Written evidence from Quilter [PPS0050]

Response from Quilter plc

Quilter is a leading wealth management business in the UK, helping to create prosperity for the generations of today and tomorrow. Quilter oversees £107.4 billion in customer investments (as at 30 June 2020), for more than 900,000 customers. Quilter's offering includes: financial advice; investment platforms; multi-asset investment solutions and discretionary fund management. Clients can choose to use one or more of these services.

In the pensions market, Quilter offers a registered personal pension scheme known as a Collective Retirement Account (CRA). The CRA is a 'Money Purchase' pension (also known as a 'Defined Contribution' pension), that allows the plan holder to invest in a range of investment funds, and is only available through a financial adviser.

We are guided by five fundamental beliefs:

- The value of trusted face to face advice;
- That better choice doesn't mean more choice;
- That expert investment solutions should be simply packaged;
- That award-winning service and measurable outcomes for customers should always offer good value; and
- That a company's value goes beyond making a profit.

Summary:

- Pension scams present a clear danger to individuals, pension schemes and the wider industry. Figures obtained by Quilter under a freedom of information request show that the total number of pension fraud reports received by Action Fraud are generally falling year-on-year, but the level reviewed by the National Fraud Intelligence Bureau (NFIB) and passed onto the police is low, reaching only 6.6% in 2019.

- Very few cases are investigated by the relevant authorities due to the lack of resources devoted to investigating fraud and the limited knowledge of investigatory agencies on both the technicalities of pension scams and the methods being employed by scammers.

- Quilter believes it is too easy for scammers to set up certain pension schemes without having the skills, expertise and intention of running the scheme correctly.

- In order to reduce the threat to consumers, it is integral that further steps are taken to make it harder for scammers to set up pension schemes; that consumer awareness of the dangers of pension scams is improved; and that criminals are prevented from targeting pension savers through online adverts and social media.

- The government should consider ways of improving and centralising HMRC governance so that more stringent registration requirements are introduced to make it harder for scammers to set up pension schemes. This could include HMRC conducting more due diligence on schemes or introducing more stringent requirements (rather than relying on self-certification) before they allow HMRC registration.

- The government should also consider including financial scams within scope of the forthcoming Online Harms Bill. This would ensure that search engines and social media platforms have a legally binding duty to remove scam adverts immediately on notification. It would also mean platforms are required to improve their due diligence processes so that suspected scam adverts are unable to be hosted on search engines or on social media.

QUESTION 1

What is the prevalence of pension scams?

Pension scams present a clear danger to individuals, pension schemes and the wider industry. At Quilter, we see relatively few cases of members wishing to transfer their pension into a scheme we suspect to be a scam. However, in each case where an individual is targeted by a suspected scam e the potential financial impact is considerable given that a pension often represents the majority of an individuals' retirement savings.

A freedom of information (FOI) request from Quilter to the City of London Police in August 2020 revealed that the total number of pension fraud reports received by Action Fraud are generally falling year-on-year, with a moderate increase in 2019. This information is contained in the table below.

This data also shows that very few cases of pension fraud reported to Action Fraud are subsequently reviewed by the National Fraud Intelligence Bureau (NFIB). As a result, very few cases are passed onto the police and other agencies for investigation.

In 2019 for instance, just 6.6% of pension scam crime reports received by Action Fraud were reviewed by the National Fraud Reporting Intelligence Bureau (NFIB) and subsequently passed to the relevant police force for investigation.

Year	Pension fraud reports received by Action Fraud	Pension fraud reports reviewed by NFIB	Pension fraud reports disseminated to the police and other agencies
2015	1353	208	208
2016	547	97	97
2017	409	62	62
2018	346	46	38
2019	394	46	26
Up to July 2020	161*	N/K	24*

*Figures omit February 2020 bulk upload of retrospective reports to avoid misrepresenting case volumes in 2020.

In addition to the suspected scams identified and reported to Action Fraud, there will be a great many suspected pension scams that are not reported because the victim may simply be unaware that they have been targeted; may be too embarrassed to report the suspected scam; or indeed may not be aware of how to report the suspected scam.

