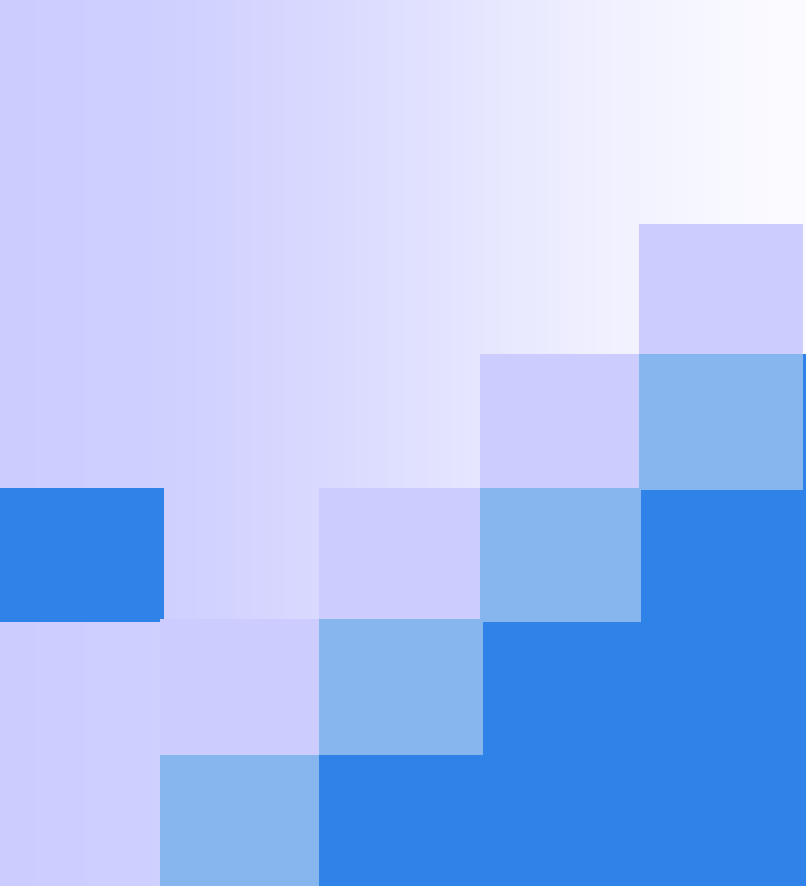




# ANNUAL CONFERENCE 2019

**Claire Trott**  
AMPS Chair



**WELCOME**  
**and**  
**THANK YOU**

**AMPS** ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES

**AMPS** ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES

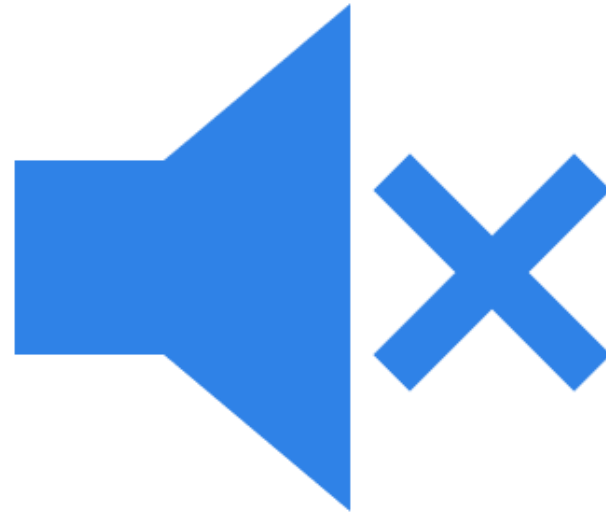
# Phones

Please mute your phones/tablets/laptops

**But** feel free to tweet

@ampsonline

#AMPSCONF2019



# Fire drills and exits



# Agenda – Before coffee

- Platform Market Study
  - Tobin Ashby - Pinsent Masons LLP
  
- Retirement Outcomes Debate
  - Chaired by Claire Trott
  - Hannah Davies - Enhance Solutions
  - Matthew Baggott - Mattioli Woods
  - Geoff Buck - AMPS Committee Member

# Agenda – Before lunch

- Pension Dashboard
  - Rob Yuille- ABI
- STAR/Transfer Tracking
  - Matthew Dransfield – Criterion
- Powers of Attorney
  - Damien Garrould - TLT LLP

# Agenda – After lunch

- Investment Due Diligence – A Debate
  - Chris Jones- Rock Consultancy
  - John Moret - More to SIPP
- Pension Scams
  - Margaret Snowden OBE - Pension Scams Industry Group
- Cybercrime – Interactive Session
  - Samiul Hussain Barclays – Digital Eagles
- FOS awards and the impact on the PI market
  - Paul Afteni and Duncan Philpott - Willis Towers Watson

# Interactive feedback and speaker voting



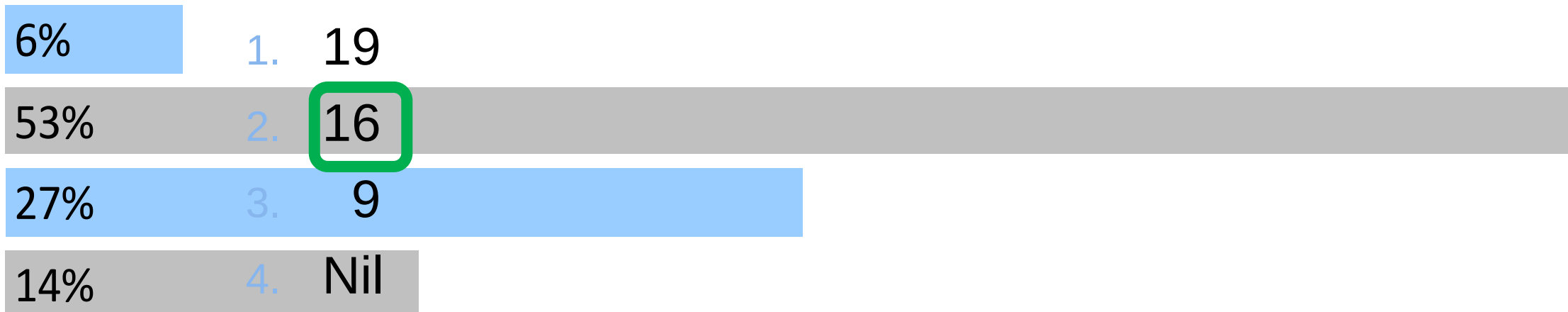
# Anonymous Questions



# Familiarity Vote

# Question to audience

- How many points did Great Britain score in the 2019 Eurovision Song Contest?





# Thank You

Altus  
Business Systems



AMPS ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES



# What has AMPS been up to recently?

- Dear CEO Letter – FCA discussions
- Retirement Outcomes Review – FCA meeting
- DWP meeting – Statutory Transfer
- HM Treasury – Trust Registration Service
- Other Trade Bodies

# New website

- Bringing the website up to date
  - ☐ Modern
  - ☐ Clean
  - ☐ Intuitive
- Making it more user friendly



# New Logo

AMPS

AMPS ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES

# Homepage



# Dashboard

## AMPS MEMBERS DASHBOARD

### WELCOME TO THE AMPS MAY UPDATE...

Lorem ipsum dolor sit amet, consectetur adipiscing elit. Duis suscipit tempus purus, ut blandit sem blandit in. Nam sit amet pellentesque tortor. Nam at cursus ligula. Quisque id ante id sapien cursus luctus.

Nulla quis est eget ligula euismod consectetur ut id nisi. Nunc tincidunt dapibus urna a auctor. Vestibulum scelerisque odio ut mauris accumsan, vitae molestie arcu mattis.

Quisque quis urna lacus. Vestibulum lorem velit, convallis nec vulputate a, viverra sed nisi. Nullam ut interdum eros. Duis suscipit accumsan odio ornare rhoncus. Sed luctus nulla sit amet pulvinar mattis. Integer sodales et ligula eu eleifend.

NEWSLETTER



MEMBERS  
FORUM

MEMBERS  
LIBRARY

USEFUL  
LINKS

MY  
PROFILE

### Pensions Industry Stakeholder Forum - October Meeting

HMRC have now published the minutes from the October 2018 meeting...

4th Feb 2019

Read More

### Latest from the Forum

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et

Read More

# Members





# Website Input

The committee have spent time developing some ideas, but to move forward with this please see Katie in the breaks to answer some questions.

Please note the photographer on site today will take photos for use on the new site. A reminder that if you **do not** wish to be photographed please let Claire or Caroline know.

# Membership reminder

- You should have received your membership renewal
- Thank you to all those that have already paid
- Please see Joy if you haven't received yours who will ensure we have your correct details





Talk to  
us

# Investment Platforms Market Study

AMPS Conference  
21 May 2019  
Tobin Ashby



Pinsent Masons

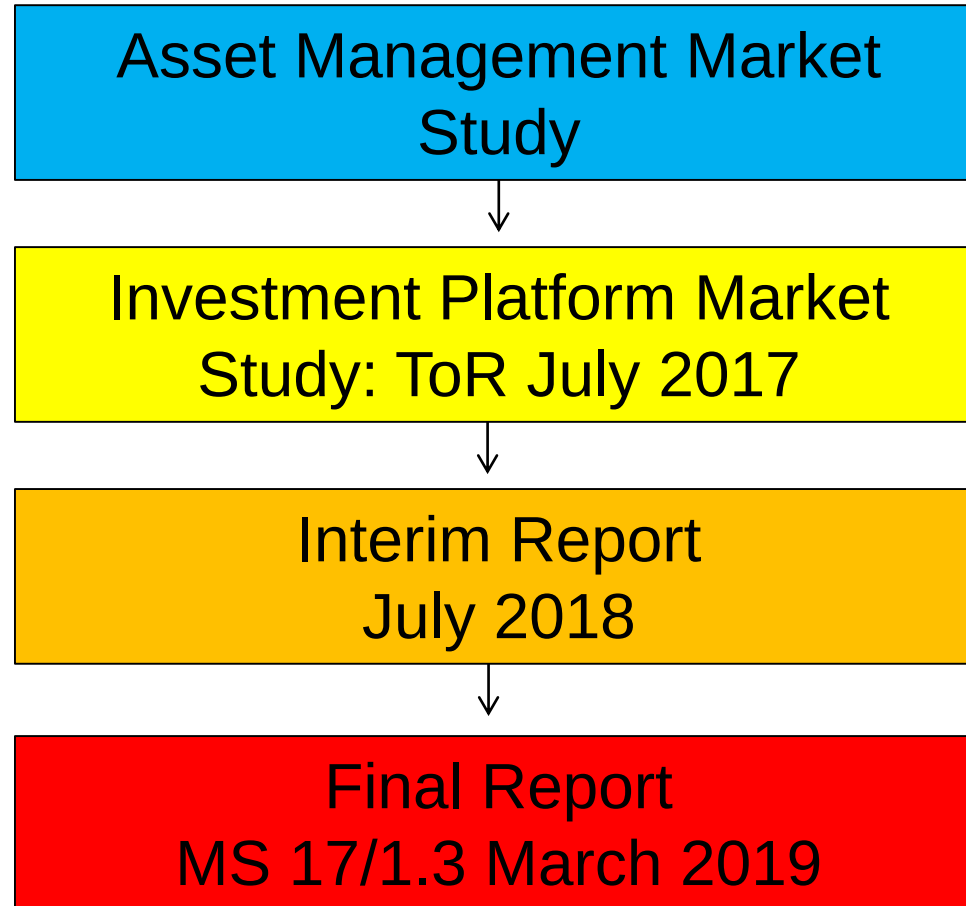
# Investment Platforms – FCA scope

**“Investment platforms arrange, safeguard and administer investments on behalf of consumers and offer them access to retail investment products from a number of different providers.”**

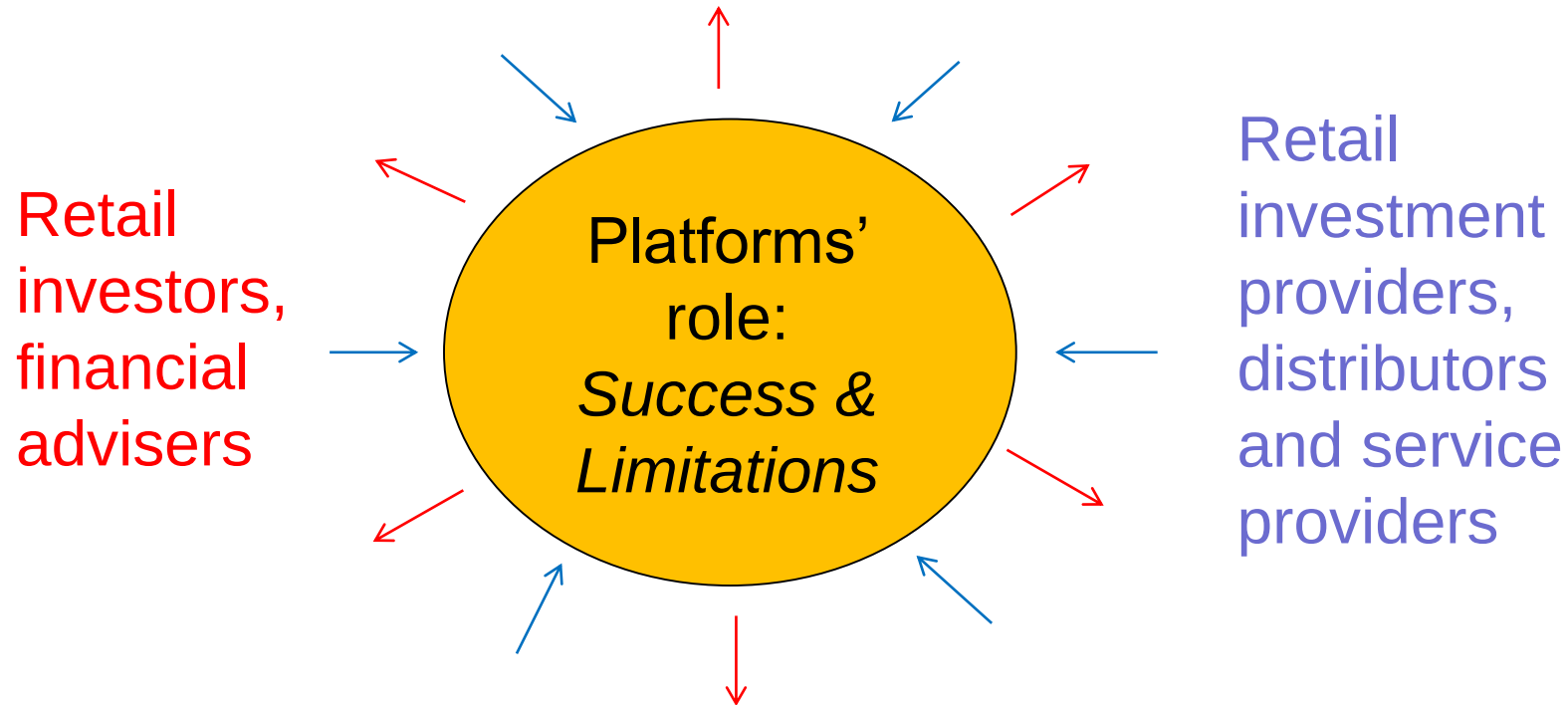
**“Consumers can use platforms to access information and tools to inform and help them with investment choices and can use them to make transactions, such as buying and selling shares and funds.”**

*FCA Final Report MS17/1.3 para 1.2*

# Origins



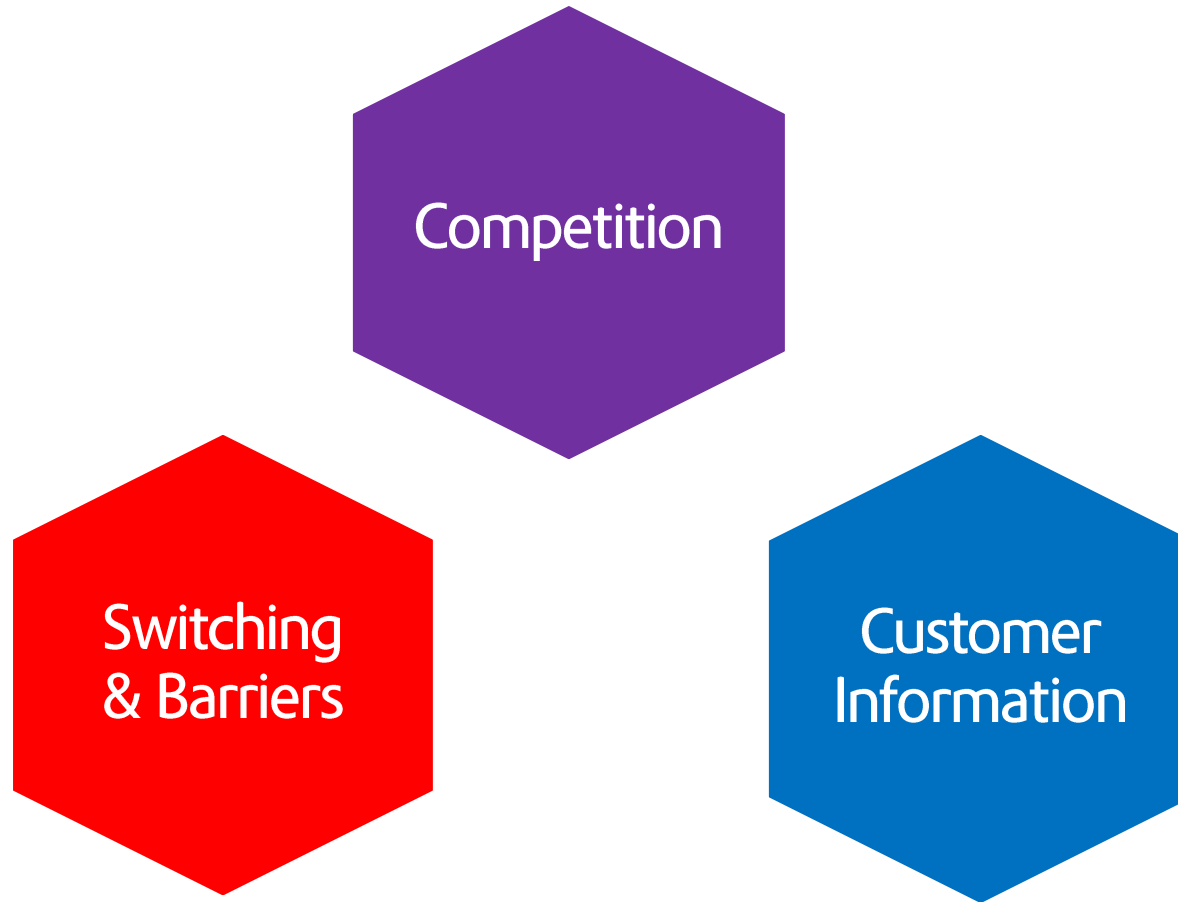
# Why does it matter...?



