

Regulatory intervention report

issued under section 89 of the Pensions Act 2004 in relation to
the 5G Futures pension scheme

April 2017

The Pensions
Regulator

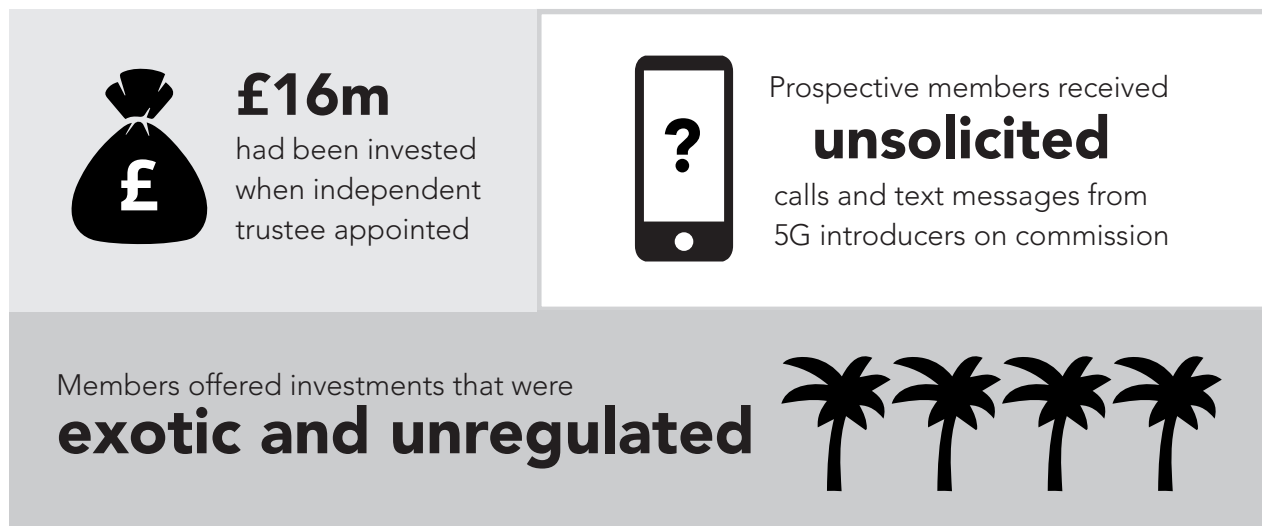
Background

The 5G Futures Pension scheme was registered with The Pensions Regulator (TPR) in 2009 as a DC trust-based occupational pension scheme. Its principal employer is 5G Futures Ltd, which was created in 2008 and has remained a dormant company ever since. John Garry Williams and Susan Lynn Huxley were both trustees of the scheme and directors of the principal employer. There are 529 members of the scheme.

Introducers would contact potential scheme members via cold calling or text messages, offering financial incentives to transfer their pension into the scheme. The scheme's administrator, 5G Wealth Management Limited (5GWML), also owned by Williams and Huxley, was responsible for advising some members to transfer. 5GWML received eight to ten years' worth of members' fees in advance, in addition to a percentage of the fund transferred. The trustees authorised payment of these monies to 5GWML out of the scheme funds, with a portion being paid to the relevant introducer.

During the period Williams and Huxley acted as trustees, the funds were transferred into a number of unregulated investments, including leases in a plantation in Ghana, land in Brazil, tree plantations in Fiji and biofuel bonds in Singapore. Out of a total of £16 million invested, the value was reduced to approximately £991,000.

Illustrated summary



Regulatory action

When we became aware of the unsatisfactory nature of the scheme, we made an application to the Determinations Panel ('the Panel') to suspend Williams and Huxley as trustees for reasons including poor scheme governance and record-keeping, and inadequate levels of trustee knowledge and understanding. To look after the interests of existing members and protect the assets of future members by preventing them from transferring into the scheme, we also asked for an independent trustee to take over the running of the scheme. The Panel met in May 2013, appointed Pi Consulting Trustee Services ('Pi') as an independent trustee, and suspended Williams and Huxley.

Williams and Huxley initially challenged our action in the Upper Tribunal but their challenge was later withdrawn.

Given the seriousness of their failings, we considered that Williams and Huxley were not fit and proper persons to be trustees of any pension scheme and, after extending the suspension for a further year, began prohibition proceedings. We issued Williams and Huxley with a Warning Notice on 4 February 2016 and on 5 July 2016 the case was heard by the Panel.

Outcome

The Panel granted an order prohibiting Williams and Huxley from acting as trustees of pension schemes in general. They supported the case team's view that there had been a number of failures, including:

- ▶ a breach of investment duties
- ▶ a breach of the Financial Services and Markets Act 2000
- ▶ pension liberation
- ▶ fee failures and conflicts of interest
- ▶ misleading statements
- ▶ breaches of governance duties

In their Determination Notice¹, the Panel concluded that "the strength of the evidence regarding a lack of competence and capability and a lack of integrity was such that the case for a general prohibition of both of the trustees across all schemes was overwhelming".

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[www.tpr.gov.uk/
determinations](http://www.tpr.gov.uk/determinations)

Williams and Huxley challenged the prohibition in the Upper Tribunal but, again, their challenge was later withdrawn.

The independent trustees have succeeded in recovering interest on some of the investments, and are actively working on trying to receive compensation for victims.

Our approach

TPR's Scorpion communications campaign² educates trustees and helps members spot scams, warning them of the dangers of transferring pension pots into exotic-sounding investment opportunities that often offer unrealistically high returns.

Where we receive information or evidence of scam activity we will take action. This can include the appointment of independent trustees, the suspension of existing trustees and/or the prohibition from acting as trustees of schemes in general in order to protect members' assets.

Timeline of events

8 May 2013: Determinations Panel suspends Williams and Huxley for 12 months and appoints Pi Consulting as an independent trustee

28 Jan 2014: IT appointment and suspension upheld by Panel following compulsory review

22 Feb 2014: Williams and Huxley challenge TPR's action in the Upper Tribunal

2 May 2014: TPR requests that Upper Tribunal rejects challenge on grounds that it is misconceived and/or irrelevant and/or entirely unfounded

7 May 2014: Trustees' suspension extended for a further 12 months

11 Feb 2015: Williams and Huxley give notice to withdraw their challenge of 22 Feb 2014

17 Feb 2015: Upper Tribunal consents to challenge being withdrawn

4 Feb 2016: TPR issues warning notice for prohibition

5 July 2016: Determinations Panel grants order prohibiting Williams and Huxley from acting as trustees

5 Aug 2016: Williams and Huxley challenge prohibition in Upper Tribunal three days out of time, TPR objects

27 Jan 2017: Williams and Huxley give notice to withdraw challenge, Upper Tribunal consents

The regulator's consideration and approach to individual cases is informed by the specific circumstances presented by a case, not all of which are referred to or set out in this summary report.

This summary report must be read in conjunction with the relevant legislation. It does not provide a definitive interpretation of the law. The exercise of the regulator's powers in any particular case will depend upon the relevant facts and the outcome set out in this report may not be appropriate in other cases. This statement should not be read as limiting the regulator's discretion in any particular case to take such action as is appropriate. Employers and other parties should, where appropriate, seek legal advice on the facts of their particular case.

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5G Futures Ltd

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