Blurred lines exist between clear-cut pension scams and bad practice. This challenge of identifying whether a receiving scheme is appropriate and legitimate is a central challenge for the pensions industry. The Pension Scams Industry Group's *Voluntary Code of Good Practice*[1] sets out suggested due diligence steps to be taken by pension scheme administrators to help identify whether a receiving scheme is one to which a transfer payment should be made.

At Quilter, in the last 12 months, 0.17% of member transfer requests have been cancelled as a result of our due diligence checks, or because the member cancelled after receiving the due diligence questionnaires. However, given that the majority of our members are advised, it is likely that our rate of declined transfer requests will be lower than that of the wider industry.

QUESTION 2

What are the current trends in pension scams?

Like many other scam typologies, pension scams have evolved over time following regulatory and legislative changes. Pension liberation scams - in which a person is manipulated into transferring their pension to an unregulated pension scheme before they reach the minimum pension age of 55 - used to be the primary concern before the introduction of pension freedoms in 2015.

As detailed by the Pensions Policy Institute[2], there has since been a shift towards investment-focused scams. These include a scammer offering an investment opportunity that simply does not exist; a scammer offering a real investment opportunity but taking the money for themselves; or a scammer investing the victim's money in a real investment, but the value is eroded significantly due to hidden charges.

It is too easy for pension scammers to set up certain pension schemes without having the skills, expertise and intention of running the scheme correctly. This is true both in the UK and overseas in schemes such as a Small Self-Administered Scheme (SSASs) or a Qualifying Recognised Overseas Pension Scheme (QROPS).

International SIPPs have become more prevalent since the introduction of the overseas transfer charge for some transfers to QROPS in 2017. Although they require FCA permissions to operate, some have been set up by former QROPS providers to market themselves to expats, with an offshore adviser who may not have the necessary FCA permissions to advise on pension transfers.

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[1] Pension Scams Industry Group, Combating Pension Scams – a Code of Good Practice, June 2019.

[2] Pensions Policy Institute, How have scams evolved since the introduction of pension freedoms, May 2020

We would emphasise that SIPPs, SSASs and QROPS schemes are all key elements of the UK pension landscape and are valued by customers. The vast majority of such schemes are used for legitimate purposes, but the fact that the schemes can be used for fraudulent purposes must be the focus.

Methods used to reach victims:

We are witnessing an evolution towards the increased use of search engines, social media and other online platforms to reach potential victims since the introduction of a ban on unsolicited pension cold-calling in January 2019. While the ban has closed a significant line of communication between scammers and their victims, it has resulted in scammers being pushed online and towards social media in particular.

We also note that the cold calling ban is not in and of itself a silver bullet to prevent scams being promoted through telemarketing. By their very nature, pension scammers are participating in underlying criminal activity and are unlikely to be deterred simply because the means of communication has been outlawed. A cold calling ban is only effective if the public recognise that an unsolicited call about a pension is unlawful and therefore likely to be a scam. Ongoing public awareness campaigns are therefore required to ensure potential victims remain alert to the illegality of pension cold calling.

QUESTION 3

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

Pensions scams clearly result in the loss of all or some retirement savings, and this will be a significant sum if the victim is approaching retirement. Further, in most cases the victim will not be able to complain to the Financial Ombudsman Service (FOS) or the Financial Services Compensation Scheme (FSCS).

Although pension liberation scams have become less common in recent years, victims of this type of scam will also have to pay an unexpected tax charge from HMRC. This is because HMRC charges a 55% rate to claw back tax relief from anyone who accesses their pension before 55, as well as for certain types of investments subject to taxable property rules.

The tax rules do not allow HMRC any leeway in applying unauthorised payment tax charges, which means that members are often required to pay even though they did not benefit financially.

In contrast, the individuals operating the schemes are rarely subject to the scheme sanction charges, simply because it is difficult to track them down in many cases.

Where a scheme sanction charge may be due against the scheme administrator, due to the time lag between the scam taking place and HMRC becoming aware, the scammers are long gone.