## ...and to whom?

- Platform Service Providers
- Providers of a similar online service
- Intermediaries (IFAs, wealth managers)
- Retail Investors
- Pension providers distributing products on platforms
- Other wrapper/product providers
- Fund managers/other investment providers
- Technology providers

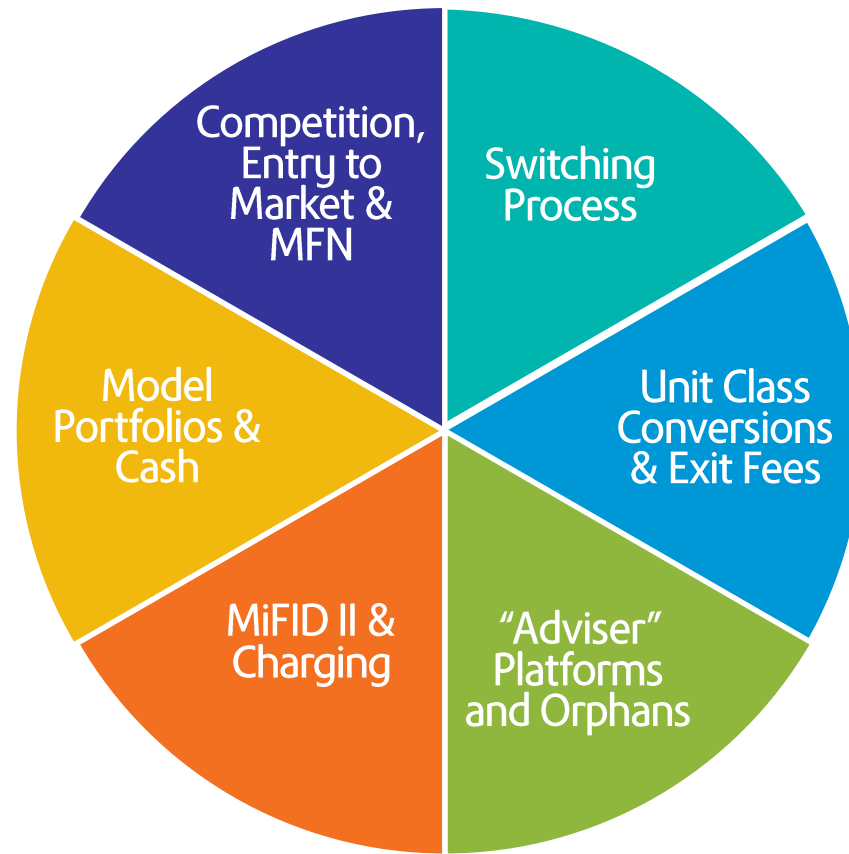
# Main themes



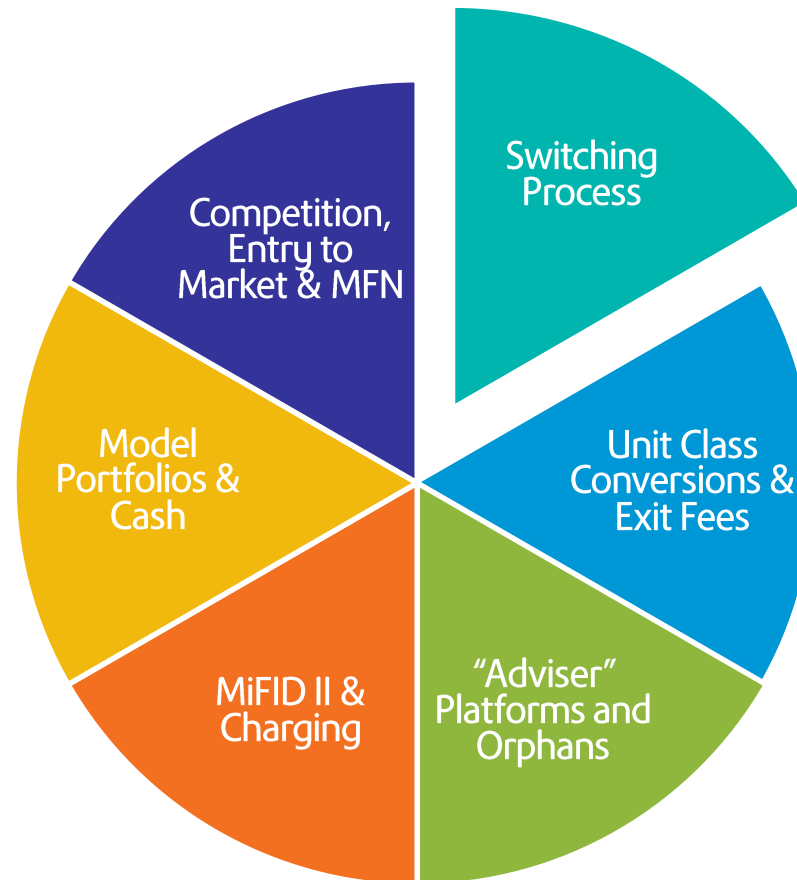
# Results of IPMS

- FCA “Package of Remedies”
- Proposed new rules and consultations
- “Wait & see”:
  - Existing rules
  - UKPG
  - Further review
- Developments in thinking and concerns
- Greater FCA understanding?

# Areas of Focus



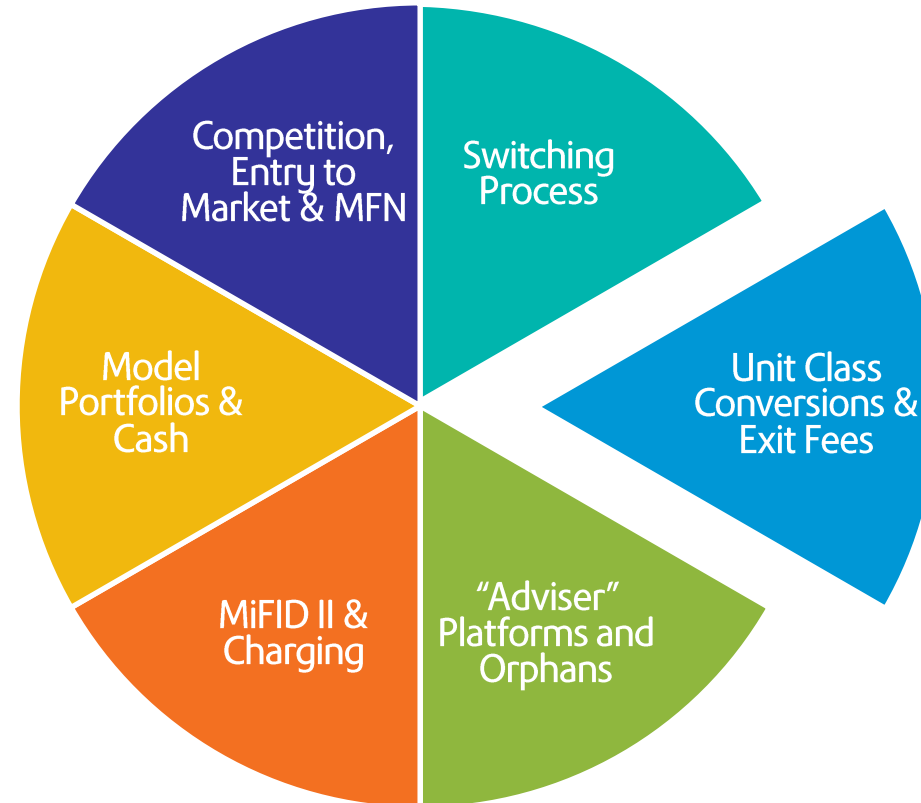
# Switching Process



# Switching Process

- In specie transfers vs liquidating holdings
- Key barriers identified:
  - Unit conversions
  - Exit fees
- TRIG & STAR
- CP19/12 and further consultation
- FCA and HMT pressure and interest

# Unit Class Conversions & Exit Fees



# Unit Class Conversions

- Availability of classes on different platforms
- Incorporating conversions into transfer process
- Industry activity and developments
- New rules proposing:
  - Ceding party conversion request *requirement*
  - Acquiring party to offer cheaper class
- CP19/12 consultation ends 14 June 2019

# Unit Class Conversions

## Audience Question:

Do you think that on switching platforms ...

- |     |                                                                                      |
|-----|--------------------------------------------------------------------------------------|
| 2%  | 1. Only financial advisers should be informed of lower cost unit classes?            |
| 33% | 2. Investors should be informed about unit classes and left to decide on conversion? |
| 0%  | 3. Investors should be left to discover whether there are lower cost unit classes?   |
| 65% | 4. Investors should be automatically transferred into lower cost unit classes?       |

# Exit Fees

- FCA focus on barriers to competition
- Discouragement and suitability questions
- Platform service & market study focus
- Product exit fees
- CP19/12 initial questions
- Further consultation

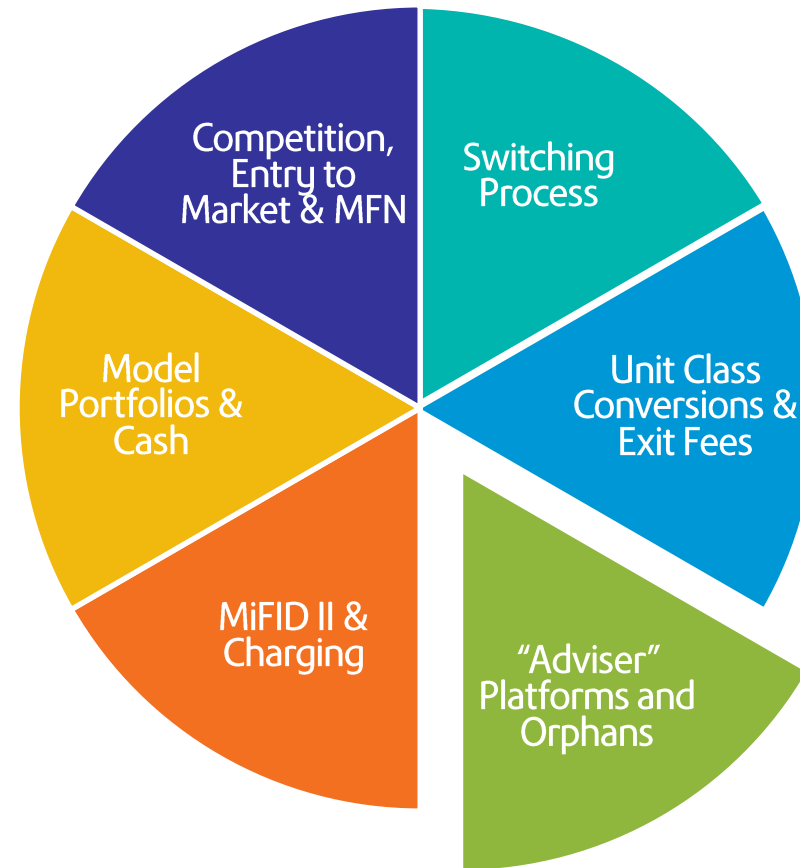
# Exit Fees

## Audience Question:

Do you think that on exit fees should be...

- 11% 1. Banned or capped for platform services only?
- 13% 2. Banned or capped for products only?
- 60% 3. Banned or capped for platform services and products?
- 17% 4. Allowed to continue as is?

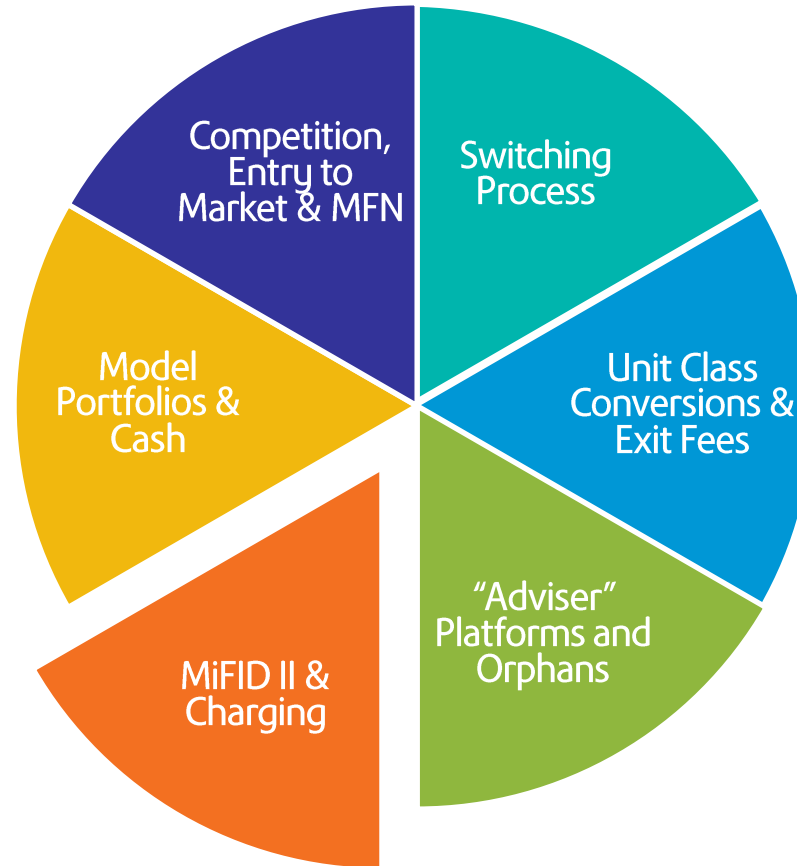
# “Adviser” Platforms and Orphans



# “Adviser” Platforms and Orphans

- Suitability, barriers & adviser feedback
- Comparison with D2C barriers
- Benefits of platform services vs responsibility for payment of platform charge
- Developments from Interim Report
- Non-monetary benefits & existing rules
- Orphans:
  - Charging approach
  - Communication and responsibilities

# MiFID II & Charging



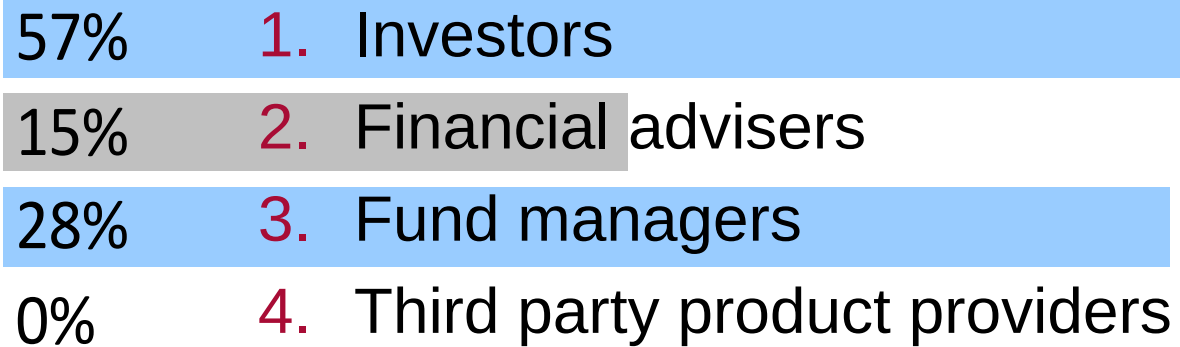
# MiFID II & Charging

- Platform charge transparency & description
- Clarity and prominence of fund charges
- Equities & best execution
- FCA unwillingness to create further rules?

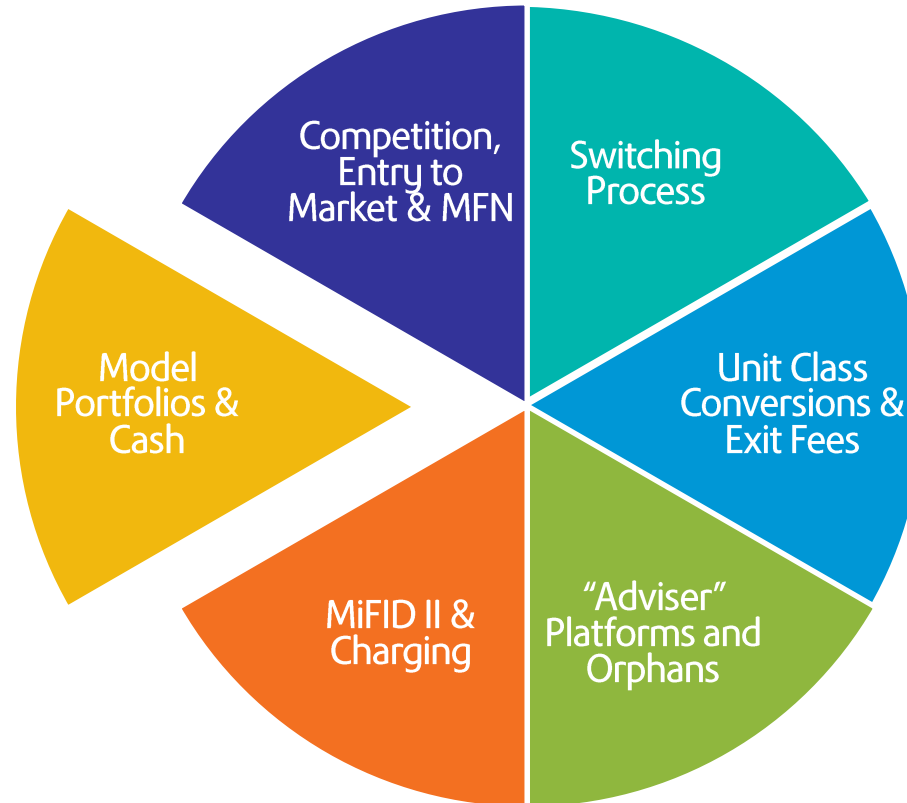
# MiFID II & Charging

## Audience Question:

Who do you think should pay for the service platforms provide?



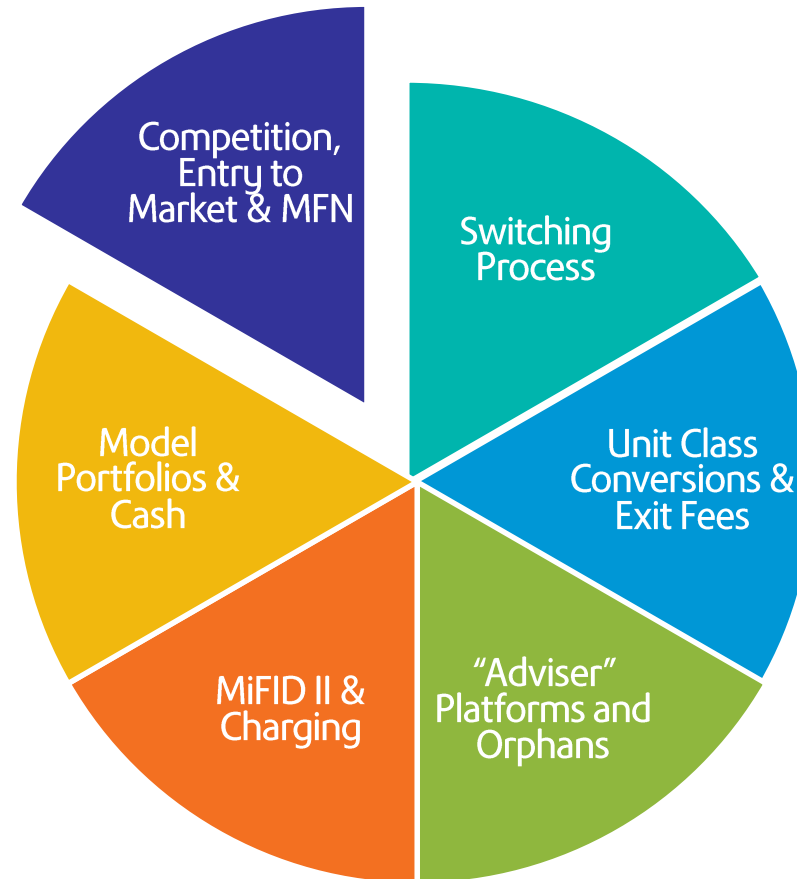
# Model Portfolios & Cash



# Model Portfolios & Cash

- Model Portfolios:
  - Description
  - Comparing portfolios
  - Current rules (PS19/4 & PRIIPS KIDs)
- Cash awareness:
  - Platforms (turn on interest)
  - Investors
  - Cash within pensions
- Reliance on improvements based on existing processes and rules

# Competition, Entry to Market & MFN



# Competition, Entry to Market & MFN

- Market studies' competition focus
- Factors for investment platforms:
  - Scale
  - Technology
  - Vertical integration
  - **Customer acquisition**
- Switching proposals' impacts
- UKPG & STAR initiative
- Most Favoured Nation clauses (other sectors)

# What to expect from here

CP19/12 consultation ends 14 June (NB exit fees)

New rules/guidance in force by July 2020?

Further scrutiny in 2019 and 2020:

Charging  
disclosure

Orphans

Switching  
(ease and  
speed)

Continued competition focus (MFNs?)

