

**NEWSLETTER NO 67  
FEBRUARY 2016**

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**Chairman's update**

Looking back at 2015 it was an exceptionally busy year for AMPS. One would have hoped that things would settle down in 2016 but there appears to be little hope of that.

Things have already kicked off. At the FSCS meeting on 18 January covering their budget & plans for 2016/17 it was highlighted by the FSCS that increases to the claims and levies in the Life & Pensions Intermediation and Investment Intermediation sectors were specifically a 'SIPP claims' issue. Though one of the presenters did try to make it clear that it was to do with the advice given around the underlying investment the covering slides unfortunately referred specifically to it again being a SIPP problem. The financial press, as you will have seen from their headlines, have picked up on this being a SIPP problem. I have written to Mark Neale, Chief Executive of the FSCS to express my concern that it should have been made much clearer that it was actually poor investment advice that has led to the increase, not the tax wrapper the investment was held within. I await his response.

The outcome on the consultation to the Green Paper – 'Strengthening the incentive to save: A consultation on pension tax relief' is due to be made public in the Budget in less than two months' time. If the information leaked recently by individuals close to the Treasury are correct the Chancellor is opting for a flat rate of relief. In AMPS response to the Consultation, though we would have preferred to keep the status quo, we did understand the logic if it genuinely encouraged more people to save for retirement. The key argument is that two third of all tax relief goes to higher and additional rate taxpayers. However is giving basic rate taxpayers relief of say 25% to 30% enough to encourage them to save more for retirement? If it is affordability that's preventing individuals saving then such an incentive will fail. We did cover this point in our response and asked that time was taken to fully research the effectiveness of such changes before any final decision was made.

We will have to wait and see but two things are guaranteed. The first is it will mean more challenges for our industry in the year ahead and AMPS will be working hard to ensure that any changes are fair and workable. It will also mean that places at our Technical Seminar on 28 April will be in great demand as we look at the implications of the proposed changes. So as places will be limited I would strongly recommend you book now.

Finally, as I mentioned at the AGM, due to two members resigning from the Committee we were asking for volunteers to be co-opted on. I am delighted to say that Claire Trott, Tas Ul-Haq and Ian Stone have now been co-opted on and I would like to welcome them and thank them for putting themselves forward. I am sure they will be kept busy.

Neil MacGillivray  
Chairman

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## **FCA SUB-COMMITTEE UPDATE**

### FCA regulatory matters

The last quarter has been as busy as ever with a continued focus by the FCA on data requests and what seems like an increase in the number of consultations. This comes despite an acknowledgement by senior management at FCA that regulation is getting out of hand.

The second retirement income data request became due for the period ending December 2015 and a number of other operators received a request for decumulation data and product charges. AMPS was involved in discussions with the FCA about the format of the data request and some of our suggestions were taken up. A number of firms also attended an FCA workshop on the request.

In addition to the data requests, SIPP operators were asked for information on the non-standard assets held in their SIPP portfolios. The rationale behind the request being to inform the FCA on the type and number of non-standard assets being held ahead of the new SIPP capital regime due to take effect in September of this year.

The number of requests has been considerable and our members are rightly frustrated by the timing of these requests and the potential doubling up of some data items. These concerns have been highlighted to the FCA.

As well as the data requests, the FCA has issued a number of consultation documents which might be of interest to member firms. In short these are:

CP15/30: Proposed changes to our rules and guidance. The consultation is very broad and covers a considerable number of different themes in the retirement space. A workshop was held by the FCA covering the proposals and AMPS was in attendance along with a number of other trade bodies and member firms. The AMP committee has submitted a response to FCA which is available to view on the AMPS website.

CP15/40: Financial Service Compensation Scheme: changes to the compensation sourcebook. This proposes interim solutions ahead of a wider review due to take place during 2016.

CP15/43: Markets in Financial Instruments Directive II Implementation – Consultation Paper I. We have highlighted this paper more for reference as there are areas of MiFID II that may impact on operator firms if at any point there comes a read across of MiFID rules to non-MiFID firms. Some of our firms may have been asked to complete a MiFID questionnaire back in October. We aim to cover more on possible issues at this years conference/seminars.

### Handbook Notice No 28 – Capital Adequacy

The FCA published Handbook Notice No 28 in December 2015 in response to CP15/19. The Handbook Notice provides additional clarity regarding, amongst others, the classification of assets for capital adequacy purposes. Whilst the Notice didn't go as far as AMPS might have hoped, overall we believe that it is a positive step towards where we wanted to be.

The committee would be interested to hear of any issues facing firms between now and implementation on 1st September 2016.

### Asset re-registration

Members of the committee took part in a number of exploratory discussions with the FCA regarding pension transfer timescales and in particular the asset re-registration (in specie) process. The FCA appear to be grateful for our input and understand the various different models in our industry and the number of potential parties involved compared to an ISA re-registration for example. A follow up discussion/meeting is planned between the FCA and other trade bodies.

