Department for Work & Pensions

HM Treasury

Financial Guidance and Claims Bill

Impact Assessment

Summary of Impacts

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Introduction

1. The Financial Guidance and Claims Bill (the Bill) contains measures to:
    a. Establish a single financial guidance body (SFGB)
    b. Transfer regulation of Claims Management Companies (CMC's) to the Financial Conduct Authority (FCA) and to establish fee restrictions in respect of financial services claims management activity.

2. The Bill also contains measures for two connected purposes:
    a. Creation of a debt respite scheme by secondary regulations
    b. Introduction of a ban on cold-calling by secondary regulations

3. Further detail on particular provisions can be found below and in the explanatory notes for the Bill.

4. The government recognises a responsibility to consider the impact, in terms of costs and benefits, of new regulatory proposals.

5. This document summarises the Impact Assessments for the provisions contained in the Bill:
    a. An Impact Assessment for establishing a single financial guidance body is at **Annex A**.
    b. An Impact Assessment for transferring regulation of Claims Management Companies to the FCA is at **Annex B**.

Background

Establishing a single financial guidance body

6. At present, the government provides free-to-client financial guidance and debt advice through three services – Pension Wise, The Pensions Advisory Service (TPAS), and the Money Advice Service (MAS).

7. Pension Wise is funded by a pension guidance levy imposed on the financial services sector, which is collected by the Financial Conduct Authority (FCA). TPAS is funded by Grant in Aid provided by DWP which is recovered from the general levy on pension collected by the Pensions Regulator. MAS is funded by two separate levies on the financial services sector – one for money guidance and one for debt advice - which are collected by the FCA.

8. In December 2016 the government published the *Public financial guidance review: Consultation on a single body* which outlined plans for the creation of one new financial guidance body to replace the current services. The new body will bring together pensions guidance, money guidance and debt advice, delivering and commissioning specific services to ensure that people have access to high quality, impartial financial guidance from one single source.

9. The body will have a consumer protection function, which includes an obligation to pass casework of specific concern to the FCA. The body must

also have regard to any detriment to consumers caused by cold-calling. It must advise the Secretary of State to institute bans to specific cold-calling products or services, where a ban would be conducive to its functions.

10. In addition, the new body will have a strategic function, aimed at creating a strategy to improve the financial capability of the public, improve their ability to manage debt and support the better co-ordination of financial education initiatives. With the exception of debt advice, the new body will not fund regulated financial advice.

11. The body will simplify the existing government sponsored financial guidance landscape to make it easier and more intuitive for individuals to access the relevant information and guidance to help them make effective financial decisions. The government remains committed to channelling as much funding as possible to the front line and to complementing, rather than duplicating, financial guidance offered by other providers.

12. The creation of the new body will be funded through a grant-in-aid payment from DWP. DWP will recover these costs from the consolidated fund - via the same financial services levies that currently fund MAS, TPAS and Pension Wise - and from the General Pensions Levy.

13. The new body will deliver its pensions, money guidance, consumer protection and strategic functions UK-wide. The body's debt function will apply in England only, with the devolved administrations responsible for administering funding for debt advice in Scotland, Wales and Northern Ireland.

Transferring regulation of Claims Management Companies (CMCs) to the Financial Conduct Authority

14. The claims management sector established itself soon after civil justice reforms were implemented to allow 'no-win no-fee' arrangements. Regulation was quickly required to tackle unscrupulous marketing and trading practices in the personal injury sector, and in some cases fraudulent activity. The Claims Management Regulation Unit (CMRU) was established within the Ministry of Justice (MoJ) in April 2007. It is relatively unusual for a government department to directly regulate an industry and it was originally intended as an interim measure.

15. Despite incremental reforms and improvements to the regulator's powers and rules since its creation, there continues to be widespread malpractice among CMCs. At Summer Budget 2015, the government commissioned an independent review to examine the nature and extent of problems in the market and make recommendations to improve the regulatory regime.

16. At Budget 2016, the government announced its intention to accept the review's recommendations, and that responsibility for supervising CMCs would transfer to the Financial Conduct Authority (FCA), with the aim of strengthening the regulatory framework.