FCA review of FAMR and RDR – call for input

# Contact



Tobin Ashby

Partner

Tobin.Ashby@pinsentmasons.com

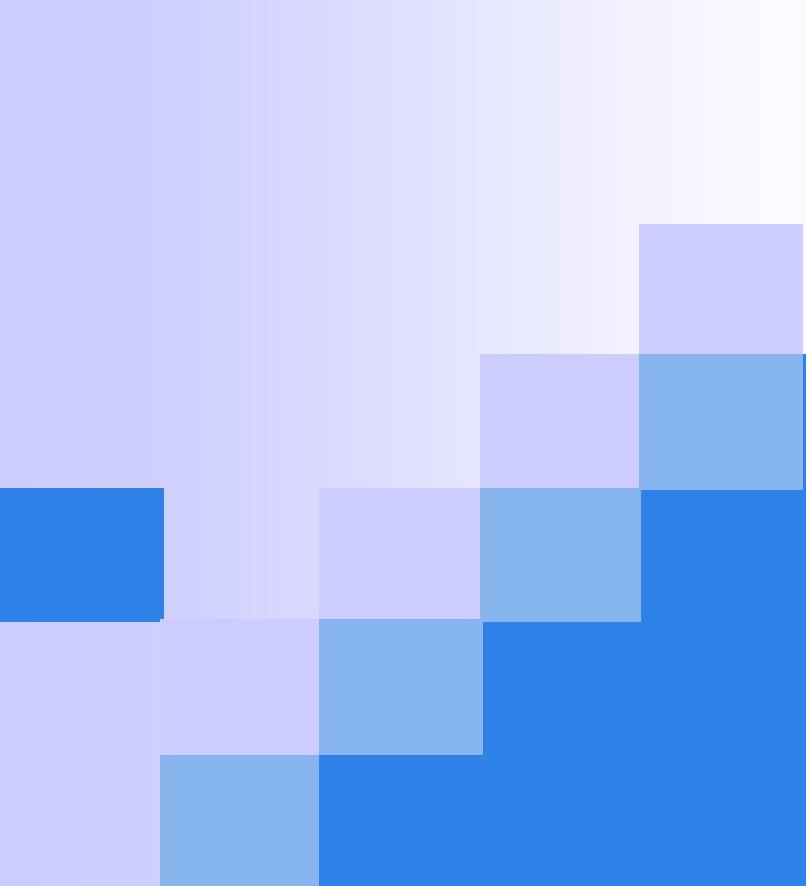
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M: +44 7766 808 680

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# Retirement Outcomes Debate

**Claire Trott** – AMPS Chair

**Hannah Davies** - Enhance Solutions

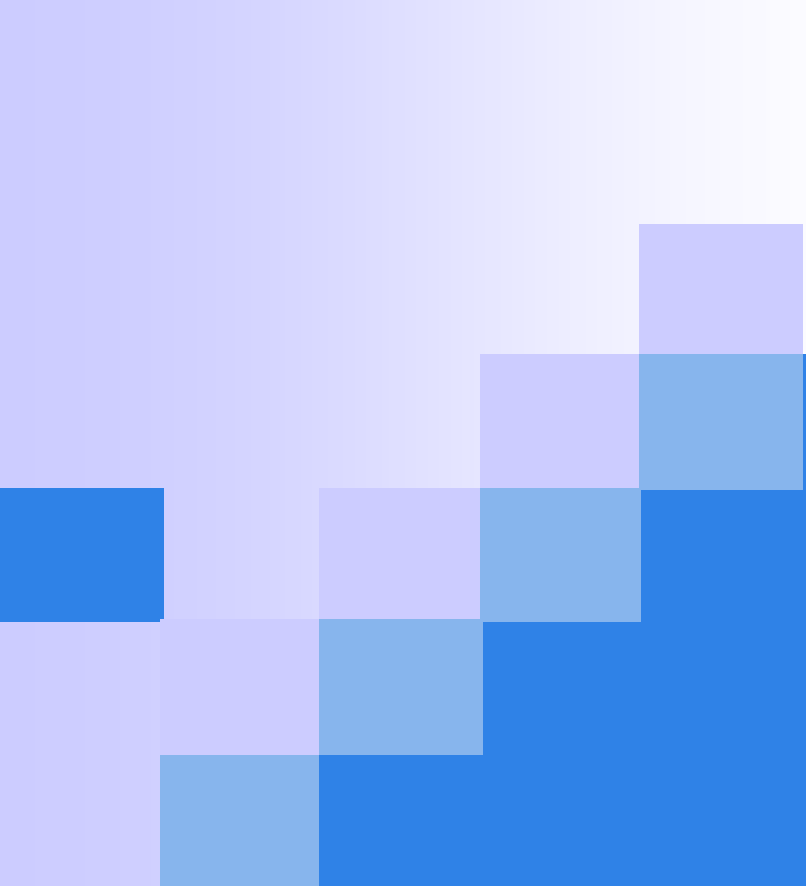
**Matthew Baggott** - Mattioli Woods

**Geoff Buck** – AMPS Committee



# Agenda

- Policy Statement 19/1 Review
- Investment Pathways
- Charges information



# Policy statement 19/1 Review

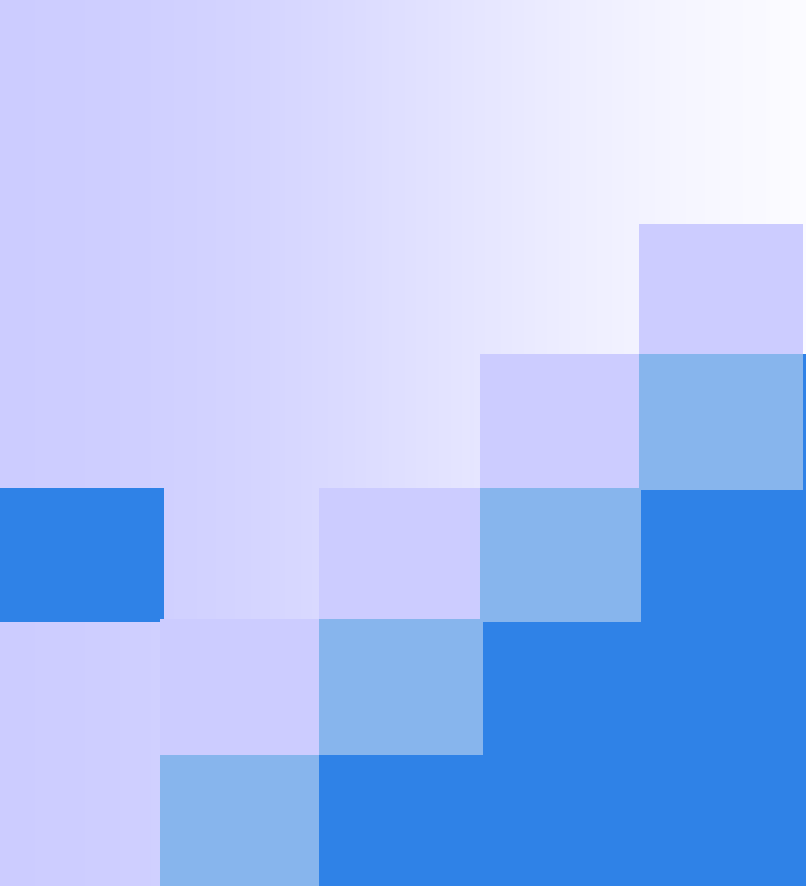


# Policy statement 19/1 – January 2019

- Improving consumer engagement with retirement income decisions: ‘Wake-up’ packs, retirement risk warnings and reminders
- Improving consumer engagement with retirement income decisions: annuity information prompt
- Promoting competition by making the cost of drawdown products clearer and comparisons easier

# Wake up packs

- Introduce additional trigger points for the open-market options statement (commonly known as the 'wake-up' pack) to include a pack at age 50 and then every 5 years until consumers have fully crystallised their pension pot.
- Introduce a single page summary document into the 'wake-up' packs
- Introduce additional retirement risk warnings ('risk warnings') alongside 'wake-up' packs.
- Prevent firms from including marketing material alongside the 'wake-up' pack and reminder information about the 'wake-up pack'
- Strengthen the messaging in the reminder about the 'wake-up' pack to encourage consumers to access pensions guidance



# Investment Pathways

# Investment pathways

## What?

- Low cost (0.75% fee cap) investment solutions that pension providers can 'offer' or 'refer' consumers to based on four FCA-prescribed investment objectives
- Investment objectives range from not wishing to touch the money for the next five years, through to wishing to take or convert into income products within five years
- Those 'offering' investment pathways will be subject to product governance requirements
- An easement exempts smaller firms from having to offer investment pathways

## When?

- Each time a non-advised consumer wholly or partially crystallises benefits; or, transfers drawdown fund to a new arrangement
- Note: certain 'standing' instructions regarding phased drawdown may fall outwith the requirements

## Who?

- This applies to 'non-advised' consumers which includes those beyond 12-months the previous advice; or, within 12-months of previous advice but have not confirmed their circumstances are unchanged

# Round table feedback

- Advised/non advised clients – identification where circumstances may have changed in previous 12 months and international clients
- Earmarking of drawdown pots - practicalities of this such as change to admin systems, processes and client understanding
- Timing of investment pathways – differing views on when this should be offered to a client
- Five step process – easy to understand, would potentially frustrate clients as the benefit process is already protracted with RRW, SFGB possible threat to smaller clients (SFGB drawdown calculator = unknown)

# Round table feedback

- Offer/refer - unclear in some of draft legislation on whether 'refer' means transfer to another provider
- Small provider easement – rules on this are clear although suggestion that cap of 500 is applied to non advised consumers who fail to engage (i.e. invest)
- Referring to other providers – concern on assessing other providers and potential to stray into advice (use of the word 'generally' in draft handbook text for PERG).
- Record keeping – more clarity needed from FCA on what format data is likely to be requested
- Exempt firms considering offering investment pathways

# Question to audience

With regards to the current proposals will you as a firm

- |     |                                                               |
|-----|---------------------------------------------------------------|
| 19% | 1. Provide investment pathways because we will have to        |
| 16% | 2. Provide investment pathways even though we would be exempt |
| 5%  | 3. Refer to SFGB because we are exempt                        |
| 3%  | 4. Refer to another third party because we are exempt         |
| 57% | 5. We are exempt but have yet to decide                       |

# IGC Consultation – CP19/15

- The FCA propose rules and guidance that will require IGCs to assess the value for money of pathway solutions.
- This means assessing the costs and charges of pathway solutions relative to their quality, [whether the pathway solution is designed and managed in the interest of pathway investors and whether communications are fit for purpose and aimed at pathway investors]
- As with workplace personal pensions, IGCs will have the power to raise any concerns directly with the Boards of firms, which firms must respond to.

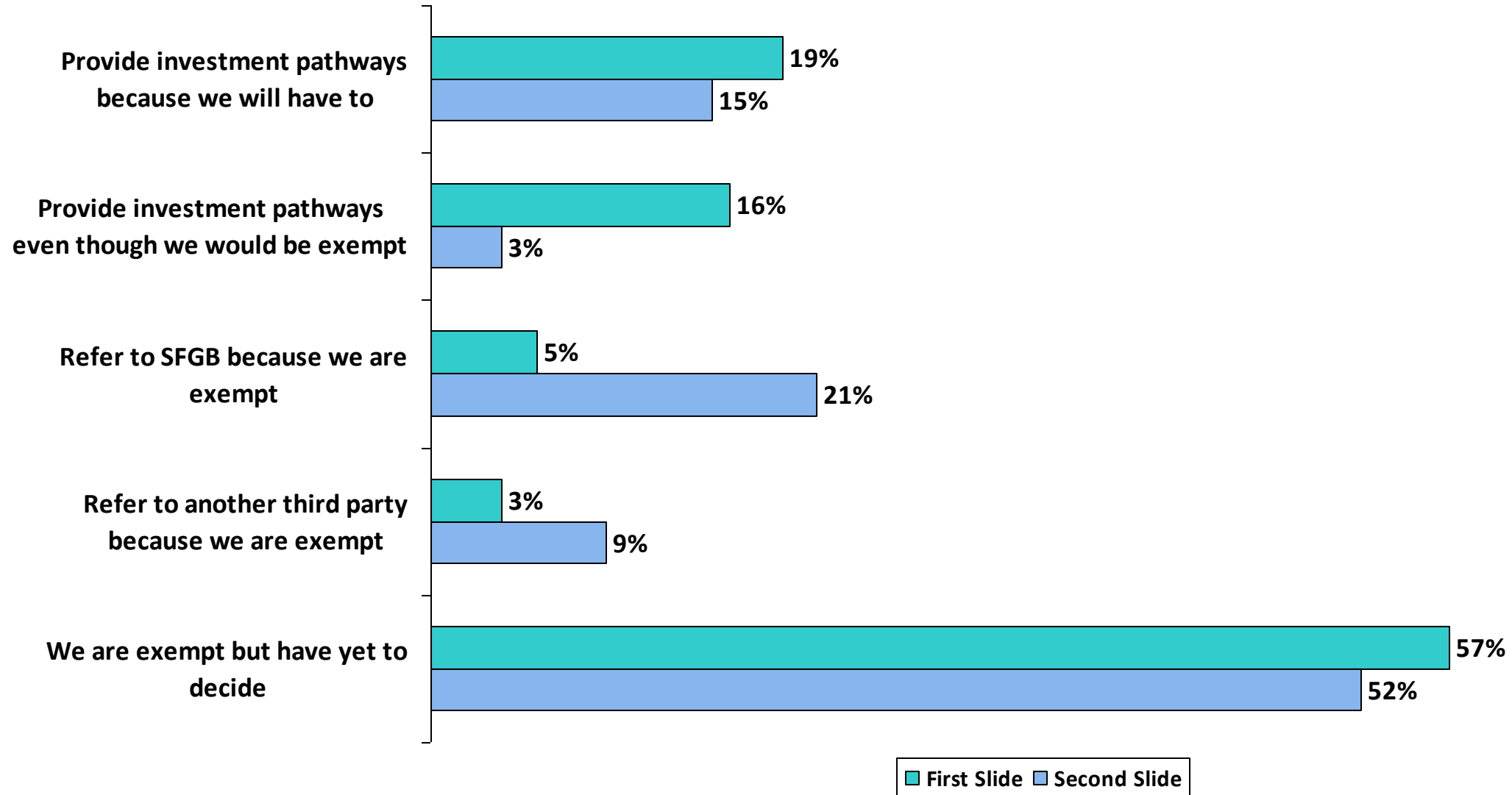


# Question to audience – to see any changes

With regard to the current proposals will you as a firm

- |     |    |                                                            |
|-----|----|------------------------------------------------------------|
| 15% | 1. | Provide investment pathways because we will have to        |
| 3%  | 2. | Provide investment pathways even though we would be exempt |
| 21% | 3. | Refer to SFGB because we are exempt                        |
| 9%  | 4. | Refer to another third party because we are exempt         |
| 52% | 5. | We are exempt but have yet to decide                       |

## With regard to the current proposals will you as a firm





# Investment Pathway Options

Quick reminder of the 4 proposed options

- Option 1: I have no plans to touch my money in the next 5 years
- Option 2: I plan to set up a guaranteed income (annuity) within the next 5 years
- Option 3: I plan to start taking a long-term income within the next 5 years
- Option 4: I plan to take my money within the next 5 years

# Investment pathway options

## Round table feedback

- Attendees had different interpretations as to what the objectives meant eg within 5 years could mean tomorrow or 5 years and 11 months or for option 4 does it mean some or all money? On this basis consumers are likely to have different interpretations
- Where would attitude to risk fit?
- Consumers' age and health could also be relevant factors
- Speculation that simplicity could be at the expense of quality
- Who would be accountable in the event that the pathway solution failed to perform as expected?

# Question to audience

- Do you feel that the investment pathways should include some form of attitude to risk?

78% 1. Yes

22% 2. No

# Question to audience

- What is your understanding of what needs to be included in the costs quoted to a drawdown client on an ongoing basis?

7%

1. SIPP fees

7%

2. SIPP fees and adviser charges

23%

3. SIPP fees, adviser charges and investment costs

64%

4. All transaction costs irrespective of source

# Charges information

# Actual charges information

## What?

- A requirement on personal pension providers (including SIPP operators) to provide information on the actual post-sale (ex-post) charges during the decumulation phase
- These charges to be expressed as pounds and pence (rather than %) and to include transaction costs (actual or estimated) and, if applicable, adviser charges

## When?

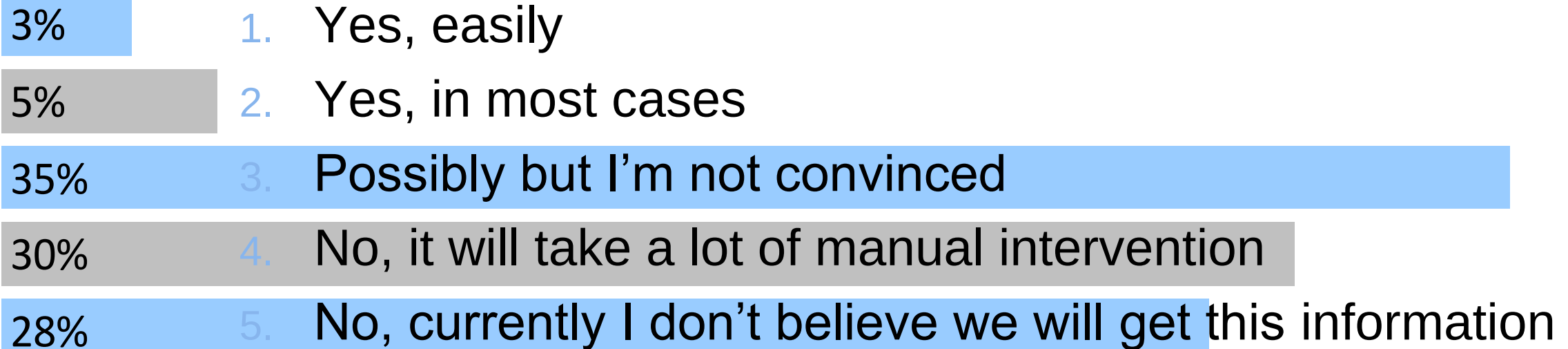
- Annually

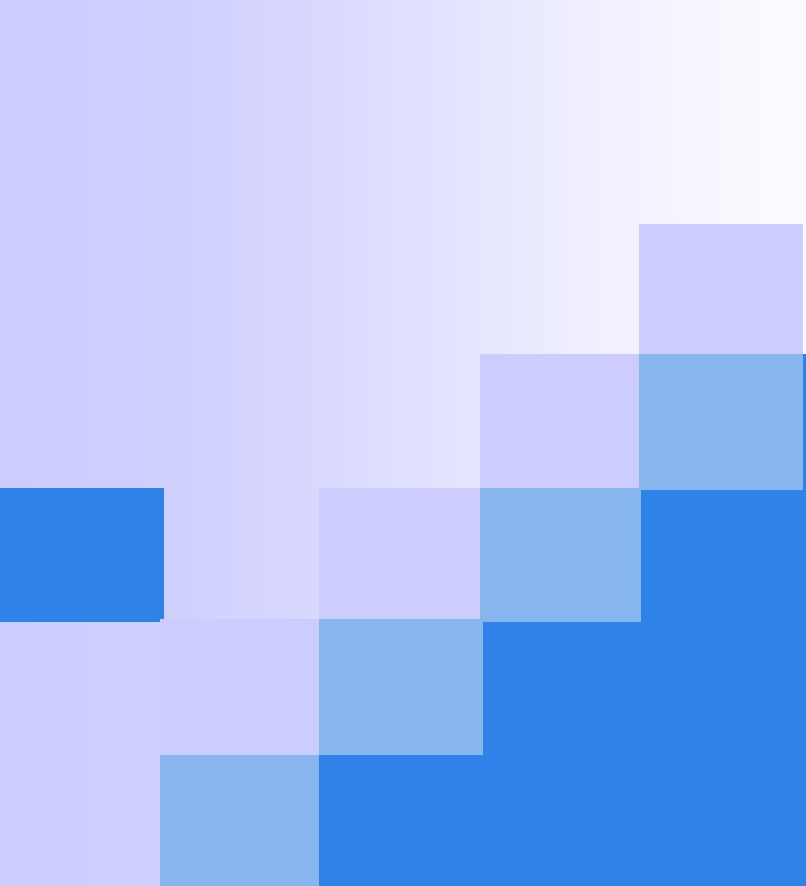
## Who?

