is also made as streamlined and as easy as possible. Without such action, the key risk is that investment fraud stemming from the access to pensions funds is similarly under-reported.

2.4.10 Our proposal is that full support and funding is provided to Project Bloom and to PSIG to enable the reporting issues to be successfully addressed. This is outlined in more detail in our response to Question 2.6.

2.5. What more can be done to prevent pension scammers operating?

2.5.1 Improved prevention

2.5.1.1Regrettably, there will always be those in society who look to exploit the vulnerable and any loopholes in the current legal and regulatory framework. This is precisely what we are seeing in terms of pension scamming and what prompted Phoenix to develop, in partnership with PSIG, the proposed amendment to the Pension Schemes Bill.

2.5.1.2 As you will be aware, the purpose of the amendment is to remove the statutory right to a transfer when sufficient concerns regarding pension scamming are identified by the trustees of the transferring scheme. The warning signs of a scam or "red flags" would be defined in subsequent regulations which we would expect the Department for Work & Pensions (DWP) to consult on. In essence however, we would expect that these warning signs would be taken from the existing FCA and Pensions Regulator ScamSmart materials as well as from the PSIG Code of Good Practice.

2.5.1.3 It is our view that the amendment is key to enabling the industry to prevent transfers equating to many millions of pounds from continuing to be paid to schemes of concern owing to the statutory right to a transfer.
The additional measures proposed by the Government in the Bill and in their subsequent amendment which looks to introduce a guidance requirement are welcome but in themselves are not enough and, in particular, will not address the SIPP exposure which has been highlighted by Margaret Snowdon OBE, Chair of PSIG, to Guy Opperman MP, Minister for Pensions & Financial Inclusion when she wrote to him in December 2019. It is these SIPP transfers which are now the favoured route of the scammer and it is essential that trustees have the discretion to refuse to make such transfers when they identify clear warning signs of a scam.

2.5.1.4 If we accept the premise that there will always be criminals looking to exploit individuals for their own selfish and immoral gains, we need to have a far better means of stopping transfers than we do at present and the amendment would give us this ability.

2.5.1.5 The scale of the issue can be seen from returns provided to PSIG as part of its joint survey with the Police Foundation earlier this year. 13 firms submitted data returns and these indicated that almost 600 transfers had been made (equating to £30 million) in 2019 where significant concerns regarding pension scamming had been identified.

2.5.1.6 This figure is more than 7 times the number of transfers refused and more than double the number of transfers cancelled by the member when the concerns had been explained to them. If this experience is in any way replicated across the industry – and there is no reason to suggest that it would not be – then we are talking about an exposure on a significant scale. The fundamental issue is that without the amendment, trustees and providers have no ability to stop the transfers as the member retains a statutory right to a transfer.

2.5.1.7 We would also highlight the results from a recent Professional Pensions Survey Poll which sought industry views on the merits of our amendment. Some 88% of those who responded thought that the proposed amendment would be helpful.

2.5.2 Improved intelligence

2.5.2.1 Phoenix is fortunate to have access to a team of highly skilled financial crime specialists and to have additional resources in place in our Customer Operations and Legal teams dedicated to preventing both pension scams and financial crime in all its forms. Such expertise and commitment is not however matched across all parts of the industry and there is much more that could and should be done to improve intelligence within the industry and to ensure that this intelligence is then much better shared with our regulators and with law enforcement.

2.5.2.2 At present, in spite of the endeavours of the Pension Scams Industry Forum (PSIF), to a large extent, knowledge of the entities and individuals of concern is constrained by the resources, skills and expertise of each individual organisation. There is no industry-wide database which captures such knowledge and insight. The key concern is that this clearly impairs the ability of the industry to detect and impede scamming activity. It cannot be right that one pension scheme member is better protected than another simply by the fact that they happen to have their pension with a trustee or provider which takes the threat of pension scamming seriously and both follows the PSIG Code of Good Practice and has dedicated resources and financial crime expertise in place. In simple terms, UK pension scheme members are not being given the protection that they need and deserve.