Summary of Impacts

Establishing a single financial guidance body

Costs:

17. At present, existing legislation and FCA rules require pension schemes to provide information to customers on TPAS and Pension Wise services. The FCA also require mortgage providers to signpost customers to MAS and require debt-management firms to make people aware of free-to-client advice funded by MAS in their first communication. These rules will be updated to reference the SFGB rather than TPAS, Pension Wise and MAS. Firms will need to amend their communications to comply with those updates. This will create a direct cost on business estimated to be £5.65 million in the first year of the policy only, with no ongoing cost to business.

18. We estimate that the establishment of a SFGB will also create some minor transitional costs. These have not been monetised, but are expected to be outweighed by longer-term steady-state savings once the SFGB has been established. These savings could be channelled to the front-line of guidance provision and therefore broaden the government's provision of debt advice, pensions guidance and money guidance. Alternatively, savings could be used to reduce the levies that industry pay to finance the government's guidance provision.

19. Since receiving the green-rating from the RPC it has been brought to our attention that the Financial Conduct Authority are bringing rules in to require pension providers to direct customers to an annuity comparison tool. We do not believe at this stage that this has an impact on the estimates in the impact assessment.

20. An opposition amendment has added a requirement that the FCA make rules requiring pension providers to ask individuals with personal or stakeholder pensions whether they have received guidance before they require access to or to transfer their pension assets. The amendment also gives the FCA a discretionary power to require pension providers to provide access to guidance before customers can access or transfer their pensions.

21. The FCA is also required to create a rule requiring specified authorised persons to signpost to the new single financial guidance body. These requirements will only affect firms and individuals who are authorised and regulated by the FCA, so this will not impact on the managers or trustees of trust-based pension schemes.

22. A fuller assessment of the expected impacts of establishing a single financial guidance body can be found at Annex A.

Benefits:

23. The creation of a single financial guidance body will bring a number of important non-monetised benefits. Primarily, it will enable the creation of a single body with a single brand, and a single strategy, which will be more

likely to deliver guidance targeted to individuals' needs than three organisations trying to work together to achieve the same overarching outcomes.

24. This measure transfers responsibility for administering funds for debt advice to the devolved administrations and will enable the devolved administrations to commission debt advice alongside other advice services, including generalist advice and housing. This proposal is likely to create synergies in local provision and will enable the joined-up commissioning of services that reflect individuals' complex guidance needs.

25. Although the societal impacts of creating a single financial guidance body are difficult to quantify, responses to the *Public Financial Guidance Review: Consultation on a Single Body* noted that the creation of a single body is likely to improve individuals' engagement with government-sponsored guidance and that better-informed individuals are more likely to make financial choices that are appropriate for them.

Transferring regulation of Claims Management Companies (CMCs) to the Financial Conduct Authority

Purpose of the bill

26. The Bill will transfer regulation of CMCs to the FCA by amending the Financial Services and Markets Act 2000. This will enable the FCA to use their supervisory powers in respect of specified claims management activities and make the necessary arrangements for the transfer. The Bill will also transfer responsibility for handling complaints about CMCs from the Legal Ombudsman to the Financial Ombudsman Service (FOS).

27. The estimated net cost to industry arising from this transfer is £15.9m.

Costs

28. One off and ongoing costs resulting directly from the transfer will be borne by the CMC market, whether directly (for example, by applying for re-authorisation) or indirectly (such as through FCA's levy). The estimated one-off costs are:

    i. Regulatory transfer to FCA (£8.9m-£17.6m). FCA will incur costs as a result of changes relating to IT and systems changes, project management, communications support and policy development. Costs incurred by FCA will be passed onto the CMC market via a levy. Further detail is provided in Annex B.

    ii. Interim permissions regime (£0.2m-£0.3m). CMCs must apply for interim permission to carry out claims management services to cover the transition period between CMRU responsibility and CMCs receiving their full FCA authorisation. The estimated costs of this aspect have been calculated using data from the consumer credit transfer in 2013/14 and apply to both admin and application costs.

iii. CMRU exit costs (£0-£1m). This figure reflects costs from anticipated operational changes. CMRU have a budget set aside for this purpose, funded through the levy on CMCs.

iv. Admin costs for CMCs during application for reauthorisation (£0.4m-£0.6m). This is calculated using data on the amount of time taken to complete an authorisation and the average day rate for a compliance officer's time.

v. Reauthorisation fees (£1.35m-£3.3m). We expect that CMCs will be subject to a reauthorisation process when regulatory responsibility transfers to FCA. According to FCA, the likely risk posed by a firm and its size determines the level of the fee.

vi. Complaints transfer (£0.03m-£0.17m). Costs will be incurred relating to project management, staff (including training), policy development, and IT and systems changes. We expect this cost to be borne by CMCs.

vii. Senior Managers Regime (£3.5m - £6.3m). These costs arise from the regime's introduction, manager certification, and making systems changes for the new conduct rules. Costs will be recovered via the FCA's levy on the CMC market.

