Division of Regulatory Authority for Pensions in the United Kingdom

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In the United Kingdom, the Financial Services Authority (FSA) and The Pensions Regulator (TPR) currently divide primary regulatory responsibility for pension plan oversight, but a number of other agencies also have responsibilities. Reforms are in the process that will make changes in the division of regulatory authority. The FSA and TPR divide authority on the basis of the entities subject to oversight. The FSA oversees the relationship between individual employees who have pension accounts and the financial services firms that administer those accounts and provide the underlying investment products. The FSA also regulates advice relating to pensions. In addition, the FSA regulates insurance and securities markets.

The FSA is an independent non-governmental organization that receives no government funding. It is entirely funded by the firms that it regulates. It regulates most financial services markets, exchanges and firms. It is accountable to HM Treasury (Her Majesties Treasury, equivalent to the Treasury Department in the U.S.), and through the Treasury to the Parliament.

The Financial Services Compensation Scheme covers firms that are regulated by the Financial Services Authority. If firms, such as insurance companies or investment firms, are unable to pay their clients, those clients may be able to receive compensation from the Financial Services Compensation Scheme (Financial Services Compensation Scheme 2012). Unlike in the U.S., insurance companies are regulated and insured at the national level and are also subject to the requirements of the European Union.

Taking effect in 2013 as part of regulatory reform resulting from the global financial crisis that began in 2007, the FSA will be divided into the Prudential Regulation Authority and the Financial Conduct Authority (Financial Services Authority 2012). The reform is taking place in part because it was felt that the FSA had responsibility for too many issues and was not able to focus sufficiently on particular issues. In particular, following the financial problems of the late 2000s, it was felt that the UK regulators did not have a sufficient focus on the risks that financial institutions were taking on. For that reason, it decided to split regulatory authority by subject area between two different agencies, with the division also depending on the size of the regulated entity (HM Treasury 2011).

The Prudential Regulation Authority regulates the balance sheet risk of financial institutions to assure that they do not take on excessive or inappropriate risk. It regulates banks, insurance companies, and financial services firms that manage significant risks on their balance sheets. The Prudential Regulatory Authority is part of the Bank of England group. It is overseen by the Bank of England governing body, called Court of Directors, or simply Court. It is an operationally independent subsidiary of the Bank. It is managed by a board that is appointed and dismissed by the Bank of England, subject to approval of the Treasury (HM Treasury 2011).

The Financial Conduct Authority will have responsibility for protecting pension participants in individual account plans, and other individual investors, in financial markets. It is a standalone independent regulator. It is an independent government agency that is financed by fees paid by financial services companies that it regulates. The Financial Conduct Authority is the prudential regulator for smaller financial services firms that are not regulated by the Prudential Regulatory Authority. Banks, insurers and major investments firms will be regulated by both entities as to prudential issues (by the Prudential Regulation Authority) and conduct issues (by the Financial Conduct Authority).

The Prudential Regulatory Authority and the Financial Conduct Authority have a duty to coordinate with each other. The Chief Executive Officers of both authorities will sit on the governing board of both authorities. The Prudential Regulatory Authority has veto power over the Financial Conduct Authority if it feels that actions taken by that authority would jeopardize the stability of the UK financial system (HM Treasury 2011).

The Pensions Regulator (TPR) regulates employer-provided pensions (Muir 2009). Its responsibilities include the funding standards for defined benefit plans. The regulation of defined contribution plans is split between two regulators. The FSA regulates contract-based DC plans, which are generally provided by insurance companies, while the TPR regulates trust-based DC plans that are plans provided by employers under trust law. Some proposals would establish a single regulator to regulate both types of DC plans, achieving that by merging the FSA and TPR (Towler and Jones 2012), but that approach has not been adopted.

The Pensions Regulator is run by a Board whose members are appointed by the Pensions Minister, who is a junior minister (equivalent to an Assistant Secretary in the Department of Labor in the U.S.) under the Secretary of State for the Department for Work and Pensions (equivalent roughly to the Secretary of Labor in the U.S.). The Pensions Regulator, however, is not part of the Department for Work and Pensions and its employees are not government civil servants. It is a non-departmental public body, often referred to as a Quasi Autonomous Non-governmental Organisation, or quango. While the directors are appointed by the Pensions Minister, TPR is not part of any governmental department, and carries out its responsibilities at arms length from the Pensions Minister.

The Pensions Minister has responsibility both for social security pensions and private sector employer-provided pensions. The Pensions Minister is a Member of Parliament and so generally does not have specific expertise in pension and retirement issues. The Pensions Minister is responsible for developing pension policy, with the approval of the Secretary of State for the Department of Work and Pensions.

The Inland Revenue, which since 2005 has been part of Her Majesty's Revenue and Customs (HMRC), is responsible for the initial approval of pension plans for preferential tax treatment. The Treasury has oversight responsibility. Her Majesty's Treasury is responsible for determining the tax treatment of pension plans. It is also responsible for the pensions for government employees.

The Pension Protection Fund (PPF) is responsible for insuring the benefits of private-sector defined benefit plans. It is an independent government agency, similar to the Pension Benefit Guaranty Corporation in the United States. The Financial Services Ombudsman handles complaints about the marketing of pension products. The Pension Ombudsman is responsible for handling participant complaints relating to pension benefits. The Pension Ombudsman is appointed by the Pensions Minister.

The UK has the regulatory principle that the organizations responsible for dispute resolution and consumer education are independent of the regulators. This principle is designed to assure that those organizations each has a single focused purpose that is not affected by broader regulatory issues (HM Treasury 2011). The Money Advice Service (formerly, the Consumer Financial Education Body) is a governmental agency that has responsibility for promoting financial education to individuals.

The Pensions Advisory Service (PAS) is a private sector organization that is funded by the government. It uses pension experts who volunteer to provide assistance to pension participants with pension problems. Generally, the Pension Ombudsman requires participants to go through the Pension Advisory Service before coming to the Ombudsman, but an exception is sometimes made for trade union members who have gone through their union for assistance in resolving a pension problem. The Pension Advisory Service deals with problems both for employer-provided pensions and individual pensions. Formerly, it was known as the Occupational Pension Advisory Service, and only dealt with problems relating to employer-provided pensions.

An issue in the UK and in other countries of the European Union is that financial services companies established in other countries of the EU can establish branch offices in the UK but be subject to the prudential regulations of their home country (HM Treasury 2011).

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