2.5.2.3 PSIF has helped to share knowledge of schemes, companies and individuals of concern through its monthly calls. Currently 46 PSIF member companies participate in these calls. This is a key part of PSIG's work and has helped trustees and administrators identify many transfers of concern and has better protected pension scheme members. PSIF also helps us to identify key themes and better understand the techniques and approaches of the scammers and how these evolve. This insight is shared with our regulators and with the police through our representation on Project Bloom. .

2.5.2.4 In our view, this "best endeavours" approach cannot be a tenable long term position. We support

PSIG's view that a "Pension Scams Intelligence Database" should be developed as part of a national intelligence sharing framework. This database would capture, store and share information from the pensions industry on individuals and companies who are suspected by the industry of being involved in pension scamming. This information would complement and not replace the due diligence checks on pension transfer requests made by trustees and administrators in accordance with the PSIG Code of Good Practice. Such an information repository would pool knowledge from across the UK pensions industry and better protect pension scheme members.

2.5.2.5 Trustees and providers would not be solely reliant on the intelligence gleaned from their own, individual experience of transfers of concern and could benefit from the information input by others. The lowest common denominator of expertise and insight would be significantly raised. The intelligence gathered would also be shared with police and with our regulators. The database would facilitate much improved reporting to Action Fraud and to PSIG's partners within Project Bloom. The subject is being progressed within Bloom with the Joint Anti-Money Laundering Intelligence Taskforce (JMLIT) arrangements perhaps providing an outline way forward. The key challenge, of course, is the absence of any funding to PSIG to enable the Group to develop the database concept and to move this forward. In addition to supporting the call for appropriate funding of both PSIG and Project Bloom itself (as outlined in our response to Question 2.6), we would welcome the opportunity to explore further how we can improve knowledge sharing and establish a genuine national pension scam intelligence sharing capability and framework.

2.5.2.6 There is also a need for better intelligence sharing with the banking and payments sector. Some work is already in progress in this area but is not specifically in relation to pension scams. The trade bodies for the life and pensions and the finance industries are discussing how best to facilitate intelligence sharing through the gateways prescribed under the Criminal Finances Act 2017 and Proceeds of Crime Act 2002 but this will take time to develop.

2.5.2.7 The FCA also has a key role to play and it is our view that more could be done to provide the industry with earlier warnings of firms (many of them operating overseas) about which concerns have been raised. The FCA is a member of the NCA and therefore has access to intelligence submitted in the form of SARs. We know from our own experience of schemes that we have reported, that although the FCA may have real concerns about the activities of some firms, it can be a very long time before the FCA updates its warning list (https://www.fca.org.uk/scamsmart/about-fca-warning-list). During this extended period of time pension scheme members remain exposed to pension fraud despite having been reassured by the FCA register entries that they are dealing with an FCA approved firm.

2.5.3 Improved management information

2.5.3.1 In addition to improving the reporting of suspected scam schemes and companies and individuals suspected of being involved, we need to improve the industry's management information capabilities so that we can better establish the scale of the issue and better inform the policy and approach of government, regulators and law enforcement agencies. Our concern - and it is a view that we would suggest is shared by many in the industry - is that the various agencies have been too slow to act and we are now in some respects trying to "close the stable door after the horse has bolted". The cold-calling ban, for example, is now in place but took a very long time to come to fruition. The passage of the Pension Schemes Bill is another example. Even when Royal Assent is obtained, there remains the process to actually develop and implement the regulatory changes which will be required.

2.5.3.2 We need to get better as an industry at capturing details of the transfers being refused, the transfers being cancelled and the transfers being made under discharge when pension scamming concerns are identified. At the moment, there is no such requirement and although a small number (13) of data returns were made following the PSIG and Police Foundation Survey, this is clearly a drop in the ocean as far as the overall industry is concerned. Such a poor response was disappointing in view of the support from the Pensions Regulator, the Association of British Insurers (ABI), The Investing & Saving Alliance (TISA) and the Pension & Life Savings Association (PLSA).