- All consumers with crystallised benefits – this includes any consumers that have withdrawn at least one UFPLS payment

# Question to audience

Given the level of information needed, do you feel that the third parties your firm deals with will be able to provide this information in a format you can use?





# Thank you

# COMFORT BREAK WITH TEA/COFFEE AVAILABLE IN THE ATRIUM AREA

Altus  
Business Systems



BARCLAYS



delta  
FINANCIAL SYSTEMS  
Knowledge ~ Technology ~ Solutions

AMPS ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES



# Pensions Dashboards

AMPS Annual Conference

Rob Yuille, Head of Long Term Savings Policy

21 May 2019



[abi.org.uk](http://abi.org.uk)

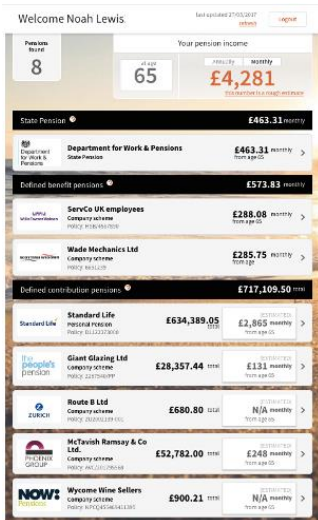


[@British Insurers](https://twitter.com/BritishInsurers)



# Where are we now, and how we got here

- DWP says 'merit in exploring further', 2012
- FCA recommends a pensions dashboard, December 2014
- Chancellor George Osborne commits to industry-delivered dashboard by 2019, March 2016
- ABI-led project, 'Reconnecting People With Their Pensions', makes recommendations, October 2017
- Rumours the project will be killed, July 2018
- DWP Feasibility Study consultation published, December 2018
- DWP response published, April 2019



Pensions Dashboards  
Government response to  
the consultation

# Last summer ...

## Esther McVey's pension plan 'will let down millions'

THE  TIMES

To: Esther McVey MP

**Don't scrap the pensions dashboard**



Do not scrap the promised pensions dashboard, a website that would help millions of people keep track of their pensions

174,056

of 200,000 signatures

Sign the petition

First Name \*

Last Name \*

Email \*

Postcode \*

 City A.M.   
@CityAM

It would be crazy to ditch the pensions dashboard – here's why [dlvr.it/QcgNVZ](https://dlvr.it/QcgNVZ)



Work & Pensions Committee  @Com... 1h

Following press speculation yesterday that @DWP will ditch the #pensions #dashboard, pensions minister @GuyOpperman refuses to confirm his October 2017 commitment that "make no mistake, the dashboard will happen" in evidence to the Committee this morning [bit.ly/2Lt5os2](https://bit.ly/2Lt5os2)





## Key decisions made, and what they mean for you

- Legislative compulsion to make data available

- All pensions eventually

*'Despite the challenges that could face a SSAS operator, it would be useful to try and integrate such schemes at some level. The main reason for this would be to help reduce the impact of scammers on these types of schemes.'* – Association of Member-Directed Pension Schemes

- Multiple dashboards

- Will you offer one? Will your competitors?

- Infrastructure

- You're paying ... but probably not that much

- Governance

- Make sure you're represented!



## Ask the audience #1

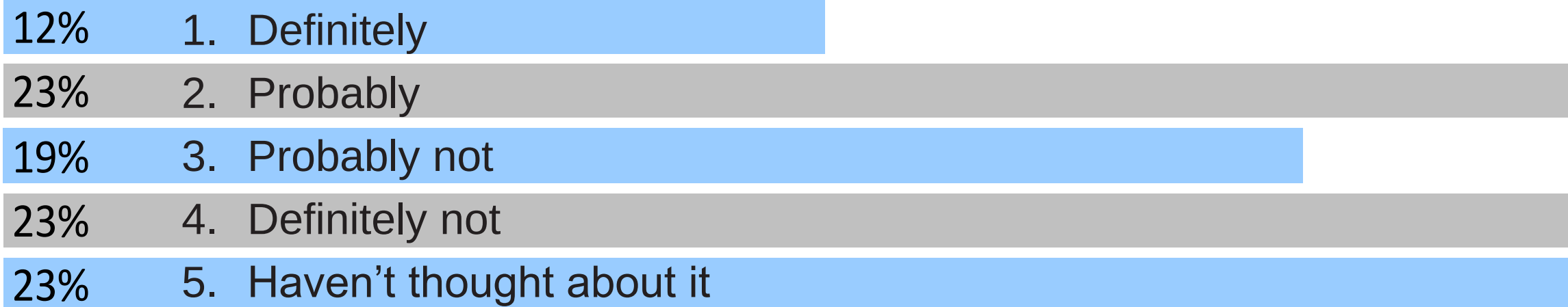
When will your firm make data available?

- |     |                                                             |
|-----|-------------------------------------------------------------|
| 20% | 1. Voluntarily – we could do it within 2 years              |
| 22% | 2. Voluntarily – it will take longer than 2 years           |
| 39% | 3. When it's compulsory – but we could do it within 2 years |
| 20% | 4. When it's compulsory – it will take longer than 2 years  |



## Ask the audience #2

Will you offer your own pension dashboard to customers?



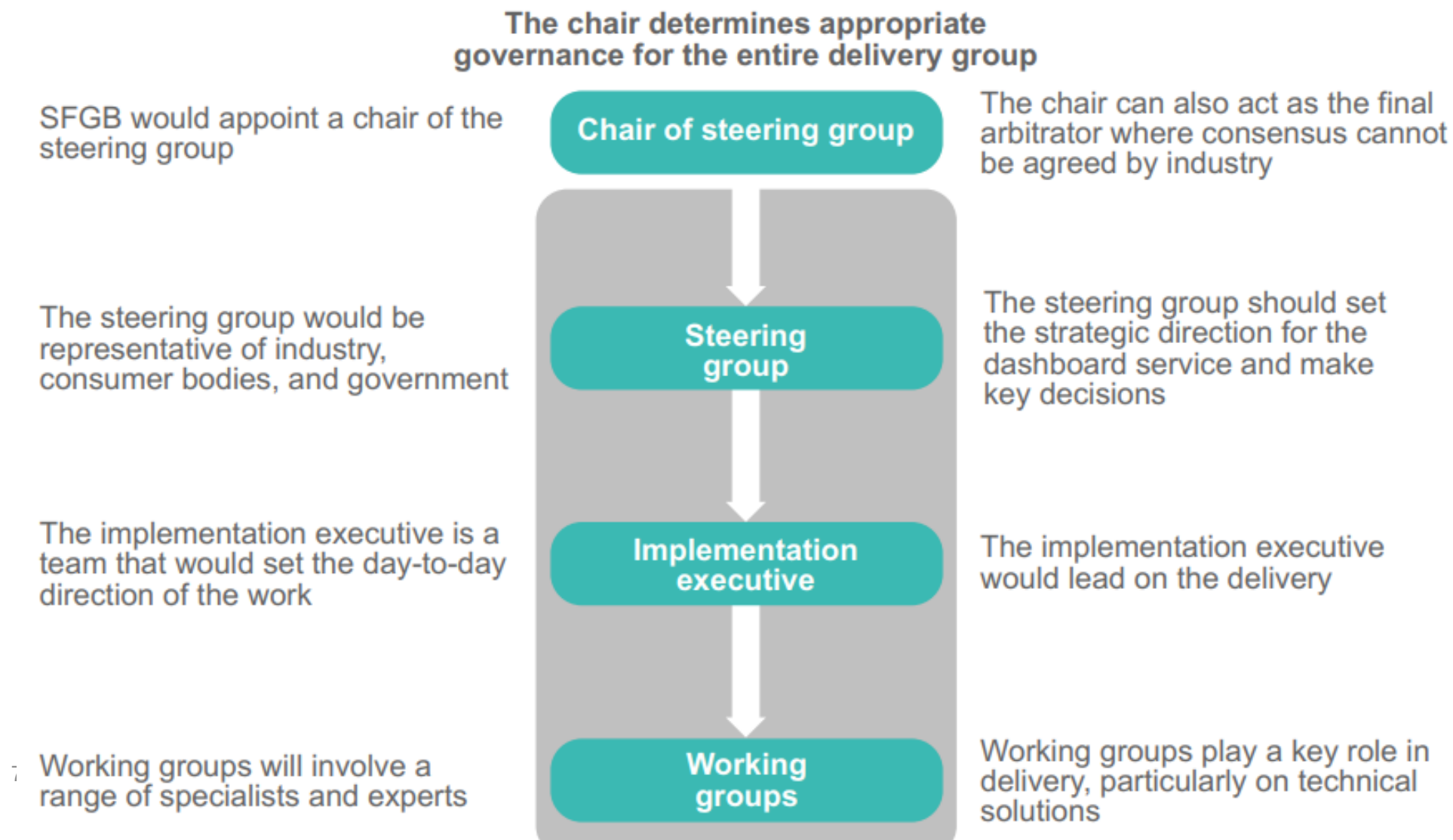


## What to expect next, and when

- Key appointments
  - Principal & Implementation Director
- Filling in the governance
  - Steering Group, working groups?
- Legislation
  - And regulation?
- Key decisions outside the legislation

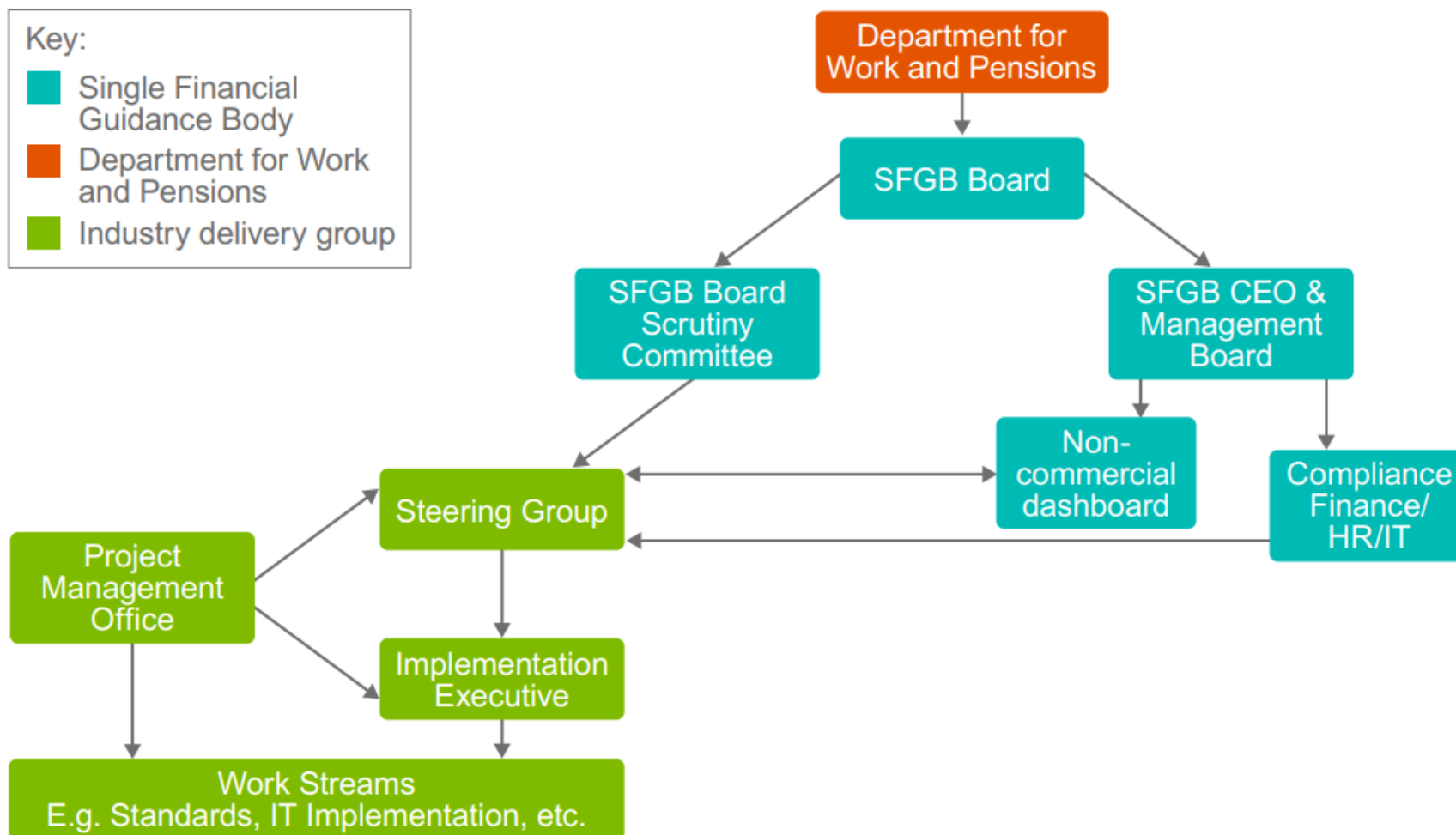


# Governance arrangements





# Implementation





## What's left to sort out, and whose job is it?

- Phasing
- Standards
- State Pension
- Digital ID
- Regulatory framework





## Once pensions data is open, then what?

- What other data items could be included, or exchanged?
- Could transfers between assets be easier?
- More consolidation?
- Would life be easier for consumers, advisers, or both?



**Your chance to shape  
the future of transfers**

**Matthew Dransfield**  
Commercial & Marketing Director, Criterion

21 May 2019

# What is the problem?

Current industry systems and processes are not consistent and transfer timeframes vary greatly between providers.

This can lead to:

- ★ **slow transfers** potentially causing detriment to customers' values
- ★ the actions of one party **reducing the efficiency** of all the parties in the chain, increasing costs for everyone
- ★ consumers and advisers finding switching difficult; because of the time, complexity and cost involved; **creating barriers** that may result in consumers staying with products or platforms, which no longer meet their need or which offer them **poor value for money**



# What is STAR?

**STAR** will shape recognised, industry-wide standards to promote best practice in transfers

**STAR's** remit is to:

- ★ Define the processes required to complete a transfer
- ★ Specify good practice targets for each of those processes
- ★ Measure, recognise and accredit performance excellence across the industry



# What will STAR do?

**STAR** will work collaboratively with market participants to define and recognise transfer performance excellence.

**STAR** will work with participants to:

- ★ Overlay real-world processes on the TRIG framework
- ★ Define good practice SLAs for those processes
- ★ Measure and share performance against those SLAs
- ★ Recognise excellence in delivering that performance



# Good for you, good for consumers

STAR brings benefits *both* for market participants...

- ★ Influence how best practice is defined across transfers and re-registrations
- ★ Demonstrate commitment to consumers and industry stakeholders
- ★ A showcase for highlighting excellent performance
- ★ Assists in eliminating levels of additional administration and associated costs

...and for consumers

- ★ Better communication
- ★ Improved transparency
- ★ Continuous improvement



# What does good look like?

The truth is we don't know yet ....

What we do know is that in 2016 a TRIG survey highlighted the extremes of Transfer/ Re-Registration processes:

- ★ The best took between 2 and 8 days (dependant on type of Assets/ Wrapper)
- ★ The worst results recorded were between **187 – 450 days** (dependant on type of Assets/ Wrapper)

**STAR** will work with its members to create consistent MI that will reveal the current picture. We can then work on understanding the challenges faced that can return such extreme results.



# Be in good company

STAR already has great support from across the industry and its stakeholders

*“I’d urge firms to commit to the TRIG framework, as this is an area the Government is keeping a close eye on”*  
*Guy Opperman MP*

*“We welcome and support the progress industry is making to improve the switching process in the platforms, investments and pension sectors through **STAR**, a not-for-profit joint venture, to improve transfer times and customer communications. **STAR** is in the process of implementing a framework which sets expectations for end-to-end standards, customer communications, and provides oversight and transparency. **We will review progress made by industry later this year and, if needed, again in 2020 and take further regulatory action if necessary.**”*

FCA - Investment Platforms Market Study, 14 March 2019

- |                         |                        |                     |                          |
|-------------------------|------------------------|---------------------|--------------------------|
| ★ Aegon                 | ★ Equiniti             | ★ Janus Henderson   | ★ Scottish Widows        |
| ★ AJ Bell               | ★ Fidelity             | ★ Legal & General   | ★ Smart Pension          |
| ★ Aviva                 | ★ FNZ                  | ★ LV=               | ★ Standard Life Aberdeen |
| ★ Barclays              | ★ Fusion Wealth        | ★ Old Mutual Wealth | ★ Transact               |
| ★ Barnett Waddingham    | ★ Hargreaves Lansdown  | ★ Parmenion         | ★ Wealthtime             |
| ★ BNY Mellon   Pershing | ★ Hodge Lifetime       | ★ Phoenix Group     | ★ Zurich                 |
| ★ B&CE                  | ★ Interactive Investor | ★ Prudential        |                          |
| ★ DST Funds             | ★ Invesco              | ★ ReAssure          |                          |



# How STAR will be delivered

# What *won't* STAR do?

STAR will *build on and broaden* existing good industry practice – not duplicate it

## STAR isn't:

- ★ A contract club that manages counterparty risk – that's TeX
- ★ A service or framework for exchanging transfer data – that's Origo Options / ISO 20022 / SWIFT / Altus Transfer Gateway / Calastone Re-registration / Actuate Account Transfers / etc

## STAR is:

- ★ A service that delivers across the industry using the joint capabilities and combined expertise across Criterion and TeX



# Funding and fee structure

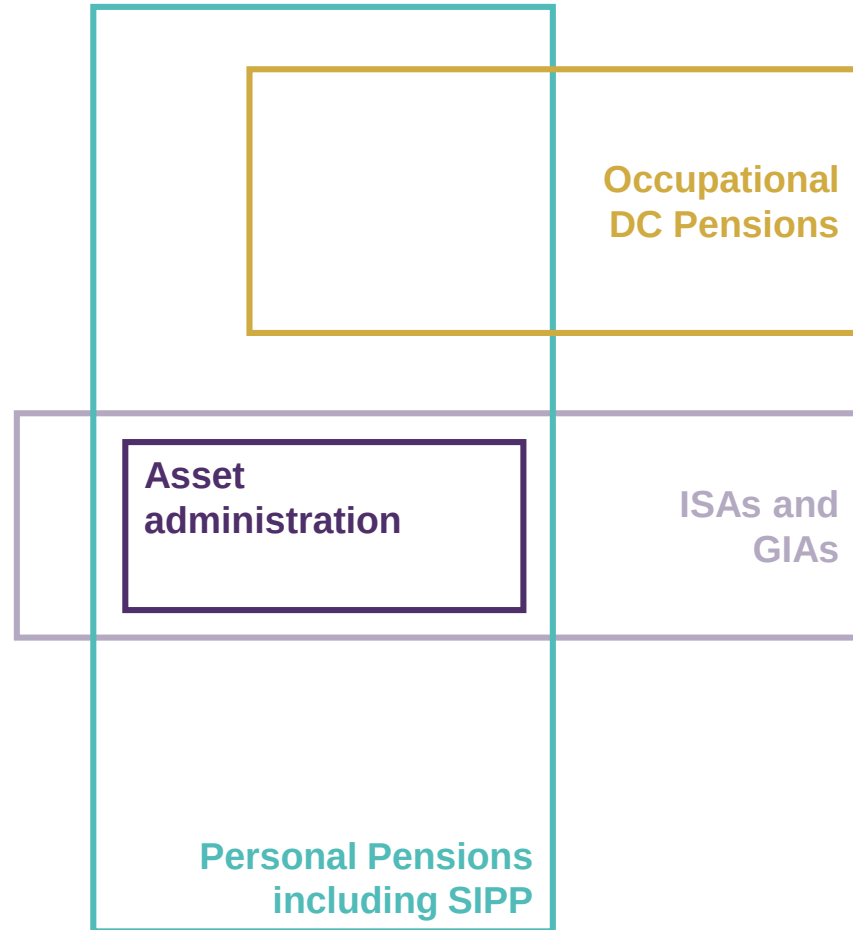
1. Funding is transparent, sustainable and free from commercial bias.
2. Not-for-profit delivery partners brings down costs of professional governance and standards.
3. Costs will be borne equitably across broad pool of industry participants.

