

DC regulation has too many chiefs, warns NAO

By Charlie Thomas | 10 July 2012 |

Having too many regulators for defined contribution pensions is making regulating schemes, setting them objectives and measuring performance wasteful, according to the National Audit Office.

The NAO has also concluded it is impossible to declare DC regulation provides value for money, due to insufficient accountability for delivering positive outcomes, despite cost and administration improvements.

Its review published today (July 11 2012) warns the split in responsibilities between the watchdog and the Financial Services Authority — along with government departments — has resulted in a lack of joined-up approaches, making it impossible to judge how well the Pensions Regulator is protecting the benefits of members of work-based pension schemes.

Amyas Morse, head of the NAO, said: “While the [the regulator’s] overall approach is sound, its performance measurement system is not strong enough.

“Responsibilities for regulating pensions are shared, and the agencies involved need to develop a concerted approach to assess and, where necessary, act upon risks.

“The Department for Work and Pensions and the Treasury should therefore work with the regulator and the FSA to develop a more integrated approach.”

In particular the regulator was criticised for being overly biased towards trust-based schemes, and for measuring the processes or actions taken by plans, rather than the actual outcomes.

It also noted that while the regulator has statutory powers to promote good practice and take more formal actions for trust-based arrangements, in contract-based schemes where the responsibilities are shared with the FSA, the regulator has “no powers regarding the providers of [these] schemes”.

Finally, it also calls for the regulator to conduct an independent review of its capabilities to examine what skills it may need to bring in to meet its objectives, and then provide practical steps on how it will acquire any additional skills.

In response to the recommendations, the regulator said it is developing new long-term performance measures, which will be based on its DC principles and the extent to which members achieve demonstrably better outcomes, to be confirmed at the conclusion of its ongoing regulatory approach consultation.

Simon Kew, director of pensions at Jackal Advisory and former regulator case officer, suggested the report could inspire the regulator to attempt a “land grab” from the FSA and position itself as the regulator of choice for DC.

"But huge amounts of money would need to be poured in to enable it to expand," he said. "Yes, there is a memorandum of understanding with the FSA that could be 'beefed up', but I don't think that will cut the mustard with the NAO, nor ensure the gap between them is closed up in its entirety."

Darren Philp, director of policy at the National Association of Pension Funds, agreed moving to a single regulator could be the way forward.

He said: "The recommendations highlight the confusion created by our current regulatory structure, with no one department or regulator responsible for DC.

"We need to slim down the regulatory framework and have a single regulator for all workplace pensions. In our view the regulator should be responsible for all DC pensions, whether trust-based or contract-based. Prudential regulation for insurance companies and pension providers should remain with the FSA."

Jennie Kreser, partner at Silverman Sherliker and formerly legal director of the regulator's predecessor the Occupational Pensions Regulatory Authority, said either significant amounts of money must be pumped in to help the regulator meet its regulatory needs, "or something is going to have to give".

"The regulator may be reaching the end of its natural life and the government may well see the new DC universe as an opportunity to tear it up and start again with something smaller but more focused."