2.5.3.3 In our view, the capture of this information should be mandated. It cannot have helped matters that we, as an industry, have been unable to quantify the scale of the issue and we are aware that some police officers have compared the scale of the issue as being similar to romance fraud, for example. This stance is, of course, informed by the formal industry reporting which we know wholly understates the actual exposure as referenced earlier in this submission.

2.6. What more can be done to prevent individuals becoming victims of pension scams?

2.6.1 Improve industry practice

2.6.1.1 In addition to the measures outlined in our response to Question 2.5, we need to properly imbed good practice across the industry. The PSIG Industry Code of Good Practice has rightly received praise from both government and regulators.

2.6.1.2 The most recent launch saw the Minister for Pension and Financial Inclusion, Guy Opperman, state that: "Pension scams are callous crimes that rob people who have done the right thing and saved for their future and the retirement they deserve. I'm determined to stamp them out. There's good work already going on - the
FCA's ScamSmart campaign stopped £33m falling into crooks' hands last year alone but we need to do more and this new code will help pension trustees keep pace with this evolving threat and protect people from these wolves in sheep's clothing. It is essential reading for all those working in the industry."

2.6.1.3 Nicola Parish, TPR's executive director for frontline regulation, provided further endorsement by stating that: "The pensions industry plays a vital role in the fight against scams by stopping suspicious transfers and alerting regulators and law enforcement agencies to fraudulent activity so we can take action. The updated code will allow providers to more easily understand how they can help to prevent savers losing their funds tocriminals."

2.6.1.4 The Code has also been referenced by the Ombudsman as a source for considering due diligence processes to combat pension scams.

2.6.1.5 We need to go further however. We cannot be reliant on a voluntary Code to protect pension scheme members. We know from information received by PSIG both anecdotally and in response to the Group's joint survey with the Police Foundation that not all trustees and providers follow the key principles of the Code. Far too many are not doing enough and we also know from the survey that not every trustee or administrator is even aware of PSIG or of the Code of Good Practice (again we would highlight that the survey results have not yet been published and the information is known to us only through our representation on PSIG).

2.6.1.6 A number of trustees do not, for example, choose to engage with their pension scheme members over the telephone when concerns of pension scamming are identified. Phoenix has found such an approach to be hugely valuable in both truly understanding how the member has been contacted, the various parties that he or she has been dealing with and their understanding of how their funds would be invested, the fees which would be charged and their understanding of the risks involved in transferring. Many have no idea of what they may be getting themselves into and it is our view that anyone who does not understand the potential consequences of transferring their pension benefits should be considered vulnerable. Far too many customers have no real appreciation of:

• the fees which will be charged and the impact of these on their pension fund;
• the nature and risks inherent in the investments being made on their behalf;
• whether the advice they are receiving is from an FCA regulated firm;
• whether any valuable guarantees will be lost on transfer.

2.6.1.7 Phoenix has seen many members opt to cancel their proposed transfers following their conversations with us. Many, of course, are very grateful that we have taken the time to do this. In our view, it cannot be sufficient merely to send vulnerable customers a letter warning of the concerns identified following due diligence on a transfer request. Many customers have already been primed by the scammers to ignore letters from the existing provider in any event and such communication can have little or no effect. FCA's recent Guidance Consultation & Feedback Statement GC20/3 (Guidance For firms on the fair treatment of vulnerable customers) outlines that "firms can expect us to ask them to demonstrate the actions they have taken to respond to consumer needs through product design, flexible customer service provision and communications". Speaking with customers over the telephone regarding potential pension scamming should be considered as an example of such a proposition.