| Anticipated Fees                                                                                     |          |
|------------------------------------------------------------------------------------------------------|----------|
| Joining                                                                                              |          |
| ★ One-off joining fee at Group level, payable when an organisation joins, regardless of when that is | ★ £3,000 |
| ★ All participants thereby bear an equitable share of the costs                                      |          |
| Annual                                                                                               |          |
| ★ Charged per SLA set used by each reporting organisation within a Group.                            | ★ £1,700 |
| ★ Payable annually from the delivery of each SLA set.                                                |          |

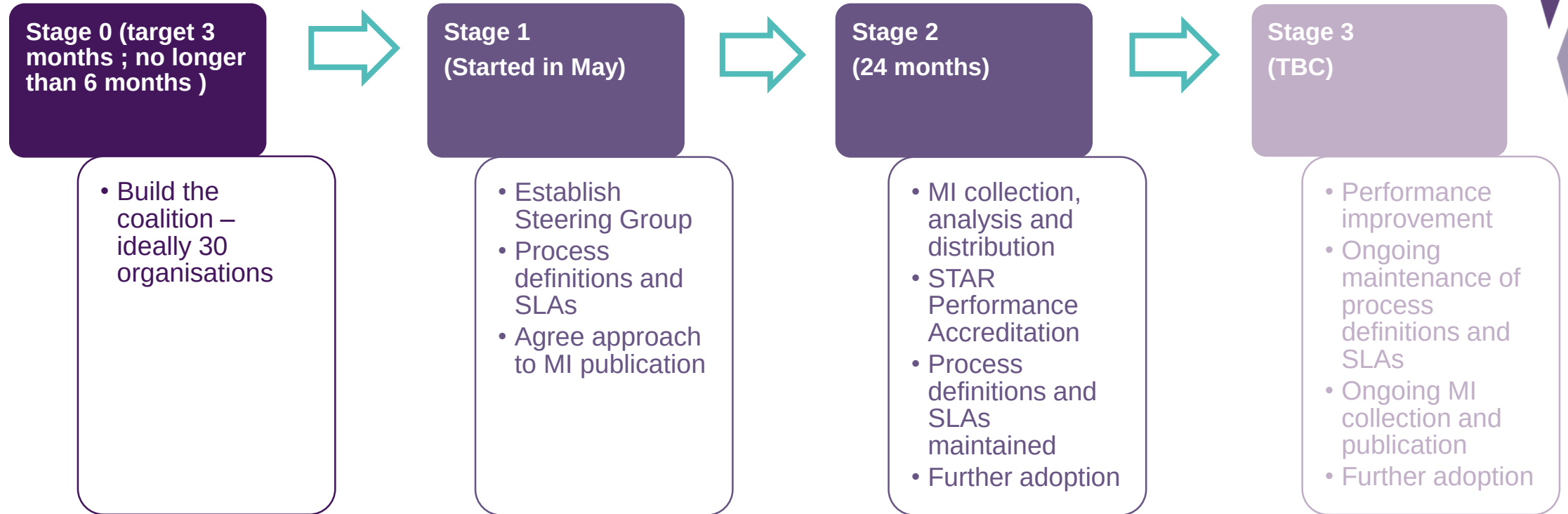


# SLA Groups

Identifying what is different; leveraging what is common

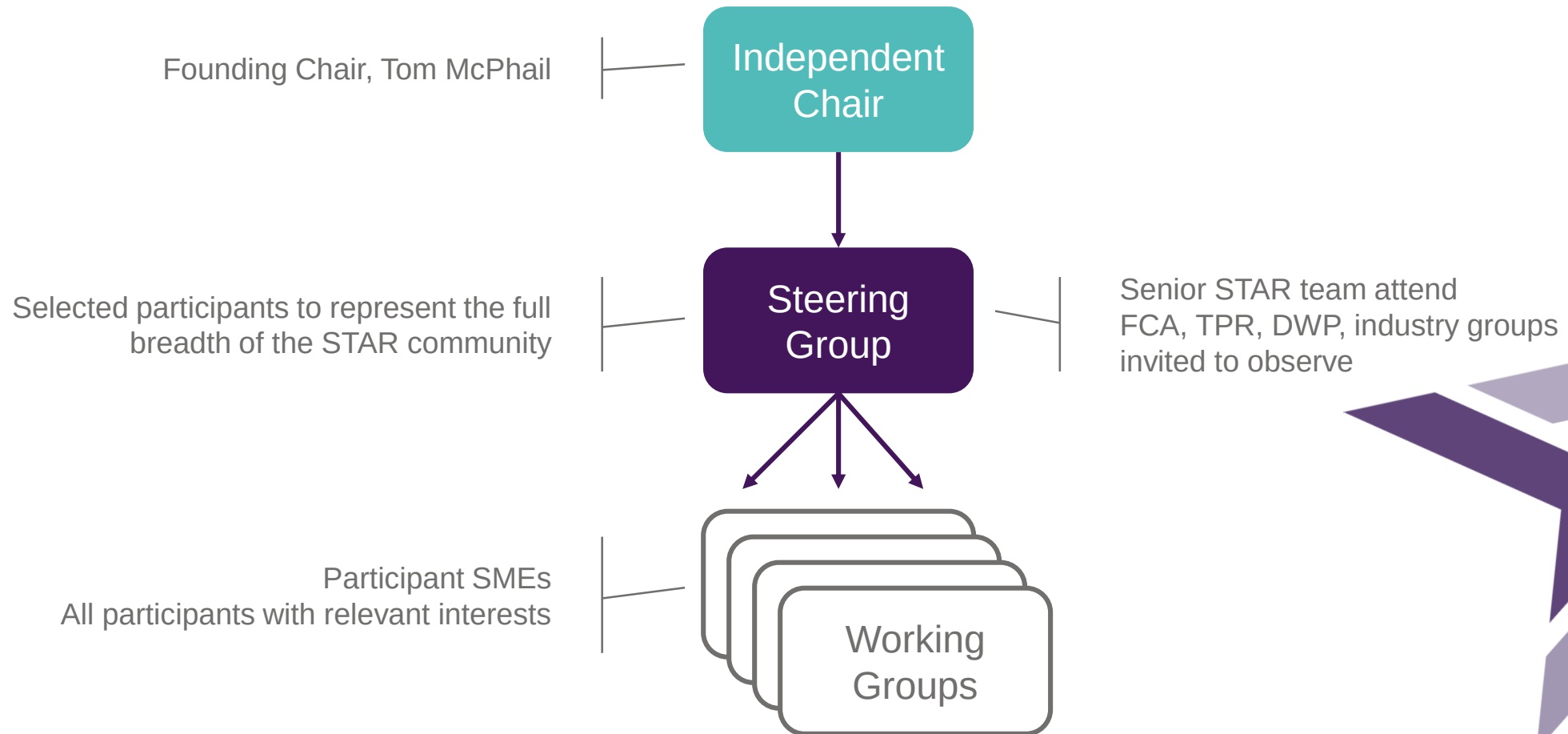


# STAR's four-step programme of work



# Governance of the industry by the industry

The STAR Steering will set priorities and oversee delivery through Working Groups



# Collaboration is the key to success

Quite simply, **STAR** needs you!

- ★ We need your commitment and participation
- ★ Influence and define best practice standards
- ★ Galvanize and work hard to improve processes
- ★ Deliver better customer outcomes across the industry
- ★ Join STAR today and help shape the future of transfers

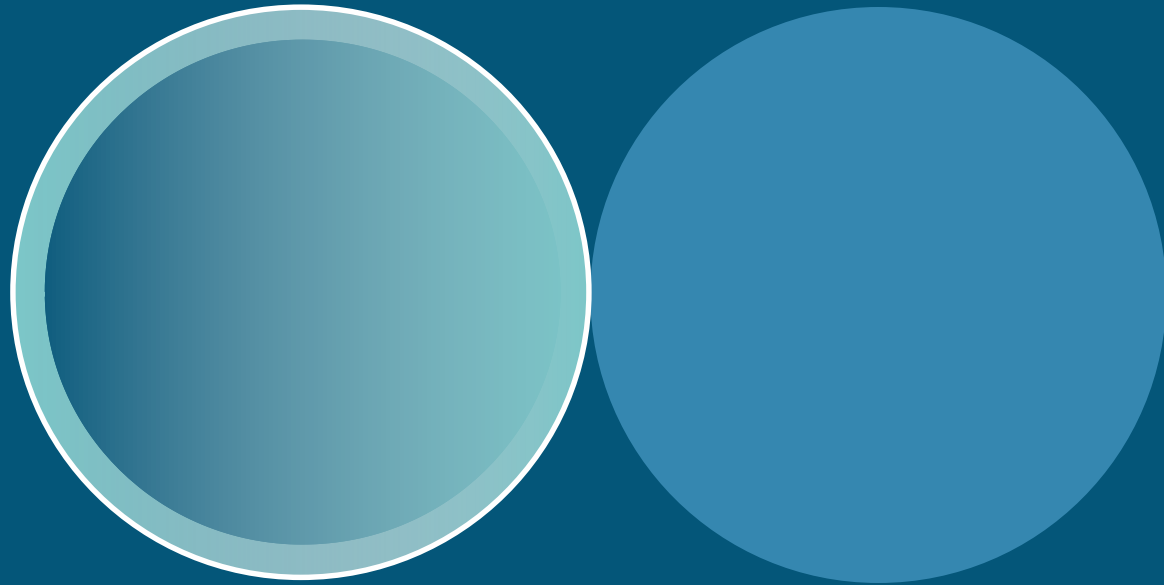




★enquiries@joinstar.co.uk

★www.joinstar.co.uk





# **Powers of Attorney and Pensions**

**Damien Garrould | Legal Director**

AMPS Annual Conference - 21 May 2019

# What we will cover



Powers of attorney and pensions – an overview



How a SIPP and SSAS provider can protect itself



Member trustees

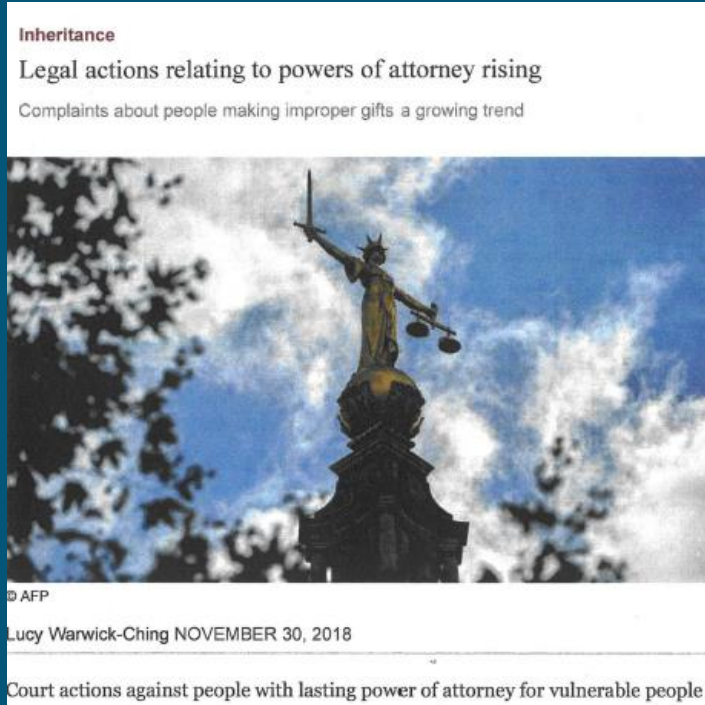


Key actions for SIPP and SSAS providers



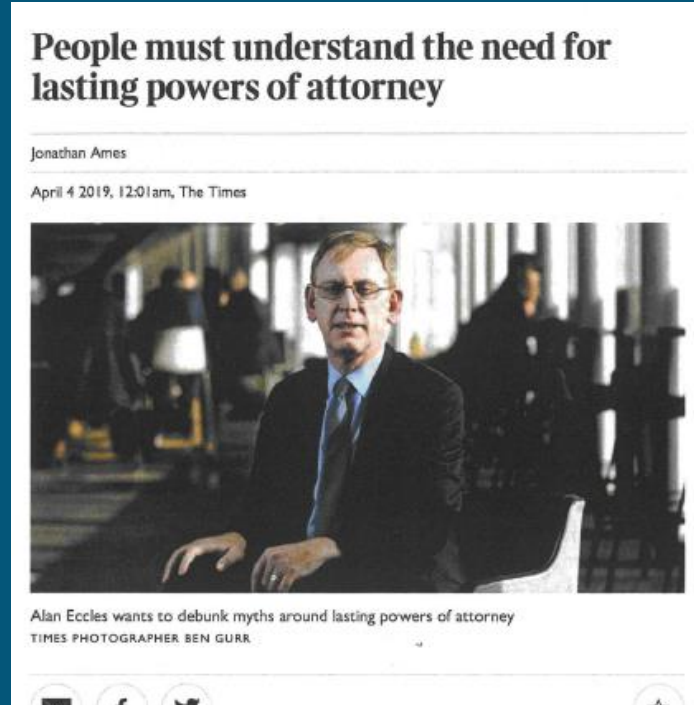
## Powers of attorney and pensions – an overview

# Powers of attorney in the news



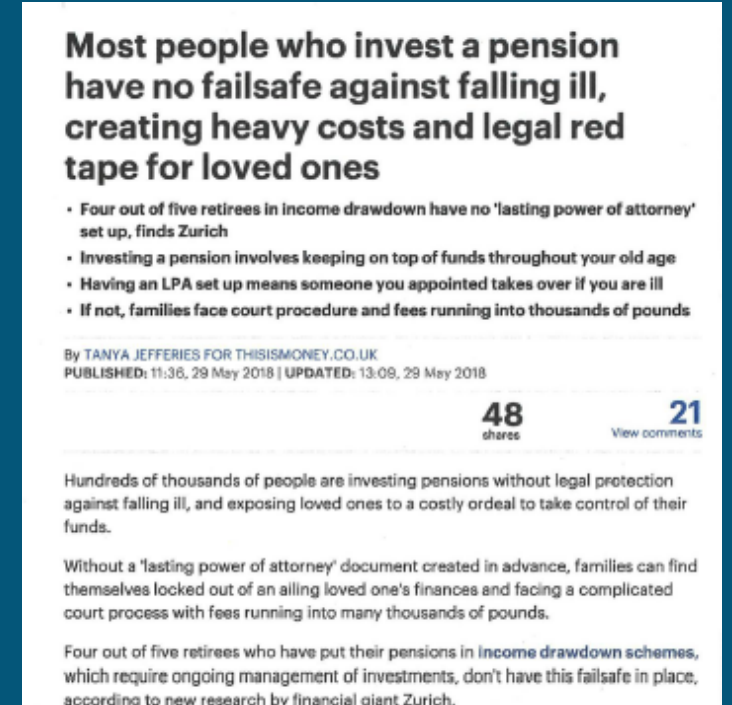
Legal actions relating to powers of attorney rising

Financial Times, 30 November 2018



People must understand the need for lasting powers of attorney

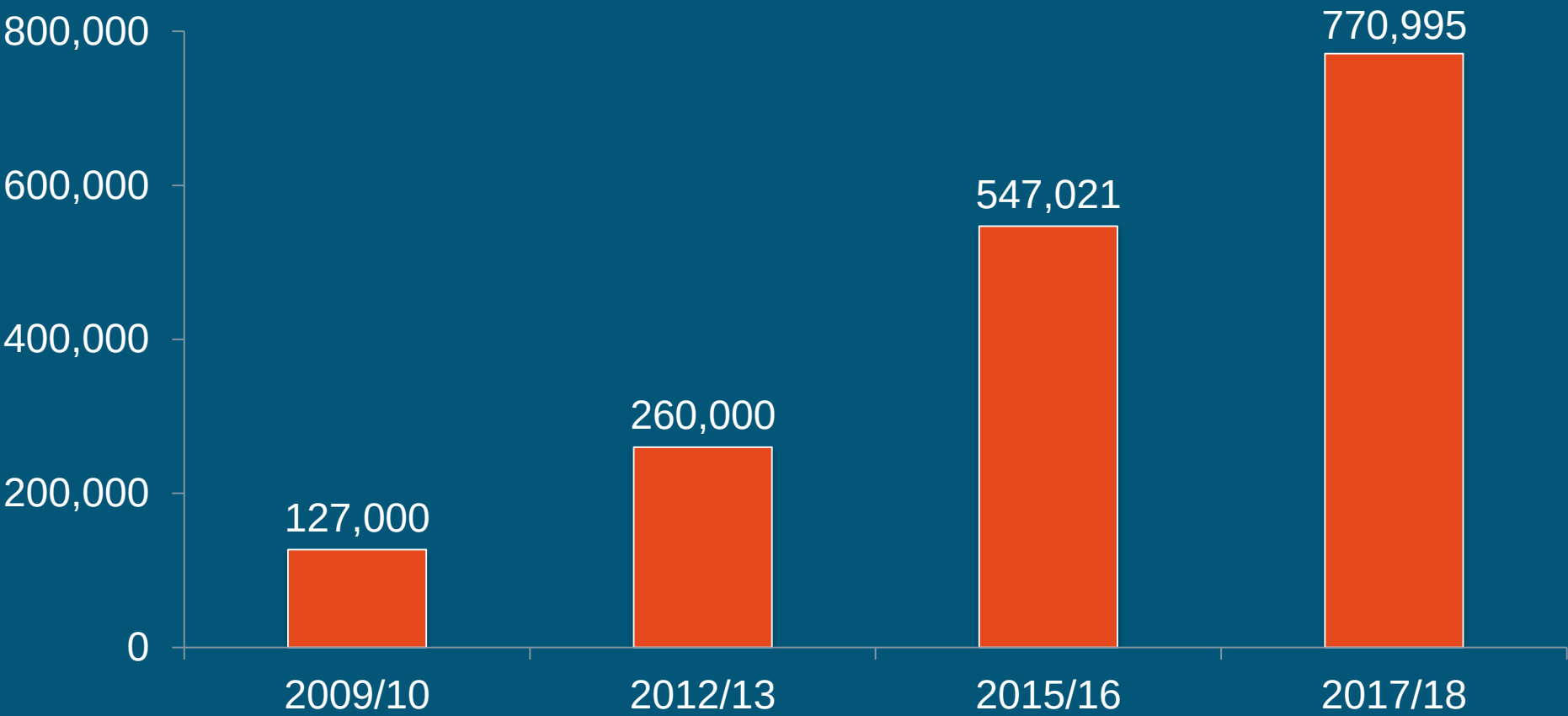
The Times, 4 April 2019



Most people who invest a pension have no failsafe against falling ill, creating heavy costs and legal red tape for loved ones