29. The bulk of the estimated ongoing costs arising from the transfer relate to the FCA levy on firms. The senior managers regime will also result in ongoing costs to CMCs, as will FOS case fees for firms subject to complaints. We have also accounted for costs incurred by new firms entering the market, which will result from applying for authorisation. The estimated breakdown of expected ongoing costs (annual figures) are as follows:

i. FCA levy (£2.3m-£11.3m): All firms regulated by FCA are subject to an annual levy: the ongoing cost to CMCs depends on the risk category they are assigned to; the range shown above reflects the fact that the size of the levy falls into two categories. The final ongoing cost to firms will be determined once FCA have conducted a full cost benefit analysis of the new regime and authorisation process.

ii. Reauthorisation admin costs for new CMCs (£0.1m-£0.2m). In 2016, CMRU received 159 new applications for authorisation. The resultant figures use the same data as part 5(iv) above.

iii. FCA authorisation fees (£0.2m-£2.39m). As above, new firms will need to pay a fee in order to be authorised by FCA.

iv. FOS case fees (£1.77m). FOS's levy on firms is included in the FCA levy (above), however firms will need to pay an estimated £550 case fee for the 26th and subsequent cases.

v. The Senior Managers' Regime (£0.3m - £0.4m). This ongoing cost represents continuing fitness and propriety checks and compliance costs. The ongoing costs have been calculated in the same way as one-off costs for each area and will be borne by CMCs through the FCA levy.

Benefits

30. Transferring CMC regulation to the FCA will result in significant non-monetised benefits to individuals, industry and the wider public. A well-functioning CMC market can provide assistance to members of the public who may be unwilling or unable to bring a claim themselves and can also act as a check and balance on the conduct and complaint handling processes of businesses. The tougher regulation enabled by this transfer will help to ensure that consumers can benefit from more professional services, including a reduction in misleading advertising and fairly priced services, and that banks and insurers can benefit from a reduction in speculative claims.

31. The monetised annual benefits of this policy result from CMCs not having to pay for costs associated with CMRU authorisation, namely:

    i. CMRU levy (£6.7m);

    ii. CMRU authorisation admin costs (£0.1m); and

    iii. CMRU authorisation fees (£0.3m).

32. A fuller assessment of the expected impacts of transferring regulation of Claims Management Companies to the FCA can be found at Annex B.

Summary of impact of measures on key groups

Measure: Establishing a single financial guidance body (see Annex A for further details)	
Summary of Measures	This measure seeks to establish a new NDPB to replace the three existing organisations, MAS, TPAS and Pension Wise. This will result in firms having to change their signposting materials from the existing services to the new SFGB. The new body will also be required to undertake supplementary activities, including providing one-off advice to the Secretary of State on the establishment of a debt respite scheme and a ban on cold-calling.
Sections & Schedules	Part 1 and 3 Schedules 1-3
Impact on Individuals	This measure will enable the creation of a single body with a single brand, and a single strategy, which will be more likely to deliver guidance targeted to individuals' needs than three organisations trying to work together. The measure is also expected to bring about long-term steady state savings, which could either be channelled to the front-line of guidance provision and or used to reduce the levies that industry pay to finance the government's guidance provision. This measure transfers responsibility for administering funds for debt advice to the devolved administrations and will enable the devolved administrations to commission debt advice alongside other advice services, including generalist advice and housing. This proposal is likely to create synergies in local provision and will enable the joined-up commissioning of services that reflect individuals' complex guidance needs. Although the societal impacts of creating a single financial guidance body are difficult to quantify, responses to the *Public Financial Guidance Review: Consultation on a Single Body* noted that the creation of a single body is likely to improve individuals' engagement with government-sponsored guidance and that better-informed individuals are more likely to make financial choices that are appropriate for them.
Impact on Industry	All pension, mortgage and debt providers that currently signpost to one of MAS, TPAS or Pension Wise will have to change their communications to signpost to the new SFGB. The estimated cost of implementing these changes