2.6.1.8 In addition to the telephony aspect, other examples of current non-compliance with the Code include the failure to undertake due diligence when a statutory right to transfer exists. Some trustees and administrators will simply identify that there is a legal right to the transfer and make the payment. The very limited reporting to Action Fraud and indeed to the FCA and Pensions Regulator also provides evidence of a wider lack of full compliance. The PSIG Code calls for reports to be made not just when a transfer is refused but when any concerns are identified. We have detailed the reporting challenges in our response to Question 2.4, but it is clear that this call is currently failing to gain traction.

2.6.1.9 (paragraph submitted to the committee in confidence)

2.6.1.10 In addition to mandating compliance against the Code, we need to make sure that that trustees and administrators have a full and comprehensive understanding of the Code so that their procedures and processes can be amended accordingly. We need to develop online training materials and also undertake training sessions and seminars across the industry to ensure full understanding of the good practice outlined. A fully funded PSIG is pivotal in this regard and this requirement is also reflected in more detail later in this response.

2.6.2 Raise public awareness

2.6.2.1 We also need to further raise public awareness of the dangers of pension scams and build on the success of the excellent ScamSmart campaign. As we have mentioned previously, the issue of overconfidence is one that still prevails and the regulators have warned that this can lead to savers missing signs of a scam. Their research identified that almost two thirds of people felt "confident" making pension decisions with a similar proportion saying that they would trust someone offering pensions advice out of the blue. These are alarming statistics.

2.6.2.2 We need to consider how best we communicate with pension scheme members whether that is from an industry perspective or by our regulators. It is encouraging to see that the potential to explore digital channels is being progressed and we are aware that PSIG has recently demonstrated the capabilities of a video engagement platform and this may be a very useful tool in better explaining the threat posed by the scammers and the warning signs to look out for.

2.6.3 Properly fund both Project Bloom and PSIG

2.6.3.1 In terms of raising awareness, whilst we fully recognise the good intentions behind the new five year FCA Consumer Harm Campaign which will focus on retail investments and will build on and supplement the existing ScamSmart awareness campaign, in our view this does not go far enough and a more fundamental and inclusive approach would have been preferable. We suggest that a more rounded strategy which aims to both prevent pension scamming and customer harm and to raise awareness of the issue would have been more helpful.

2.6.3.2 We would prefer, in place of the funding of a time-limited consumer awareness campaign, a commitment to properly fund Project Bloom to give it the means and resources to combat the issue. FCA has a key role to play as both a member of the Project Bloom Strategy Group and as the Communications Group lead. It is through the Bloom Communications Group that we would have envisaged the consumer awareness campaign being delivered. It should complement the existing work of the Group.

2.6.3.3 At the moment, Bloom is unfunded and relies on the voluntary efforts of the member organisations to deliver its Strategic Action Plan (SAP). In our view, if we are truly serious about combatting the scammers and the highly sophisticated, complex scams which they facilitate, this is not a tenable position going forward and we must have a fully funded, fully resourced and dedicated programme of work to provide our pension scheme members with the protection that they deserve. Such a programme should also include the coordination of the actions of the pension providers, banks and law enforcement agencies to facilitate a faster and more effective response and the recovery of funds. Such a partnership between the public and private sectors would also provide a framework for much better and much improved intelligence sharing.

2.6.3.4 In this regard, neither can the industry continue to rely on the voluntary efforts of the PSIG members and on the goodwill of their respective employers. The future strategy outlined by PSIG can only be delivered by formal and funded arrangements and indeed such a transition is an integral part of the industry element of the Project Bloom Strategic Action Plan.

2.6.3.5 The Economic Crime industry levy on the regulated sector which will come into force in 2022 is to pay for an enhanced anti-money laundering response. Pension scams involve the laundering of stolen or defrauded funds and the levy should, in part, be used to provide such funding. Approximately £250,000 per annum would be required to provide initial funding for PSIG.

2.6.3.6 In summary, our proposal is that the Economic Crime industry levy should be used not merely to fund an FCA led consumer awareness campaign but rather that the levy should be used to properly fund both Project Bloom (on which the FCA have a key role) and PSIG to provide a robust two-pronged defence against the scammers. This is something which PSIG has previously proposed to FCA and was tabled at a recent Project Bloom Strategy Group meeting but, disappointingly in our view, no support was forthcoming.