QUESTION 4

How are existing enforcement tools being used?

The FOI data set out in Question 1 shows that relatively few pension scam reports get to the stage where they are investigated by the police or another investigatory agency. We believe this is due to the lack of

resources generally devoted to investigating fraud and the limited knowledge of investigatory agencies on the technicalities of pension scams and the methods being employed by scammers.

Typically, this means that by the time a suspected pension scam is reported and the authorities decide to take action, it is too late. As a result, the deterrent in place for the perpetrators of pension scams is extremely limited.

We also note that in order for any system for reporting suspected fraud to be successful, it relies on the public and other relevant stakeholders having confidence that those reports will be followed up and appropriate action taken. Where enforcement rates are low, it not only implies that existing fraudulent activity may be going unpunished, but also undermines the likelihood that the public will see value in reporting suspected fraud.

We believe further steps should be taken to increase the rate of investigation and enforcement following reports of suspected fraud; and to raise awareness of criminal investigations and any resulting prosecutions.

QUESTION 5

What more can be done to prevent pension scammers operating?

Quilter believes that the following measures should be considered to prevent pension scammers from operating:

Make it harder to scammers to set up pension schemes

As previously mentioned, it is currently too easy for scammers to set up certain pension schemes without having the skills, expertise and intention of running the scheme correctly. To set up such schemes, self-certification is relied upon to a large degree. The government should consider ways of improving HMRC governance so that more stringent registration requirements are introduced to make it harder for scammers to set up pension schemes.

This could include HMRC conducting more due diligence on schemes or introducing more stringent requirements (rather than relying on self-certification) before they allow HMRC registration. We would welcome further consultation on this subject in order to establish effective mechanisms to prevent scammers setting up schemes for the purposes of fraud.

Where client money is held, FCA or equivalent oversight should be met in order to provide regulatory protections and provide the client with access to the necessary compensation schemes. Greater collaboration between the FCA and TPR is required to develop a regulatory approach which is consistent across occupational and personal pension schemes and we would welcome further consultation with government, regulators and other stakeholders with the aim of strengthening the thresholds schemes must meet in order to gain authorisation.

Improve customer awareness

Consumer awareness of pension scams is still poor. Quilter welcomes the FCA's latest campaign urging football fans to "show scammers the red card", but believes there is more work to be done across the industry, regulators and government to increase consumer understanding of the red flags, costs and risks involved when they receive a pension or investment proposition.

Improve the online policing of adverts

The introduction of the pension cold calling ban in 2019 has reduced the risk that individuals will receive unsolicited propositions from pension scammers. However, we are concerned that scammers are evolving, and are increasing their use of search engines, social media and other online platforms to reach potential victims.

In the advice and investment management sector, we have also witnessed the growing prevalence of scammers 'cloning' the brands of reputable financial services firms to 'sell' non-existent investment products to victims using paid adverts on search engines. Since the start of 2020 to 1 September 2020, Quilter has identified 289 firms in the financial services sector whose brand has been 'cloned' by scammers, and which has subsequently led to a 'clone firm warning' being placed on the FCA's unauthorised firm warning list.

There is a danger that the move away from cold-calling will result in pension scammers adopting similar techniques to market their schemes on search engines using paid-for advertising.

As it currently stands, there is no legally enforceable system for compelling search engine providers to remove suspected scam adverts, which unnecessarily exposes more people to the scam. We also believe there are few checks undertaken by search engine providers in the first instance to filter out fraudulent adverts in their due diligence process.

The gaps in the regulatory system leave the FCA largely powerless to intervene to protect consumers, and in fact the only way they can try to reduce the risk to internet users is to spend considerable sums on adverts themselves to warn consumers of the dangers of online investment propositions. FT Adviser reported[3] that the FCA has spent more than £300,000 in the first half of 2020 on such adverts on Google.

Quilter believes that to end the use of search engines to market non-existent investment products and fraudulent pension schemes, the government should include scam adverts and other financial harms within the scope of the Online Harms Bill, due to be introduced to Parliament next year.