### tPR meeting and survey

The Pensions Regulator issued a short survey to a number of SSAS provider firms at the very end of November seeking to understand charging structures. This was issued after initial consultation with the AMPS committee. The tPR acknowledged that it has little 'intelligence' on the SSAS market, an area they wish to improve upon. It is expected that further meetings between our two organisations will take place.

### Compliance Seminar 2015

The annual compliance seminar took place on 25th November 2015 at the Hilton, Paddington. Once again the seminar was very well attended with speakers presenting on a wide range of topics, including a look into how the regulatory world may look for firms in the future. Slides are available on the website.

## Compliance Seminar 2016 – Save the Date

The compliance seminar has been booked for November 21st. We would hope to have a provisional agenda issued as early as possible. If any members have any topics they would like to see covered please let Geoff Buck know – [geoff.buck@dapco.co.uk](mailto:geoff.buck@dapco.co.uk)

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## **TECHNICAL SUB-COMMITTEE UPDATE**

### **1. HMRC considerations**

#### (i) Lifetime Allowance Protection

AMPS members will be aware that details of HMRC's planned system for applications for Fixed Protection 2016 and Individual Protection 2016, including proposals for an interim registration process to assist members who wish to crystallise benefits whilst relying on either of the two new protection types before the full application facility is available, were published in Pension Schemes Newsletter 74:

<https://www.gov.uk/government/publications/pension-schemes-newsletter-74-december-2015/pension-schemes-newsletter-74-december-2015>

The AMPS Committee would draw members' attention to the fact that if a member follows that interim registration process, he or she must ensure that a full application is later submitted, to avoid invalidation of the temporary reference number which would be issued as a result of a successful following of the interim process.

The Committee would welcome comments on the process, whether in principle before it begins or in regard to experiences from April 2016.

#### (ii) Real Time Information and flexible benefits

Pension Schemes Newsletter 74 also include details of a range of "data items" for Real Time Information, as effective from 6 April 2016. One of those data items, 171, relates to pension death benefits, which might be either taxable or non-taxable. The Newsletter states that where a payment under data item is entirely non-taxable, code "0T" should be entered under data item 55, "Tax code operated on the payment".

It should be noted that code 0T is distinct from code NT, "no tax". Payroll operators should take care to ensure that this use of 0T does not inadvertently expose a non-taxable payment to a tax deduction.

### (iii) Pensions Tax Manual

As reported on the AMPS website, the Pensions Tax Manual formally replaced the Registered Pension Schemes Manual on 8 December 2015; please see link to the Manual, below:

<https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>

HMRC is continuing to accept comments on the PTM. These can be submitted via [ptm.consultation@hmrc.gsi.gov.uk](mailto:ptm.consultation@hmrc.gsi.gov.uk), though AMPS members would be welcome to make their comments via the AMPS Committee, to [zachary.gallagher@berkeleyburke.com](mailto:zachary.gallagher@berkeleyburke.com)

### (iv) VAT on pension fund management costs

HMRC published a further VAT Brief on 26 October 2015; please see link below:

<https://www.gov.uk/government/publications/revenue-and-customs-brief-17-2015-deduction-of-vat-on-pension-fund-management-costs/revenue-and-customs-brief-1715-deduction-of-vat-on-pension-fund-management-costs>

The Brief examines continuing concern as to whether certain types of contractual arrangement might satisfy the principle that for an employer to be a recipient of services for VAT purposes, it must both contract for and pay for such services. The Brief also includes reference to potential Corporation Tax implications as arising from a particular form of contractual arrangement.

Further, the Brief comments that representations are being considered, and that the transitional period in which the VAT arrangement described in "VAT Notice 700/17: funded pension schemes" (please see link below) can continue has been extended to 31 December 2016, in preference to 31 December 2015 as previously announced.

<https://www.gov.uk/government/publications/vat-notice-70017-funded-pension-schemes/vat-notice-70017-funded-pension-schemes>

The Committee will continue to monitor developments in this regard.

### (v) Communications with HMRC

AMPS members might recall recent discussion on the AMPS website forum, regarding the absence of a dedicated pensions technical helpline at HMRC.

Though the lack of such a facility is likely a matter of regret for many AMPS members, the prospects for the return of a technical helpline seem remote.

The Committee received a suggestion, consequent to the forum discussion, that the AMPS Committee might seek a regular audience with HMRC.

The Committee is grateful for that proposal and has considered it. AMPS enjoys a good relationship with HMRC and is represented at the biannual meetings of the Pensions Industry Stakeholder Forum (PISF). As well as offering a full agenda of topical pensions subjects, the PISF meetings allow representatives opportunity to raise any other matters of concern in open forum. AMPS also has telephone access, between PISF meetings, to those HMRC staff who form part of PISF. For the time being, the Committee is satisfied that more frequent meetings need not be sought (and might in any event not be found time for within HMRC's schedules), and therefore proposes to leave HMRC communications as they are for the time being. As with other considerations involving pensions tax matters, this will remain under review.