2.6.4 Improve DSAR guidance to address abuse by claims management companies

2.6.4.1 Phoenix shares the growing concerns within the pensions industry and wider financial services sector around the abuse of Data Subject Access Requests (DSARs) by claims management companies. In our view, further guidance is required from the Information Commissioner's Office (ICO) to address the issue of DSARs being used by dubious claims management companies (sometimes on the back of cold-calling) to facilitate spurious compensation claims following a pension transfer. As we have highlighted in our response to Question 2.2, this "secondary scamming" is now a key concern.

2.6.4.2 DSARs are being used not to enable pension scheme members to understand how and why their data is being used, but rather by claims management companies to facilitate such redress complaints. We need to establish what exactly the rights of data controllers are in these circumstances. There have also been examples recently in the pensions press of individuals (including directors) of former advice firms – some with numerous FSCS claims against them for poor pensions advice - establishing or moving to claims management firms and then offering claims management services to former clients of the now defunct advice business.

2.6.4.3 The industry needs a robust defence against such arrangements and an effective means of dealing with the DSAR requests which so often act as the initial trigger and provide the claims management company with key information.

2.6.5 Stop online scam promotions

2.6.5.1 In the current environment following the pandemic where so many pension scheme members may face severe financial hardship, the fear is that many will be even more susceptible to offers of early access to pension cash. We are aware that we are already seeing more online adverts promoting both early access to pensions and offers of free pension reviews. Both are typical scam approaches and unless there are exceptional circumstances (typically serious ill-health), then any payment made prior to age 55 will be considered an unauthorised payment and significant tax charges will apply.

2.6.5.2 It is encouraging to see the measures that our regulators have already taken and Charles Randell, Chair
of the FCA, recently stated that:
"We need a framework to stop social media platforms and search engines from promoting unsuitable investments, including scams, to ordinary retail consumers. It is frankly absurd that the FCA is paying hundreds of thousands of pounds to Google to warn consumers against investment advertisements from which Google is already receiving millions in revenue."

2.7. What role should the pensions industry have in preventing scams?
2.7.1 The industry has to be at the heart of the fight against the scammers. In many respects, it is the first line

of defence. We rely on the industry to make pension scheme members aware of the dangers of pension scamming and the PSIG Code of Good Practice highlights the need for the issue of ScamSmart leaflet or a pension scam warning (& link to ScamSmart) on pre-retirement customer communications including the yearly pension statement and for any pension transfer request received. In addition, any pension scheme members who indicate that they wish to either wholly or partially encash their pension benefits should be encouraged to call TPAS and be directed to the TPAS website. This should be irrespective of whether the indication from the member is in writing or over the phone.

2.7.2 We are proud of the work that Phoenix undertakes to protect our pension scheme members. As we mentioned at the outset, in addition to our own intelligence development and process controls, we have also provided considerable support to PSIG since its inception in 2014 and we would encourage others in the industry to do the same.

2.7.3 As an industry, we need to do more. It is the trustees and administrators of pension schemes who are first to see transfer requests and identify key concerns and the evolution of scam models. As we have said in our response to Question 2.5, we need to be far better at sharing such intelligence both within the industry and with our regulators and law enforcement. We also need to better capture management information so that we can better influence both police and government agencies. We should not be reliant on press articles to highlight the scale of the issue. We also need to properly report entities and individuals when scam concerns are identified. As outlined in our response to Question 2.6, we also need to ensure that good practice is a requirement and not merely an option.

2.8. Is HMRC's position on the tax treatment of pension scam victims correct?

2.8.1 For victims of pension liberation (the early release of cash from the pension), not only do victims suffer at the hands of the scammer, there is the additional burden of punitive tax charges (typically 55% of the transfer value) which are levied by HMRC. We share the sentiments expressed by Margaret Snowdon OBE, Chair of PSIG, that it is grossly unfair for the many innocent victims of such scams to be pursued for tax charges in this way. Margaret has written to both the Chancellor and to Mel Stride MP, Chair of the Treasury Committee, to seek a change in the law to stop this practice.