This is Money, 29 May 2018

# Powers of attorney – applications to register



Source: Office of the Public Guardian Annual Report and Accounts 2017/18

# What is a power of attorney?



# Types of power of attorney (in England and Wales)

## Ordinary (general) power

*Wide power or a specific power*

Ceases when donor becomes mentally incapable

## Enduring power (EPA)

*On mental incapacity of the donor*

No new EPAs since 1 October 2007

## Lasting power (LPA)

*On or before mental incapacity of the donor*

Replaced EPAs

# Lasting powers of attorney (LPA)

## LPA for property and financial affairs

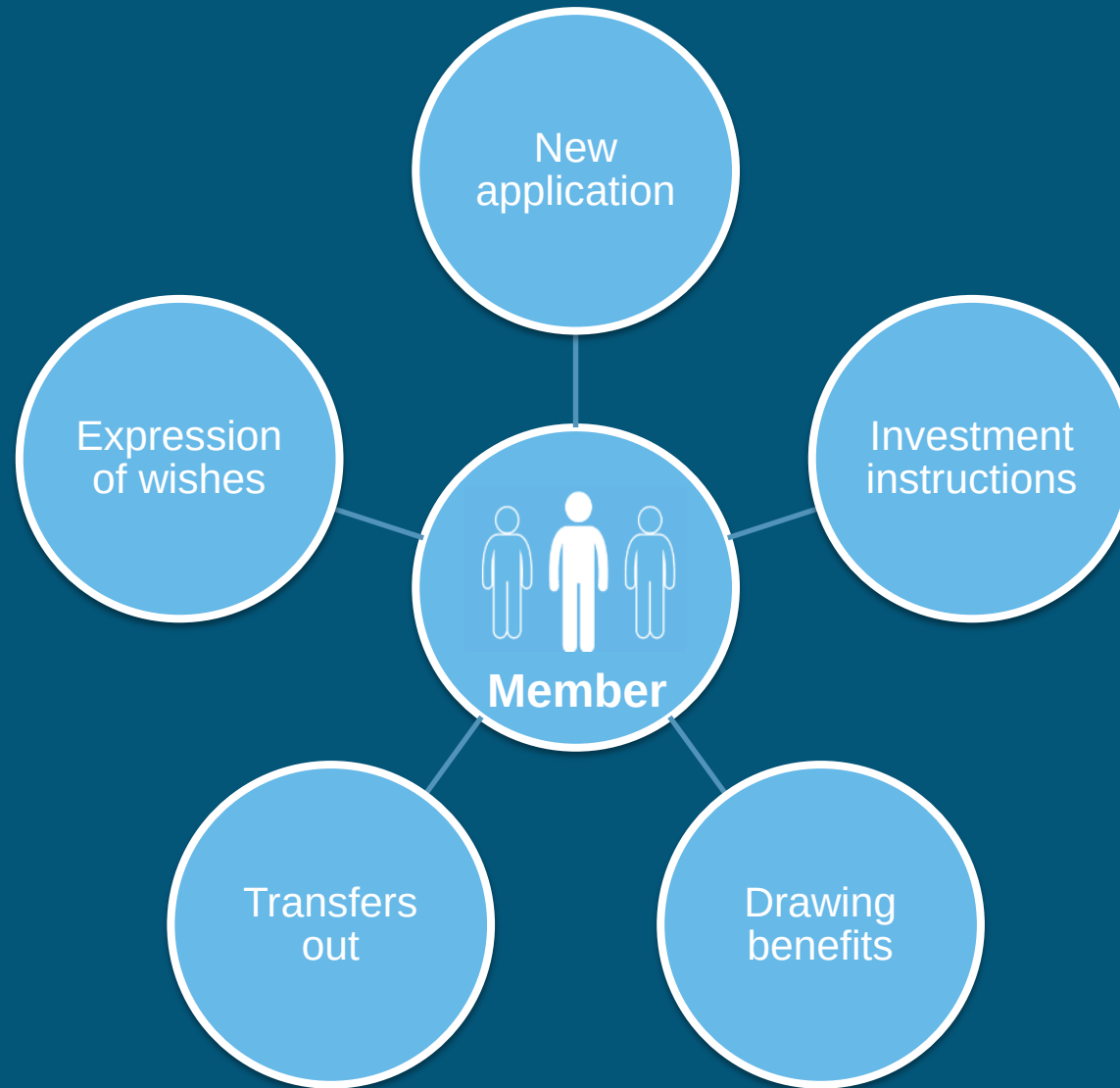
- Authority to make decisions in relation to donor's property and financial affairs.
- Code of Practice: includes pensions.
- Can be used while donor still has capacity, unless specified otherwise in LPA.

## LPA for health and welfare

- Authority in relation to donor's health and welfare.
- e.g. decisions about donor's medical treatment.
- Can only be used when donor loses capacity.

**We will focus on LPA for property and financial affairs – only that type of LPA provides authority in relation to pensions**

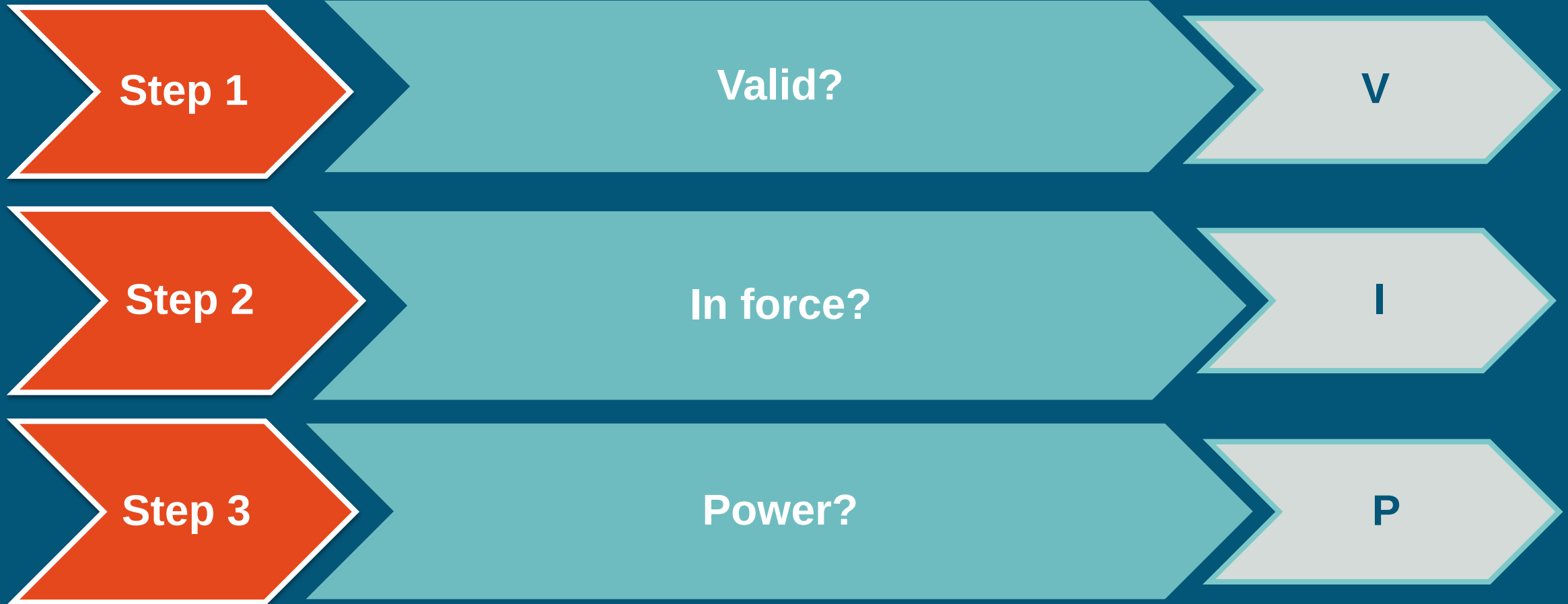
# Powers of attorney and pensions





**Powers of attorney – how a SIPP and SSAS provider can protect itself**

## Powers of attorney – protection for SIPP and SSAS providers



## Step 1: Valid?



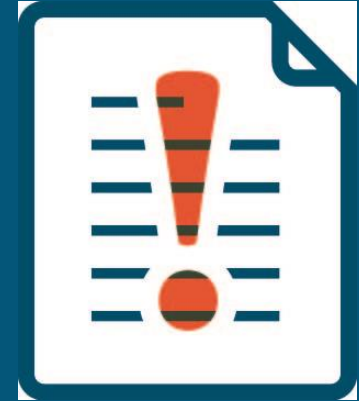
### Form and registration

- Office of Public Guardian (OPG) standard form – LP1F
- Not legally effective until registered
  - Check the register



### Identity of the attorney

- Clear?
- Proof of name and address of attorney - check ID documents



### Scheme governing documents

- Permit member to act by attorney?

## Step 2: In force?

### Automatic termination events

|                                                           | Donor | Attorney* |
|-----------------------------------------------------------|-------|-----------|
| Death                                                     | ✓     | ✓         |
| Bankruptcy or making of a debt relief order               | ✓     | ✓         |
| Annulment of marriage or dissolution of civil partnership |       | ✓         |
| Loss of mental capacity                                   |       | ✓         |

\* Subject to any provision for a replacement attorney in the LPA

## Step 2: In force?

### Revocation by donor

- Donor may revoke the LPA at any time while has capacity to do so
- Donor must notify:
  - Attorney
  - Office of the Public Guardian (OPG)

### Termination by attorney

- Attorney can 'disclaim' their appointment – LPA terminates unless it provides for a replacement attorney
- Copy of disclaimer form must be sent to:
  - Donor
  - OPG

## Step 3: Power?



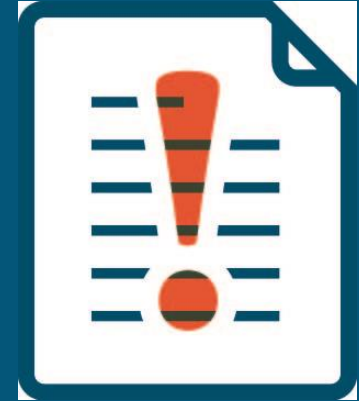
### Specific instructions

- Section 7 of the LPA – legally binding
- Only effective where donor has lost capacity?



### Discretionary investment manager

- Specific wording required – OPG standard clause



### Assets outside England and Wales

- May not be accepted in other countries

# Key due diligence steps

## Valid?

- Request a certified copy
  - Correct type of LPA?
  - Registered with OPG?
- Verify attorney's identity
- Check scheme's governing documents permit

## In force?

- Bankruptcy searches (on donor and attorney)
- Check register of deaths – attorney
- Where spouse or civil partner is attorney – check no annulment of marriage or dissolution of civil partnership
- Provision for a replacement attorney?

## Power?

- Check LPA
  - Does it specify not effective until donor lacks capacity?
  - Authority limited by any specific instructions?
  - Section 7
- Delegating instructions to a discretionary investment manager?

# Statutory protection

## Statutory protection when dealing with attorney

- If an LPA is invalid, a transaction between an attorney and a third party will be treated as valid unless the third party knew:
  - that the LPA was invalid; or
  - was aware of circumstances that would have terminated the attorney's authority to act under the LPA
- Some additional protection – **not a substitute for carrying out checks on the LPA!**



**Member trustees**

# Member trustees

Can an attorney act on behalf of a member in their capacity as trustee?

## Trustee power of attorney

- Need power under trust deed and rules
- Maximum 12 months duration
- Must notify:
  - Co-trustees
  - Anybody with power to appoint new trustees
- If fail to notify, power of attorney invalid
- Prescribed form – Trustee Act 1925

# Member trustees

## What happens if a member trustee lacks capacity?

### No automatic consequences

- Not automatically disqualified
- Subject to trust deed and rules, remain a trustee

### Remove them as a trustee?

- Power?
- Other considerations
  - Medical evidence required
  - Continuing co-trustee – permission from Court of Protection required
  - Loss of SSAS “small schemes” exemptions

# Member trustees

## SSAS “small schemes” exemptions





**Key actions for SIPP and SSAS providers**

# Key actions for SIPP and SSAS providers



## Policy

Have a **robust policy** in place



## Escalate complex cases

Policy should provide for **escalation of complex cases** and **escalation criteria**



## Training

Ensure staff are **familiar with** policy and procedures



## Member guidance

**Educate members** on provider policy and limitations of LPA



## OPG

Make staff aware of **OPG guidance** and **helpline**



## Scheme governing documents

Review **trust deeds and rules** and **terms and conditions** – do they adequately cater for LPAs?



# Questions?

**Contact | Damien Garrould, Legal Director**

**TLT's SIPP & SSAS Practice**

*Your one-stop shop for all SIPP and SSAS legal issues*

.....  
E: [damien.garrould@TLTsolicitors.com](mailto:damien.garrould@TLTsolicitors.com)

T: +44 (0)333 006 1166

 @TLTPenTaxInc

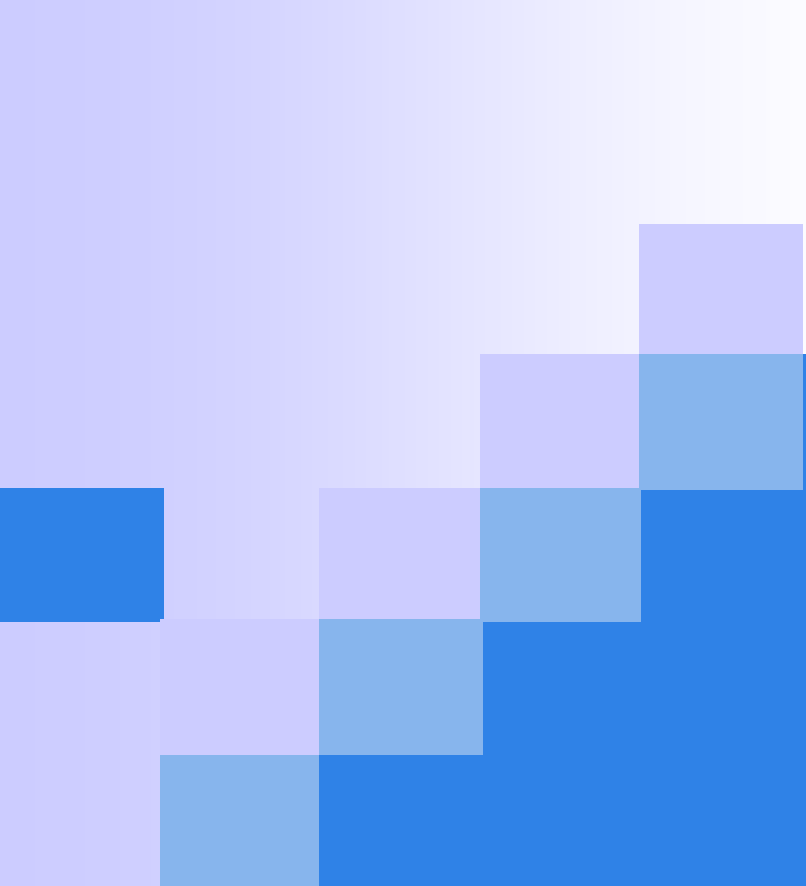
# LUNCH BREAK IN THE ATRIUM AREA

Altus  
Business Systems



delta  
FINANCIAL SYSTEMS  
Knowledge ~ Technology ~ Solutions

AMPS ASSOCIATION OF  
MEMBER-DIRECTED  
PENSION SCHEMES



# Investment Due Diligence – A Debate

**Chris Jones** - Rock Consultancy

**John Moret** - More to Sipps

# SIPP Investment Due Diligence

John Moret  
Chris F Jones

MoretSIPPs



rock consultancy  
SIPP market specialists

Concerns over advertisement showing property as having 40% discount through a pension

# 'Property developers use SippPs as sales tools'

## Pensions

By Sam Shaw

The FSA should be concerned that non-regulated property developers are using the tax advantages of pensions as sales tools, according to financial services marketing experts.

Teamspirit retirement consultant Jo Smith says Galliard Homes is just one property developer using SippPs to advertise property as carrying a 40 per cent discount through a pension despite being an unregulated business.

Galliard has been marketing a £149,995 property as having an "effective price" of £89,995.

Syndaxi director Robert Reid

says that using pensions as a hook in property ads could make them financial promotions and the FSA should act before people are persuaded to buy investment properties within SippPs without realising the full ramifications of the product structure.

Technology & Technical founder Kim North says the Galliard ad fails to explain the potential downsides of buying property in pensions.

But the FSA says it is not able to comment on the issue until after all the rules for the simplified pension regime are published in January. FSA spokesman David Whitely says: "We cannot comment on individual advertisements."

Smith says: "I am concerned. Are the FSA going to deal with these companies or will they have to link up with financial advisers? These issues need to be resolved before A-Day."

Reid says: "If the advertisement talks about buying a property to put into a pension, it could be classed as a financial promotion. The FSA needs to pull its finger out."

North says: "There is no compliance here. There are no warnings. The net income cited implies that income is paid through the pension fund and there is no mention of the rent that would need to be paid on the flat back into the pension fund, even if you do not live in it. This is a

**FOLLOWING OUR MOST SUCCESSFUL SALES RELEASE EVER AT ARSENAL GALLIARD WILL GUARANTEE THE FIRST 50 APART-HOTEL SUITE INVESTORS A FREE CLUB LEVEL ARSENAL SEASON TICKET FOR THE NEW EMIRATES STADIUM ON EXCHANGE OF CONTRACTS THIS WEEKEND ONLY!**

**APART HOTEL SUITES AT COUNTY HALL!**

Potential exists for buying within your Self Invested Personal Pension (SIPP) or for higher rate tax payers to buy through their pension fund which would amount to a 40% tax saving of £60,000 on a cash purchase price of £149,995\*

**£149,995** giving an effective price of **£89,995**

**WITH UP TO 7 YEARS HASSLE FREE RETURNS!**  
AND NO SELF-MANAGEMENT, MAINTENANCE OR TENANT WORRIES!

**REGISTER NOW FOR YOUR FREE PLACE AT THE BIGGEST FORUM & SALES EXHIBITION TO BE HELD THIS YEAR IN THE COUNTY HALL MARQUEE**  
FORUM MAGNUM SQUARE, YORK ROAD, LONDON SE1 0PP. WATERLOO STN  
**DOORS OPEN 11AM SAT 18TH JUNE**

**CALL NOW TO RESERVE YOUR 1<sup>st</sup> OR 4<sup>th</sup> PRIORITY SEAT!**  
**0207 620 1500**  
email: [enquiries@galliardhomes.com](mailto:enquiries@galliardhomes.com) or [stephen@galliardhomes.com](mailto:stephen@galliardhomes.com)

**THAT'S 6% NETT GUARANTEED INCOME FOR UP TO 7 YEARS!**

**galliardhomes.com**

\*FSA: This example illustrates the potential of obtaining a £60,000 tax saving on the cash purchase price of £149,995 assuming the investment is deemed as unregulated. A proportion of potential income will be in your hands. All fees included in the purchase price of your apartment.

## Galliard ad: 'Fails to explain the potential downsides'

potential misselling area."

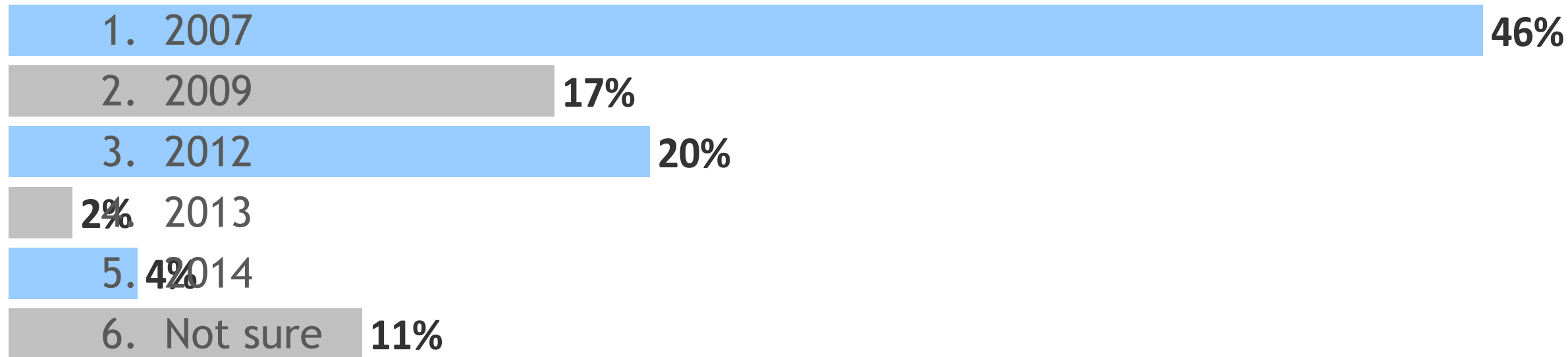
Galliard spokesman David Taylor says: "We are going to be

doing a lot more work in this area in the near future. We see it as a huge growth area."