## **2. HM Treasury Consultation**

At the time of AMPS Newsletter 66, the Committee was finalising its response to the Treasury's consultation on potential changes to the basis of pensions tax relief. That response, a copy of which can be viewed on the AMPS website, was firmly in favour of maintaining the current system, whilst remaining open to the prospect of some form of flat-rate relief as a preferable alternative to the extreme option of removing tax relief on pension contributions altogether.

The Autumn Statement of 25 November 2015 reaffirmed earlier comment by the Chancellor, to the effect that the Government's formal response to the consultation would be published at Budget 2016. It has since been announced that Budget 2016 will be presented on Wednesday 16 March.

At the time of this latest AMPS Newsletter, there is speculation that the Treasury has already resolved to introduce a flat-rate system. Reports said to have been sourced from "people close to the Treasury" suggest that the Chancellor is working towards implementing a flat rate between 25% and 33% for both basic rate and higher rate taxpayers.

Irrespective of whether such speculation is derived from reality, the AMPS Committee will be meeting on Budget day and will be ready to consider and respond to the official announcement.

### **3. Pension Liberation Industry Group**

AMPS members will be aware that AMPS is represented at the Pension Liberation Industry Group, and was closely involved in the drafting and launch of the arising document, "Combating Pension Scams: A Code of Good Practice"; please see link below:

[http://www.pasa-uk.com/system/files/Code%20of%20Good%20Practice%20EDITION%203\\_0.pdf](http://www.pasa-uk.com/system/files/Code%20of%20Good%20Practice%20EDITION%203_0.pdf)

AMPS was represented at a meeting of the Group on 11 January 2016, as convened for the purpose of considering whether updates to the Code might be needed as a consequence of developments in pension scam activity since the Code was launched. The Code is being reviewed and further updates will be given in due course.

### **4. AMPS Technical Seminar**

Arrangements are in hand for preparation of an agenda for the 2016 AMPS Technical Seminar, to be held at the Hilton London Paddington Hotel on Thursday 28 April. Although this date is only seven months after that of the 2015 Technical Seminar, the Committee felt it appropriate to revert to staging its two Seminar events, Technical and Compliance, at different times of the year in order to enhance the effectiveness of both.

Coming six weeks after Budget 2016, this year's Technical Seminar will offer AMPS members opportunity to voice their opinions on whatever the Treasury decides as its response to consultation on pensions tax relief, whilst also hearing speakers on the subject.

Whilst the agenda remains in development, the Committee would welcome suggestions of discussion topics and offers for potential speakers. Please submit these to [zachary.gallagher@berkeleyburke.com](mailto:zachary.gallagher@berkeleyburke.com)

One concern which the Committee is aware has occupied members' thoughts in recent times is that of rent arrears, with the associated uncertainty as to at what point a requirement to report an unauthorised payment occurs, and how the debtor represented by the arrears should be treated for benefit crystallisation purposes. It is intended that presentations and debate on this subject will take place at the Technical Seminar.

Another consideration of which AMPS members might be aware is the matter of pensions in payment before 6 April 2015 to dependants aged under 23, where the dependant attains age 23 after that date. This arose briefly at the AMPS Technical Seminar of October 2015, and subsequent discussion has focused on the understanding that there is no provision in law for such pensions to convert automatically to beneficiary's flexi-access drawdown. The AMPS Committee is preparing an approach to HMRC on this subject, in order to ascertain whether this was the intention of the legislation and whether there might be any prospect for review. It is intended that this issue shall be examined further at the Technical Seminar.

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## **NEW MEMBERS**

Rock Consulting has joined AMPS as an Associate member since our last newsletter.

## **REMINDER OF UPCOMING EVENTS**

A Reminder that the following events are coming during 2016 with more details to follow in due course:

28th April 2016 – AMPS Technical Seminar – Hilton Paddington

21st September 2016 – Annual Conference and AGM – 21st September Royal College of Physicians

21st November – AMPS Compliance Seminar – Hilton Paddington

## **REMINDER OF OTHER NEWS**

Since the last newsletter there has been lots of other news and forum posts which other member firms may find of interest. Here's a summary of what's been covered:

### **October**

News published:     Volunteering with TPAS  
                              AMPS response to HMT consultation on tax relief  
                              CTC Market Review 2015

Forum published:    Commercial Property with barrelage income  
                              SIPP Investment in LLP  
                              HMRC helpline

## **November**

- News published: Minutes of AGM  
Appointment of Officers  
FCA and non-standard assets
- Forum published: Rockpool Investments – does anyone have any experiences to share  
SIPP Cap Ad – Term deposits  
Unauthorised use of company logo

## **December**

- News published: Compliance seminar – CPD cert and slides  
FCA decumulation request – notice to members  
FCA response to CP15/19 – handbook notice  
Minutes of AGM  
PTM publication
- Forum published: Gold Bullion enquiry (Gold.co.uk)

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## **CONTACT**

Zoe Smith – AMPS Committee member  
[zoe.smith@barnett-waddingham.co.uk](mailto:zoe.smith@barnett-waddingham.co.uk)

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