2.8.2 HMRC has no discretion not to apply the tax charges. For victims of scams, typically facilitated by organised crime, it seems entirely unfair that these people are then subjected to additional tax charges. Many have no means of paying them and it really does feel like a 'double whammy' having already suffered at the hands of the scammer.
2.8.3 The tax amnesty for victims prior to February 2014 (one year after the launch of the Regulator's landmark "Scorpion" awareness campaign) proposed by Margaret is an initiative which we wholeheartedly support.

2.9. Are public bodies co-ordinating the response to pension scams?

2.9.1 Yes, Project Bloom is the multi-agency initiative chaired by the Pensions Regulator which aims to tackle the problem. As we mentioned in the Executive Summary, its members include the Financial Conduct Authority (FCA), the Money & Pensions Service (MaPS), the Insolvency Service, the National Economic Crime Centre (NECC), the National Fraud Investigations Bureau (NFIB), the Serious Fraud Office (SFO), HM Treasury, the Department for Work & Pensions (DWP), the Information Commissioners Office (ICO), the Pensions Ombudsman, the Pension Protection Fund (PPF) and PSIG.

2.9.2 We would like to express our sincere appreciation of the work done by both the Pensions Regulator and the FCA in response to Covid-19. The actions taken were both appropriate and implemented very quickly indeed. Phoenix commends both agencies for their excellent work.

2.9.3 We are also encouraged to learn of the Regulator's planned "pledge to combat scams". In our view, it is a laudable initiative and the planned accreditation of compliance with the key principles of the PSIG Code of Good Practice will further promote good practice within the industry.

2.9.4 As we have outlined in our responses to the earlier questions, we need to go much further. Progress in terms of better sharing of intelligence and resolving the reporting challenges has been too slow. PSIG is not part of the Intelligence & Operations Group and this is unhelpful to industry. HMRC are not represented on the Bloom Strategy Group but they do participate in the Communications Group (led by FCA) which seems like an important gap given HMRC's role in both registering pension schemes, their ongoing monitoring and their provision of "Response 1 and 2's" in respect of industry enquiries as to the validity of the receiving scheme.

2.9.5 As we have outlined in our response to Question 5, Phoenix Group believes that we have to ensure that Bloom is properly funded and resourced. Without both elements, the key concern from an industry perspective is that the delivery of its Strategic Action Plan is inherently compromised. We must ensure that Bloom can make a tangible difference. It is time for concrete action and for the various agencies to come together and join forces with industry to defeat the scammers. Bloom's Strategic Action Plan has to form a key component of the government's Economic Crime (Prevention) Plan.

2.9.6 We would restate our disappointment that PSIG's proposal in terms of both Bloom and PSIG funding was not considered worthy of support. We would also note our disappointment that its additional proposal to the FCA (made in response to the FCA GC19/3 Guidance For Firms On The Fair Treatment Of Vulnerable Customers) that Principle 7 of the FCA's Principles For Business should be refined to include a protection from harm commitment was also not progressed.

2.9.7 In terms of the coordination of activity, perhaps a significant issue is that the focus of the Pensions Regulator is on workplace pension arrangements and occupational schemes and it is the FCA who oversees personal pension arrangements in contract based arrangements. There is no single regulatory authority and the PSIG Code encompasses the domains of both the Pensions Regulator and the FCA.

Note 1 - From a speech entitled "The fight against skimmers and scammers" delivered on 4th September 2019 at the Cambridge International Symposium on Economic Crime.

Note 2 - From FCA GC19/3 Guidance for Firms on the Fair Treatment of Vulnerable Customers.

Note 3 - From FCA Press Release on 8th November 2019, "22 years of pension savings gone in 24 hours"

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