# Question

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When do you consider that SIPP operators first became obliged to undertake due diligence on investments as part of their FSA/FCA regulatory obligations?

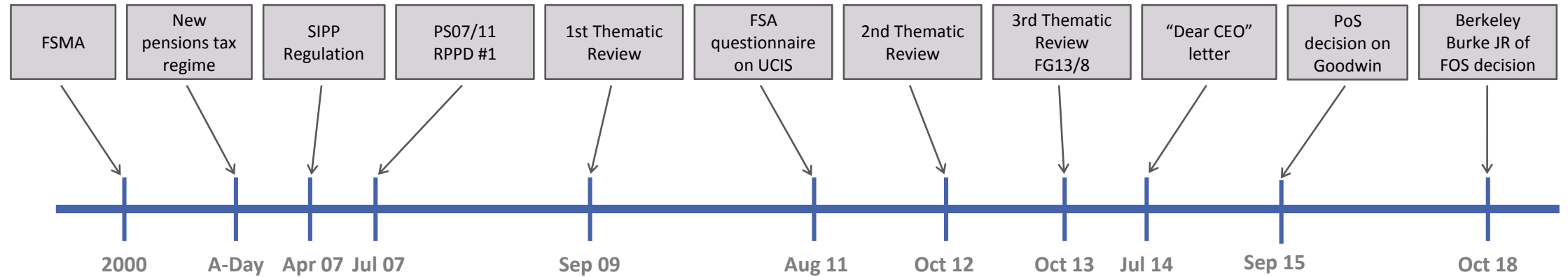


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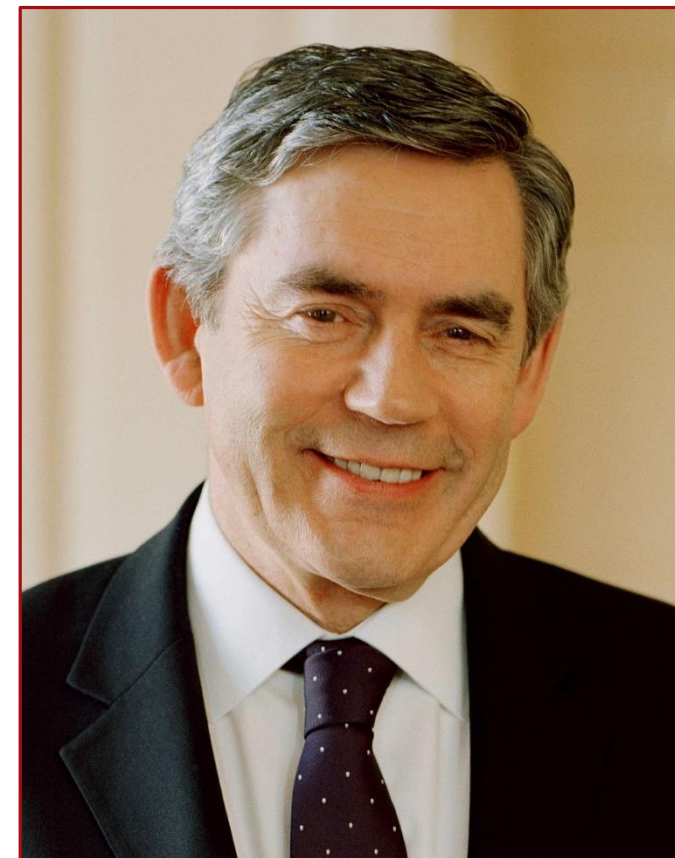
# The evolution of SIPP investment due diligence

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# The past...

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More to SIPP<sub>s</sub>

rock consultancy  
SIPP market specialists

# What is “due diligence”?

## What COBS says about “due diligence”:

- 
- 
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| COBS Contents                  |                                                                                                                                                    |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Conduct of Business Sourcebook |                                                                                                                                                    |
| COBS 1                         | Application                                                                                                                                        |
| 1.1                            | General application                                                                                                                                |
| 1.2                            | Markets in Financial Instruments Directive                                                                                                         |
| 1.3                            | Insurance distribution                                                                                                                             |
| 1 Annex 1                      | Application (see COBS 1.1.2R)                                                                                                                      |
| COBS 2                         | Conduct of business obligations                                                                                                                    |
| 2.1                            | Acting honestly, fairly and professionally                                                                                                         |
| 2.2                            | Information disclosure before providing services (other than MiFID and Insurance distribution)                                                     |
| 2.2A                           | Information disclosure before providing services (MiFID and Insurance distribution provisions)                                                     |
| 2.3                            | Inducements relating to business other than MiFID, equivalent third country or optional exemption business and insurance-based investment products |
| 2.3A                           | Inducements relating to MiFID, equivalent third country or optional exemption business and insurance-based investment products                     |
| 2.3B                           | Inducements and research                                                                                                                           |
| 2.3C                           | Research and execution services                                                                                                                    |
| 2.4                            | Agent as client and reliance on others                                                                                                             |
| 2.5                            | Optional additional products                                                                                                                       |
| COBS 3                         | Client categorisation                                                                                                                              |
| 3.1                            | Application                                                                                                                                        |
| 3.2                            | Clients                                                                                                                                            |
| 3.3                            | General notifications                                                                                                                              |
| 3.4                            | Retail clients                                                                                                                                     |
| 3.5                            | Professional clients                                                                                                                               |
| 3.6                            | Eligible counterparties                                                                                                                            |
| 3.7                            | Providing clients with a higher level of protection                                                                                                |
| 3.8                            | Policies, procedures and records                                                                                                                   |
| COBS 4                         | Communicating with clients, including financial promotions                                                                                         |
| 4.1                            | Application                                                                                                                                        |
| 4.2                            | Fair, clear and not misleading communications                                                                                                      |
| 4.3                            | Financial promotions to be identifiable as such                                                                                                    |
| 4.4                            | Compensation information                                                                                                                           |
| 4.5                            | Communicating with retail clients (non-MiFID provisions)                                                                                           |
| 4.5A                           | Communicating with clients (including past, simulated past and future performance) (MiFID provisions)                                              |
| COBS-i                         | www.handbook.fca.org.uk ■ Release 58 ● Apr 2019                                                                                                    |

# The view from AMPs?

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Letter from AMPs chair to FCA in August 2013 *“prompted by ambiguous comments from the FSA about who has ultimate responsibility for investment choice”*:

*“the SIPP operator is not responsible for the individual choice of investment, but is answerable to the FCA if it is allowing investments that could risk the ongoing operation of the business”.*

Extract from Kevin Jack (Enhance Solutions) opinion for AMPs committee in March 2014:

*“Based on high profile investment failures within 2011, I would have expected SIPP operators to consider some due diligence on non-standard investments in the light of FSA Principle 3 and Principle 6. Notwithstanding that expectation there is nothing in my opinion either within the 2009 or 2012 Thematic Review findings nor subsequent industry follow up that states the good practice suggestions contained within the review papers were to be applied retrospectively.”*

# Dear CEO letter 21/7/2014

- “We expect you to specifically review that... when your firm undertakes non-standard investment business you have adequate procedures in place to assess these investments”
- “for example, assessing that assets allowed into a scheme are appropriate for a pension scheme”



# Berkeley Burke Judicial Review – Key caveats

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Sole question: was Ombudsman entitled to reach this decision?

- NB: Ombudsman's jurisdiction under section 228(2) FSMA 2000 is to

*"determine [the Complaint] by reference to what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances of the case"*

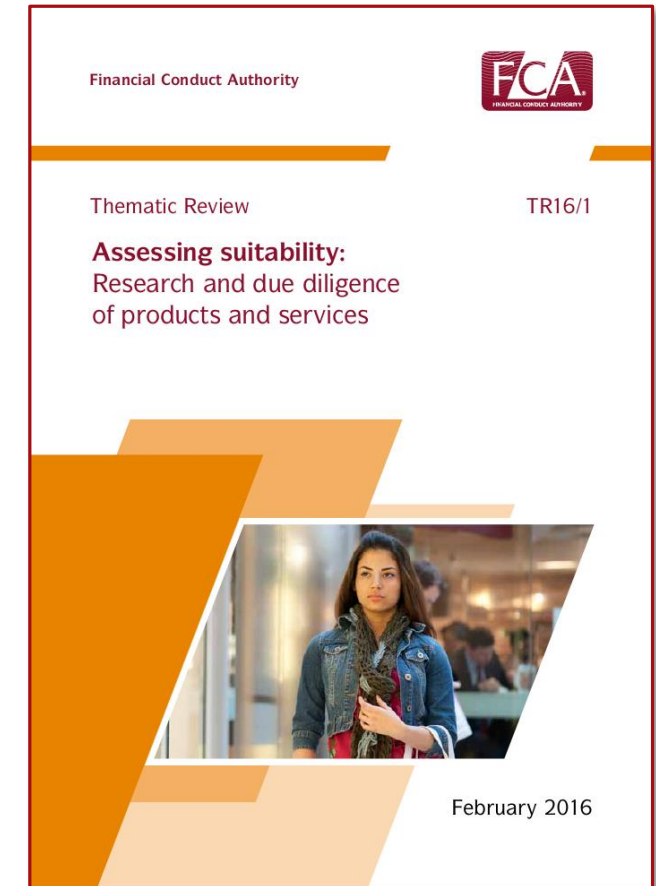
- Not a court
- Determined on facts of that particular situation
  - Investment was "a scam"
  - Unclear how this would apply in other cases



# What is the “due” level of diligence required? (1)

TR16/1 guidance:

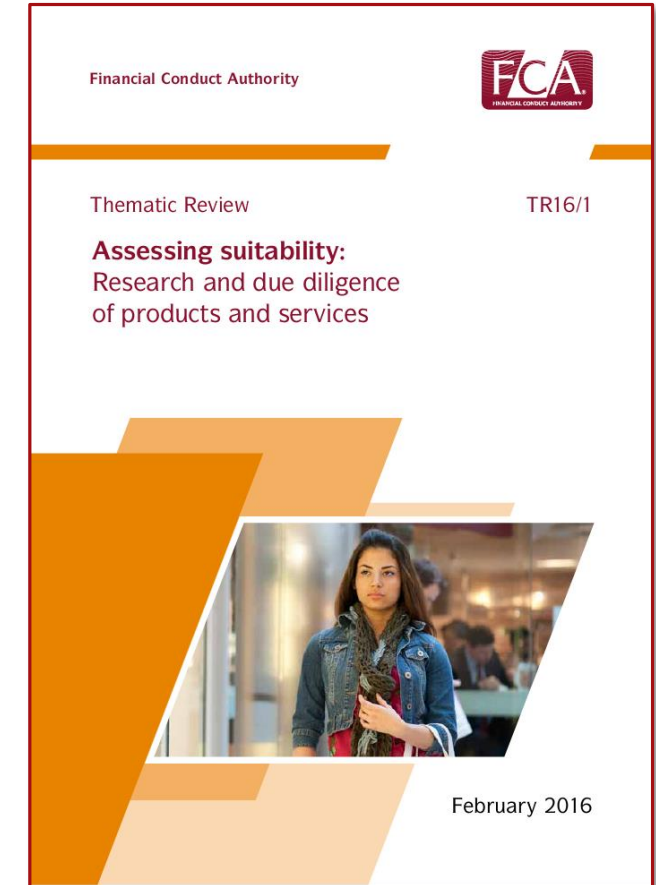
*“What constitutes a reasonable level of research and due diligence will differ depending on the adviser’s recommendation and the needs of the client. Although the objective of research and due diligence is the same across different investments, services and providers, there will be differences in the time and effort taken to achieve it. For example, it will usually take less time to assess a product from a familiar provider investing in familiar assets. Correspondingly it will usually take longer to assess a product from a provider with which the firm is not familiar or which invests in assets the firm has not researched before.”*



# What is the “due” level of diligence required? (2)

## Examples:

- Ordinary share in UK company, listed on main London market:
  - Check it is listed
  - Check it is (reasonably) regularly traded
  - But: NB: even listed stocks may be a danger, eg:  
<https://www.fca.org.uk/news/press-releases/statement-re-promotion-shares-emmit-plc>
- UK FCA authorised OEIC:
  - Check it is FCA authorised
  - Check trading frequency
- Plot of land or property – extensive!
  - NB: Operators are very experienced in doing searches, etc and validating title when buying UK property? Why adopt a lower standard when the property is outside the UK? Risks are much higher.
- Unquoted shares – how far do you have to go? Potential scam or liberation scheme



# Question

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Do you think due diligence requirements should apply to?



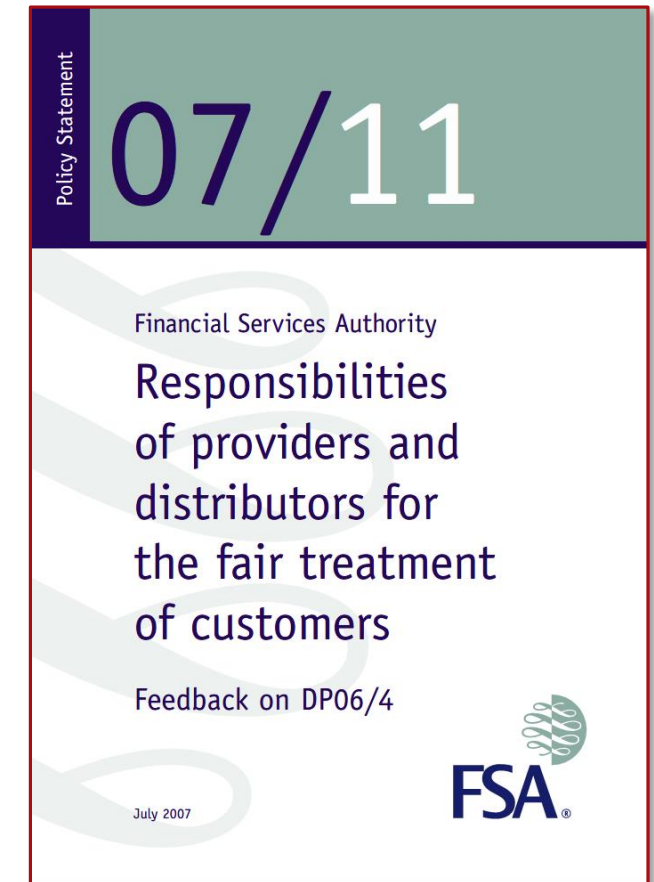
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# Principle 6 in practice?

## Principle 6:

*“A firm must pay due regard to the interests of its customers and treat them fairly”*

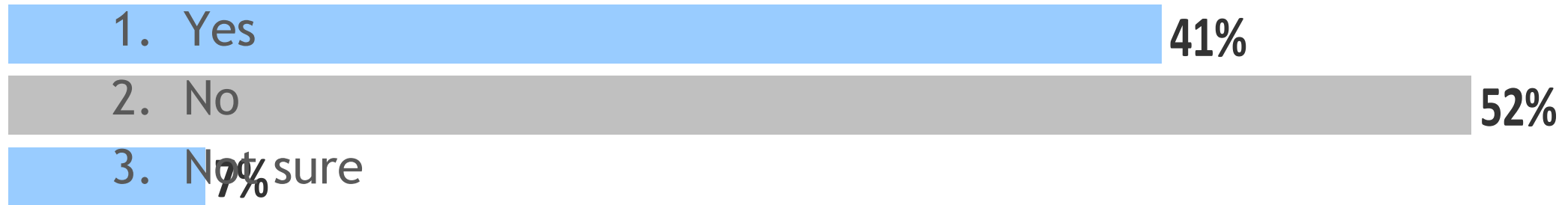
- TCF was well documented in FCA papers



# Question

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Should SIPP operators automatically be held responsible for fraudulent investments/scams which could have been avoided if “proper” due diligence had been undertaken?

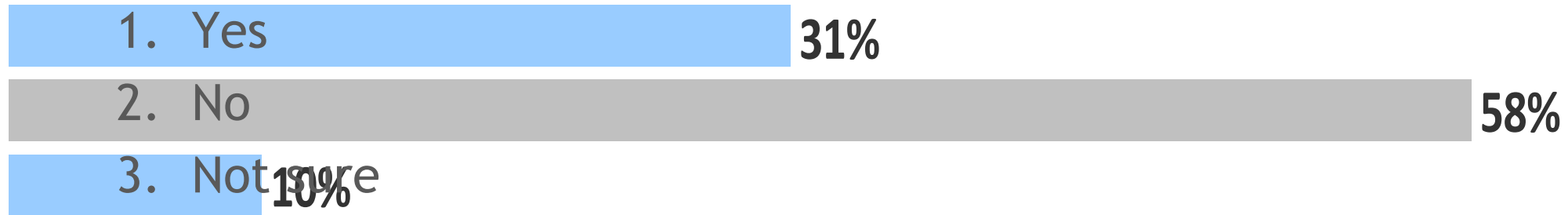


Press now

# Question

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Should SIPP operators be held responsible for the activities of unregulated introducers/advisers of whom they had no knowledge?



Press now

# Question

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Should SIPP operators be held responsible in cases where the customer received an illicit direct benefit or was party to a pension liberation scheme?

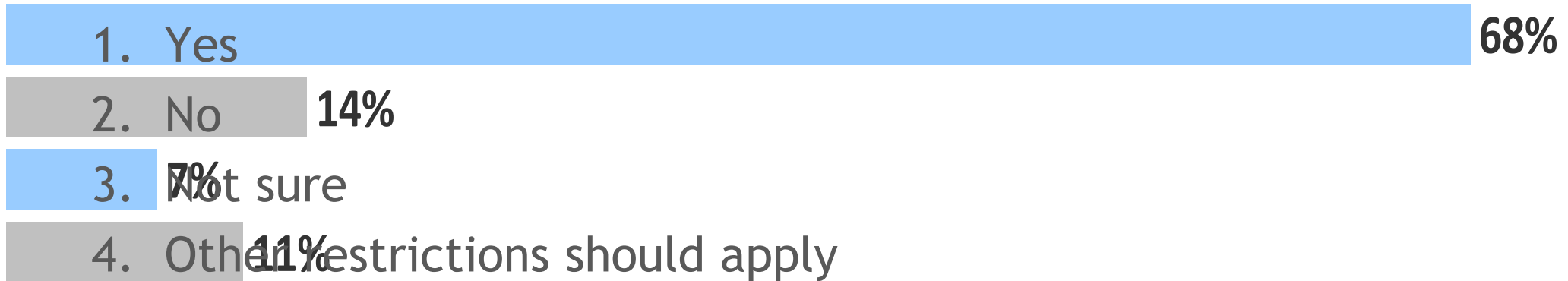


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# Question

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Should the marketing of SIPPs offering non-standard investments be restricted to HNWs and sophisticated investors in the same way as UCIS?