	has been calculated through gathering estimates from some of the providers that will be affected by these changes. As a result of this policy, there will be an estimated one-off cost to pension providers or administrators and mortgage and debt-management firms of £5.6 million in the first year only. This cost is a direct consequence of amendments to pre-existing rules that will require firms to signpost to the new single financial guidance body by amending their communications. We do not believe that there will be any on-going costs relating to changes to existing communication material, as signposting communications will have to be changed before the SFGB is established. Since an amendment to the bill adds a requirement on the FCA to create rules requiring specified authorised persons to signpost to the new single financial guidance body, there may be additional costs to industry. These costs would go beyond those identified as a result of amendments to pre-existing rules as highlighted above. At this stage it is not possible to specify the costs of the new rules, as the new rules have not yet been defined. However, the FCA will gauge costs when they consult with industry on any new rules. As stated, the creation of a single body will also enable savings across the government's provision of guidance. These savings could either be channelled to the front-line of guidance provision or be used to reduce the levies that industry pay to finance the government's guidance provision. The impact on industry resulting from a debt respite scheme or ban on cold calling is contingent on future regulations laid under the new regulation making powers. The impact to industry will be assessed at that stage. Since receiving the green-rating from the RPC it has been brought to our attention that the Financial Conduct Authority are bringing rules in to require pension providers to direct customers to an annuity comparison tool. We do not believe at this stage that this has an impact on the estimates in the impact assessment.
Impact on Government	The establishment of a SFGB will incur transitional costs. These will consist of accommodation set-up costs, overlap in senior leadership during the transition between the current services and the SFGB, recruitment of new staff, redundancy costs, and costs to establish a new public-

	facing website. The full scale of these estimated costs will become clearer during the service design of the SFGB. Subject to legislative change, these costs will be met within TPAS, Pension Wise and MAS's existing budgets and by MAS's general reserve. The transfer of responsibility for the commissioning of debt advice to devolved administrations is not expected to incur significant set-up costs. The devolved administrations currently commission advisory services and have established commissioning structures in place.
Regulatory burden on business and civil society organisations	There will be no new or on-going regulatory burden placed on business or civil society as a result of these measures.

Measure: Transferring regulation of Claims Management Companies to the FCA (see Annex B for further details)	
Summary of Measures	This measure seeks to improve conduct in the claims management sector by transferring regulatory responsibility from the MoJ-based regulator to the Financial Conduct Authority (FCA).
Sections & Schedules	Part 2 and 3. Schedule 4 and 5.
Impact on Individuals	The transfer will apply FCA's broad suite of powers to the CMC market, resulting in a stronger regulatory framework which will have a direct positive impact on individuals by improving access to high-quality claims handling services. A well-functioning CMC market benefits individuals by providing assistance to consumers who may otherwise be unwilling or unable to bring a claim themselves, and benefits industry by acting as a check and balance on business conduct. Furthermore, the FCA has experience in implementing two of the independent review's key recommendations for improving conduct in the CMC sector – senior managers regime and reauthorisation process - which sits well with the FCA's consumer protection objective.
Impact on Employers	There is no quantifiable impact on employers arising from this transfer. While it is likely that the number of CMCs will reduce as a result of the transfer, the number of CMCs has already fallen by an average of 17% for the past 3 years, so it would be difficult to attribute a further reduction to this transfer alone.
Impact on Industry	The regulatory transfer will directly benefit the CMC and financial services industries, due to the cross-cutting nature of claims management activities. As detailed in Annex B, CMCs may be subject to an increased levy and complaints-handling fees, but this cost must be assessed against the reputational benefits resulting from being regulated by a well-established, independent regulator such as FCA. Professionalising the CMC sector should result in fewer speculative and unmeritorious claims lodged against financial services firms.
Impact on Government	MoJ will no longer be responsible for regulating the sector.
Regulatory burden on business and civil society organisations	The transfer will result in tougher regulation for the CMC sector. The expected burden of this has been fully assessed in Annex B.