The Bill will establish a new statutory duty of care to make search engine providers and social media companies more responsible for the safety of their users, and to tackle harm caused as a result of content or activity on their services.

Including scam adverts within scope of the legislation will ensure that:

I. For the first time, search engines and social media platforms will have a legally binding duty to remove scam adverts immediately when notified so that other internet users cannot be exposed to the same advert.

[3] FT Adviser, FCA clone action jumps 110%, September 2020

II. Online platforms will be required to improve their due diligence processes so that suspected scam adverts are unable to be hosted on search engines or on social media.
III. The proposed regulator, likely Ofcom, would administer sanctions if online platforms fail to remove scam adverts in a timely fashion, or allow clear scam adverts to be placed online and result in financial harm to internet users.
IV. The burden of responsibility shifts from the FCA investigating and reporting scam adverts, to search engines and social media platforms removing fraudulent adverts.

QUESTION 6

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

Please refer to Question 5.

QUESTION 7

What role should the pensions industry have in preventing scams?

The pensions industry has a crucial role to play in increasing consumer awareness of the dangers of pension and other investment scams, and ensuring that our clients are protected, to the best of our ability, from fraudulent conduct.

Quilter has devoted space on its websites across the group to include a clear and visible warning alerting customers to the dangers of scams, and we have recently updated our website to include a new 'Stay safe' webpage for customers and advisers concerned about the risk of fraud. The website contains advice on how to spot a potential scam, precautions to take to avoid them and top tips to stay safe from scams.

The page reminds customers of the importance of staying alert to scams and encourages everyone to follow the Take Five campaign's **Stop; Challenge; and Protect** to help tackle financial scams and offers practical advice for spotting and avoiding fraud.

The webpage contains information on how customers can protect their identity online, protect themselves against fraud and improve internet security.

When a client requests they transfer their pension to another scheme, we undertake a significant amount of due diligence in order to determine whether the 'transfer out' request and the receiving scheme is legitimate. If we have concerns, we will engage with the customer to inform them of our concerns, but the statutory right to transfer prevents us from stopping the process, and we are limited in our powers to just providing a warning to the customer.

This will change as the Pension Schemes Bill will, once passed into law, introduce Clause 125 (exercise of right to cash equivalent), which places conditions on the rights of pension scheme members to transfer their accrued pension rights to a different pension scheme in order to protect members from falling victim to pension scams.

As it currently stands in the Bill, these conditions include the member providing evidence of their employment or residency as to make a genuine employment or geographic link between the member and the employer of the scheme the member wants their pension benefits to be transferred into.

This is a step in the right direction, and should go some way in reducing the risk of certain pensions schemes being used to defraud victims, but it does not remove the issue that scammers are able to set up these scheme structures with relative ease.

QUESTION 8

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

HMRC charges a 55% rate to claw back tax relief from anyone who accesses their pension before 55. This can lead to a double whammy for victims of pension scams whereby they lose some or all their life savings and are then hit with a hefty pension tax charge from HMRC.

While the tax charge is harsh, there has to be a penalty in place for people who do liberate their pensions. However, a review of the rate may be necessary to ensure that it is not leading to undue consumer harm. We would encourage HMRC to use discretion to waive punitive tax charges in instances where an individual can prove they have lost money due to a scam.

We also believe that the tax charge is aimed at the wrong person. As previously mentioned, the individuals operating the schemes are rarely subject to the scheme sanction charges and it therefore appears unfair that the victim faces a hefty tax charge while the scheme administrator does not.

As previously mentioned, there is often a significant time lag between the scam being perpetrated and the scheme member discovering that they have been scammed. At this point, they will be left with a hefty tax charge a number of years after finding out that they have been scammed, at which point the scammers are long gone and there is no scheme administrator to go after even where a scheme sanction charge may be due.

QUESTION 9

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

We are seeing increasing coordination between the FCA and TPR, but we do not have visibility on how both agencies are working with Action Fraud and other police forces to tackle the threat of fraud.

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