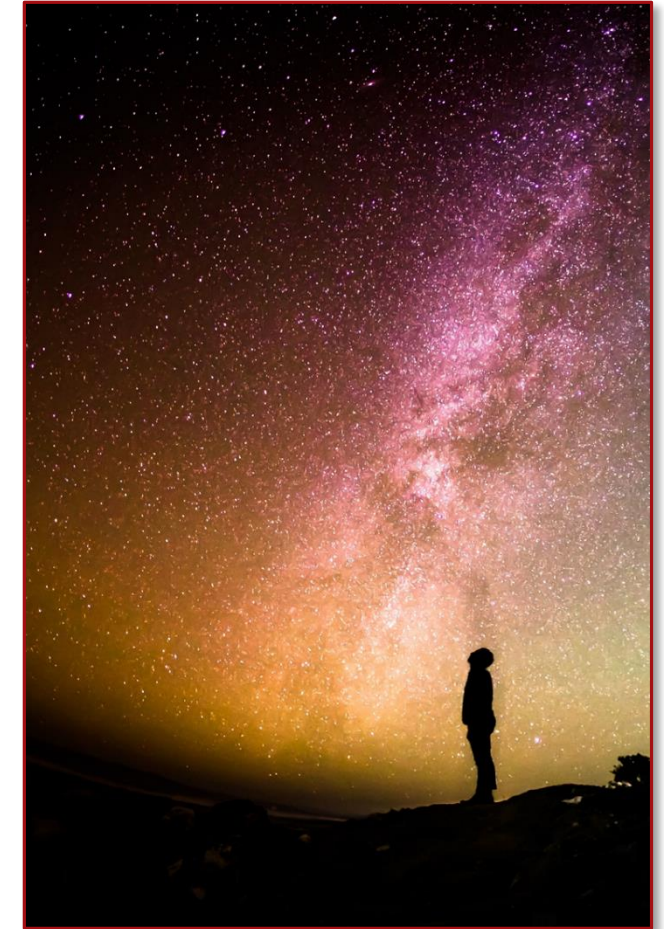


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# The Future

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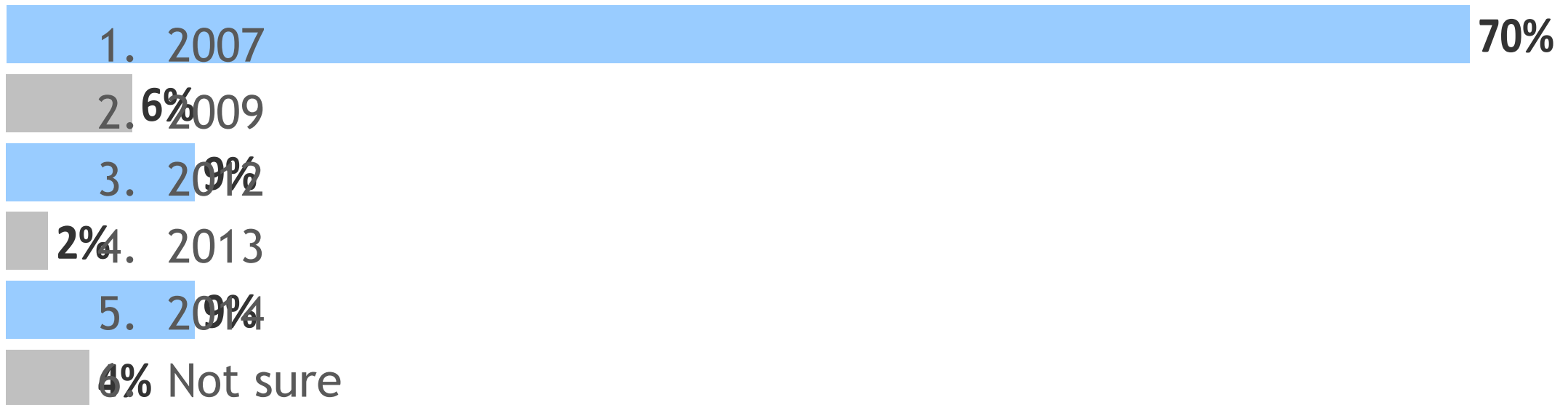
- Is *caveat emptor* dead?
- Clarification on “reasonable” due diligence urgently required
- Some claims management companies see SIPP claims as the new PPI
- Resolve retrospectivity
- Clarification also needed on what is meant by “appropriate”/”acceptable” investment



# Question

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When do you consider that SIPP operators first became obliged to undertake due diligence on investments as part of their FSA/FCA regulatory obligations?

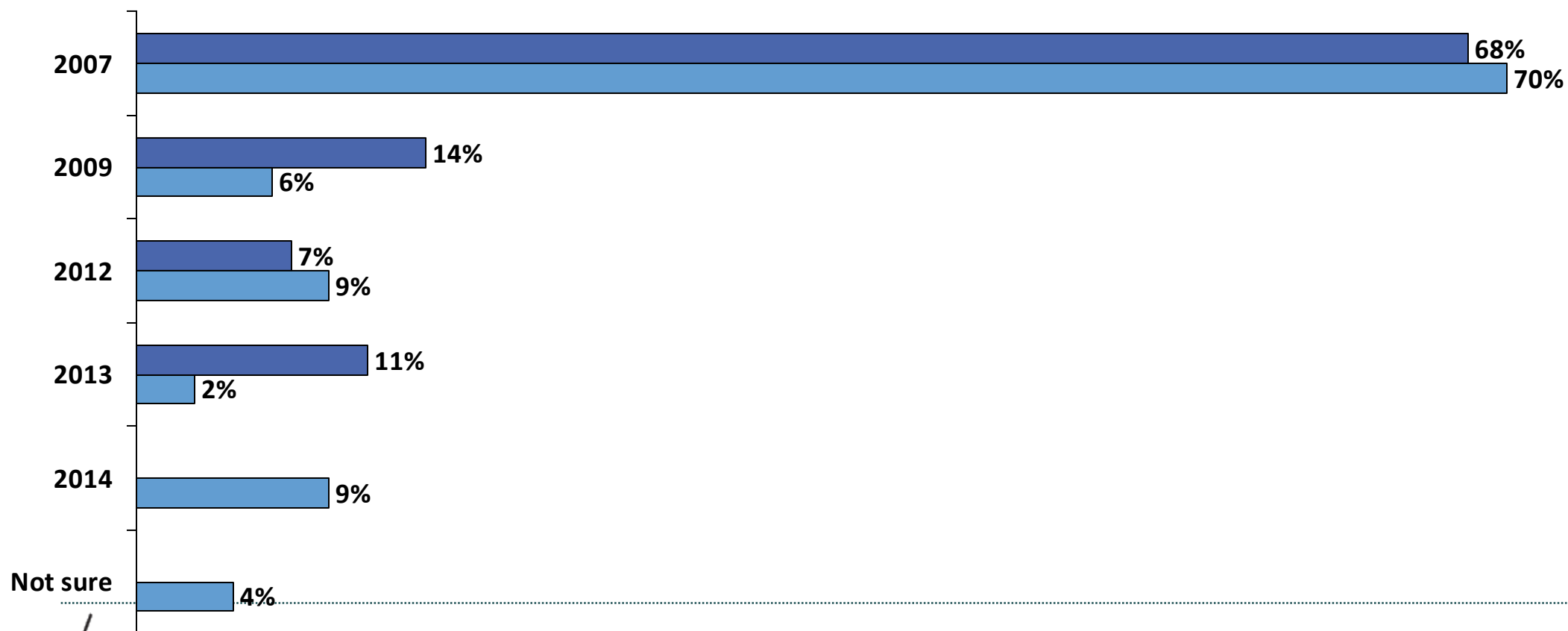


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More to SIPP<sub>s</sub>

## When do you consider that SIPP operators first became obliged to undertake due diligence on investments as part of their FSA/FCA regulatory obligations?



More to SIPP

■ First Slide ■ Second Slide

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SIPP market specialists

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# Questions?



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More to SIPP<sub>s</sub>

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SIPP market specialists

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The information contained in this presentation is believed to be accurate as at May 2019.

Taxation and regulatory law and practice changes frequently so the information presented is likely to become inaccurate or incomplete over time. Additionally, the exact application of taxation and regulatory rules will depend on the precise circumstances concerned. This presentation makes broad points and does not attempt to address individual points of detail in any particular context. Consequently, the information provided does not constitute any form of advice, recommendation or opinion and neither MoretoSipps nor Rock Consultancy accept any liability for any loss or damage, howsoever caused, as a result of any reliance on any information provided.

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John Moret  
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m

# Transfers and scams:

## Protecting members

Margaret Snowden OBE  
Chair of PSIG

AMPS 21 May 2019

# Member risks:



# Pension Scams – why we need the Code

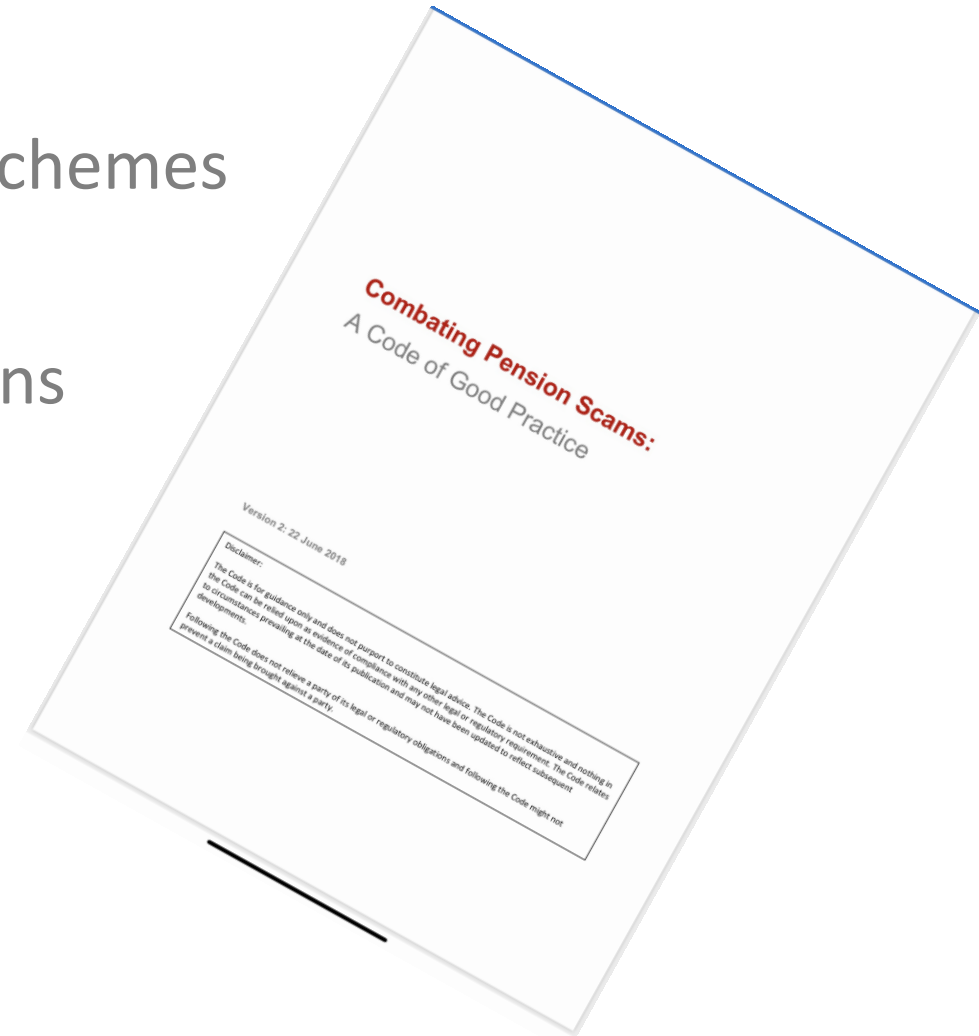
- Over £1bn pension savings lost to scams?
- Victims lose £91,000 on average
- Consumers believe they are too savvy to be scammed
- Pension freedoms make it easier to make bad decisions
- Mistrust of industry reinforced by scammers
- DB transfers epidemic (corporate change, 30x CETVs)
- Scheme members need help to help themselves



**The law is not enough**

# Scams Code

- First published 2015, updated June 2018
- Due diligence adopted by many providers and schemes
- The Code saved **£250,000,000** from scams?
- Technical team of 7, reviewed by 30 organisations
- Industry wide board and forum



# Combating scams 2019

- Cold calling ban January 2019
- Code version 2.1 in Q2 2019
  - Growth in **international** SIPPS
  - Introducers
  - Schemes to **talk** to transferring members
  - Refer insistent members to **TPAS**
- TPO cases Mr N and Mr S:
  - Importance of the **right** due diligence
  - Scams Code as the **standard**



# Scams research 2019

- PSIG pilot
  - XPS, Phoenix, Standard Life
  - 27,087 transfer requests covering £ 1.33Bn in value
  - Scams data not collected at organisation level
  - Protecting members is not free
  - Only 6% from cold calls?
  - 95% to SIPPS
  - 55% have concerns about adviser
  - 49% of members understanding is low
- XPS survey
  - Avg CETV increases to £275,000
  - 70,000 transfers out of DB annually
  - Partial transfers increasing



# More help is at hand...

- Pensions Advice Gold Standard
  - Pensions Advice Taskforce: Code of Good Practice 2019
  - Set of 9 **principles** (exceed FCA regulation)
    - Overall financial well-being vis client objectives
    - Transparency of all charges
    - Relevant CPD
    - Conflicts of interest declared
    - TVComparator prominent
    - Avoid unregulated investment and introducers
  - 600 advisers signed up
  - Consumer guide: trustees should issue with DB TVs >£30K
  - New MAS directory of accredited advisers

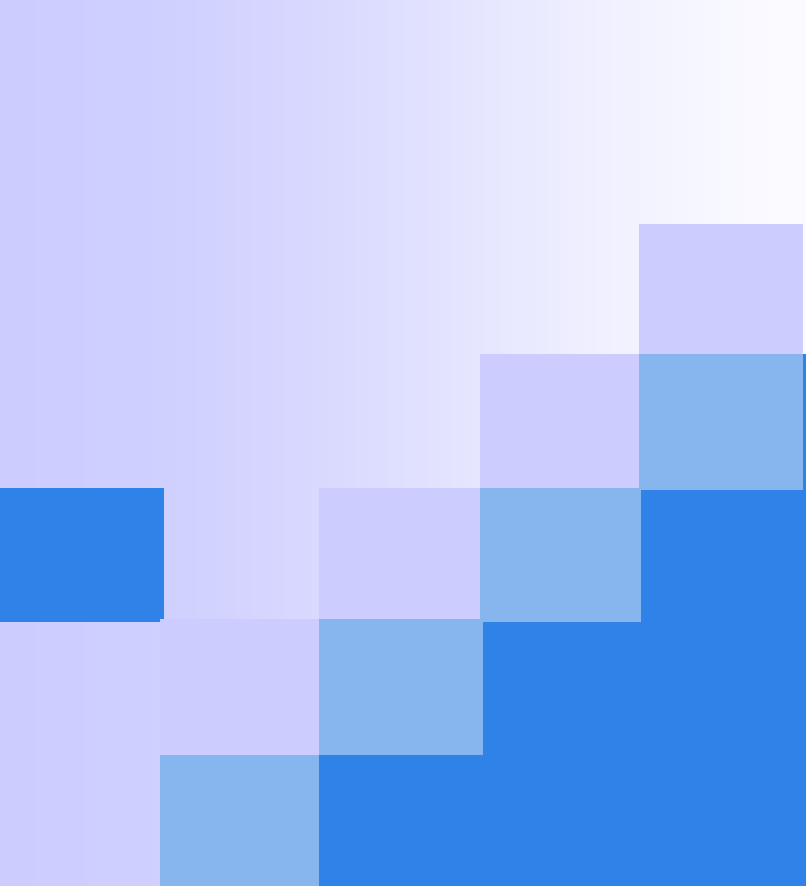


# New developments

- Fractional scamming
- Speed vs safety
- Claims management firms
- Tax scandal
- Shared intelligence
  - Use the law



# Questions?



# Cybercrime Interactive Session

**Samiul Hussain**

Barclays – Digital Eagles

An aerial photograph of a city, likely Dubai, showing a complex highway interchange with multiple lanes and overpasses. The surrounding area is densely packed with modern buildings, some with unique architectural designs, and green spaces. The image is used as a background for the conference slide.

# AMPS Conference 2019

## Professional Indemnity Insurance Market

Presented by:  
Duncan Philpott and Paul Afteni

21<sup>st</sup> May 2019

## Professional Indemnity Insurance (PI) – CURRENT MARKET ISSUES / CONDITIONS OVERVIEW



**Lloyd's  
Review 2018  
of the Insurance  
Market**

**The end of “Soft  
Market” conditions  
and the subsequent  
increase in PII rates**



**The restriction of  
available PII capacity  
in Lloyd's for 2019**



**Increase to FOS  
maximum Awards limit  
and PII requirements**



# Professional Indemnity Insurance (PI) – ONGOING ISSUES AFFECTING THE PII INSURANCE MARKET



Increasing levels of claims activity – In Specie transfer and non-standard Investments



“Last Man standing” syndrome – being held responsible for poor or mis-sold regulated Financial Advice



Increased levels of targeting from claims management companies looking for next target area



The ongoing Berkeley Burke saga and the forthcoming (!) Carey Pensions judgement



Social Engineering losses

# How can we manage our PI renewal and navigate these issues?



Appoint a broker that understands your business and helps you to be ahead of these potential issues and helps you understand your risk



Client engagement with Insurers well before and not just at the renewal of the policy



Understand the growing spectrum of risk that your firm faces as a result of technological advancement. Consider some other insurances that may be relevant to your business and these new challenges



Advancements in policy wordings: PI/D&O/Crime and increasingly Cyber liability modular wordings



Where possible, try to ensure commonality of Insurer across these policies, or ensure that your broker has reviewed all of the wordings and eliminated any potential “grey” areas

## Any Questions?

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### **Paul Afteni**

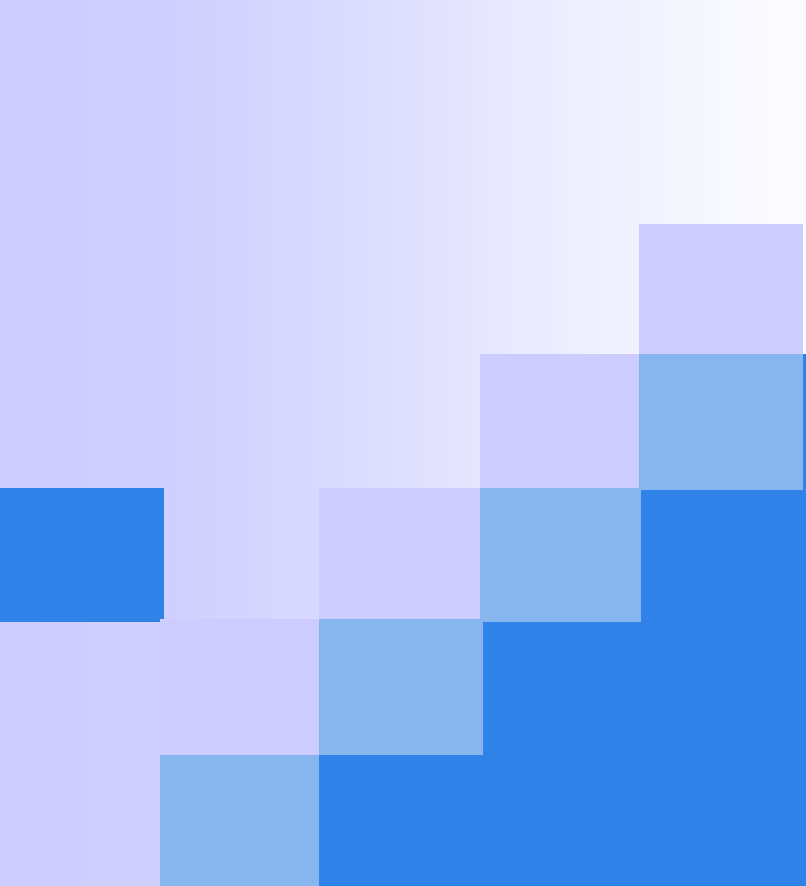
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# ANNUAL CONFERENCE 2019 CLOSE & THANKS

**Claire Trott**  
AMPS Chair



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FOR A TEA/COFFEE BEFORE YOU HEAD HOME**

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