AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

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April 2013

CHAIRMAN'S UPDATE

Much of our focus as a committee over the last quarter was in putting together our response to the FSA's proposals to alter capital requirements for SIPP operators. We consulted with over 50 SIPP operators to form our response which is designed to address some of the key concerns of the FSA whilst not discriminating against SIPP operators that have been running good business models based on the applicable rules. We have had good reaction to our paper from SIPP operators.

Aside from finalising that response, we continue to be contacted by various authorities concerned about pension liberation and investment fraud. Pension providers large and small do not want to be caught out by members involved – perhaps naively – in accessing their pension benefits earlier than anticipated by legislation and so we approve of the attention that the "Predators Stalk" campaign got in the national press and of the guidance issued by the Pensions Regulator. We still believe though that the regulatory bodies should be accountable for approving registered pension schemes and it should not be the role of the transferring scheme to conduct due diligence on a receiving scheme. There is no immediate solution and I would warn SSAS providers about new business coming in which ordinarily would have been placed with SIPP providers.

Finally, we have announced details of the conference and workshops for 2013 and hope that you will be able to attend at least one of these events.

AMPS CONFERENCE & WORKSHOPS 2013

The following events are planned to take place in 2013

21 May 2013	Annual Conference
3 October 2013	Technical Workshop and AGM
28 November 2013	Compliance Workshop

Registration sites are now live for all events and can be found via AMPSonline

HMRC & TECHNICAL REVIEW

AMPS continues to engage in discussion and correspondence with HMRC, to the extent made necessary by such issues as arise from time to time.

Robert Graves, AMPS Committee member and Chair of the Technical Sub-Committee, attends meetings of the Pensions Industry Stakeholder Forum (PISF), as chaired by the Business Head of HMRC Pensions Operations. Other meetings with HMRC and related bodies are attended by Committee members, as circumstances demand.

Those HMRC matters which have recently invited the Committee's attention are as follows:

1. Changes to Lifetime Allowance and Annual Allowance

The Chancellor of the Exchequer's Autumn Statement of 5 December 2012 included the following announcements:

- That the lifetime allowance would fall to £1,250,000, with effect from 6 April 2014
- That the annual allowance would fall to £40,000, from the tax year 2014/15

The Budget of 20 March 2013 offered no hint of a change of policy, in these areas. Barring any such change, the reductions will take effect as planned.

It should be noted that the tax year in which a pension input period ends is the determining factor in the question of which tax year's annual allowance is in use at any time. Thus a contribution might be paid before 6 April 2014; but if it relates to a pension input period ending on or after that date, it will be regarded as being attributable to the 2014/15 annual allowance, as capped at £40,000.

2. Fixed Protection 2014 and Individual Protection

Budget 2013 documents reaffirm the Government's plans to offer 'Fixed Protection 2014', such as would enable pension scheme members to retain a personal lifetime allowance of the greater of £1,500,000 and the standard lifetime allowance, subject to a cessation of pension contributions from 6 April 2014.

Budget 2013 has given rise to a new term, "Individual Protection", which replaces the prospective title which the Government referred to after the Autumn Statement of 5 December 2012, "Personalised Protection". This form of protection was suggested, at the time of the Autumn Statement, as intending to offer pension scheme members a lifetime allowance of (the greater of) the value of their pension rights at 5 April 2014 (up to £1,500,000), and the standard lifetime allowance; whilst allowing the member to continue paying pension contributions.

Budget 2013 included an announcement that consultation on the detail of individual protection will take place during Spring 2013.

Budget documents include a welcome announcement as to how those with enhanced protection, but without lump sum protection, will be affected by the forthcoming reduction in the lifetime allowance.

AMPS members will recall that when the lifetime allowance was reduced from £1,800,000 to £1,500,000 in April 2012, members with enhanced protection, but without lump sum protection, saw their prospective lump sum rights reduced to 25% of £1,500,000.

HMRC's document, "Reducing the pensions tax annual and lifetime allowances", as available at the Budget 2013 section of HMRC's website, states that, "*Amendments will also be made to ensure that individuals with existing A-day primary or enhanced protection but who do not have lump sum protection will retain a right to a lump sum of up to 25 per cent of £1.5 million".* This means that members with enhanced protection will not face a further reduction in their expected lump sum benefits, to 25% of £1,250,000.

These are only the 'headline' implications of the reduction in the lifetime allowance. AMPS members should refer to HMRC's Budget 2013 documentation for details of other effects of the forthcoming changes.

3. Change to maximum drawdown rate

As announced in the Autumn Statement of 5 December 2012, and as argued for by AMPS in an 'e-petition' earlier that year, the maximum rate of capped drawdown pension will revert to 120% of the Government Actuary's Department annuity rate, from 100%, from 26 March 2013.

AMPS understands that the effects of this change will include the following:

- For all new drawdown cases on or after 26 March 2013, 120% of GAD will be available.

- For drawdown arrangements entered into between 6 April 2011 (the date the maximum fell from 120% to 100%) and 25 March 2013, the maximum drawdown pension will increase to 120% of GAD, with effect from the start of the first pension year following 26 March 2013. This will not require any election from the member, unless the member wishes to combine it with a formal drawdown review.

- Where drawdown funds are transferred from one registered pension scheme to another, 120% of the basis amount will become available from the start of the next pension year, as it would if the transfer had not taken place. Finance Bill 2013 also includes provision for an easement, effective from 26 March 2013, which will remove the requirement for the maximum drawdown pension to be recalculated from the start of the next pension year following a transfer of drawdown funds from one scheme to another. This will mean that, following such a transfer, the requirement to recalculate will not apply until the start of the next reference period, as it would if the transfer had not taken place.

4. Auto-Enrolment

The automatic enrolling of staff, into workplace pension schemes, took effect, for the largest employers, on 1 October 2012. Employers with 120,000 or more individuals in their payroll schemes would have been required to have made arrangements for provision of a qualifying workplace pension scheme, with effect from that date. For employers with fewer persons on their payroll, auto-enrolment obligations will take effect at some other date during the phasing-in period, which will be complete by April 2017.

AMPS has previously highlighted concern to the authorities over the risk of those with enhanced or fixed protection losing protection through being auto enrolled and inadvertently not opting out. We are therefore pleased to see that the DWP have launched a consultation.

In the meantime those with enhanced protection or fixed protection would therefore need to opt out of the workplace scheme, within one month of the effective date of their auto-enrolment. This would also be necessary at any times of subsequent auto-enrolment, whether within the three-yearly re-enrolment provision which would apply to those who had previously opted out, or upon a change of employment which might lead to further auto-enrolment.

5. Relief at Source (RAS) Audits

A number of AMPS members have seen a change in HMRC practice, such that an audit of a RAS claim, or a query relating to any aspect of a claim (even if only affecting one member), will prompt HMRC to place the entire claim on hold, pending resolution of the query.

This could have a highly detrimental effect upon members' interests; for example, if delays in tax relief payments left schemes unable to carry out members' investment instructions.

AMPS is not aware of any proposal, within HMRC, for this approach to be changed. We would urge AMPS members who become aware of a delay in the RAS payment to contact HMRC immediately as they do appear to be willing to negotiate on making partial claim payments. AMPS would also be keen to learn of members experience regarding this issue in order to asses the need to argue for a more practical approach, to the effect that individual member queries should not delay the remainder of a RAS claim.

6. Real Time Information (RTI)

RTI took effect from 6 April 2013, and will require payroll operators to send Pay As You Earn details to HMRC every time they pay a pensioner, at the time of the payment, and to use payroll software to submit this information electronically as part of their routine payroll process.

We would expect that payroll operators will already have familiarised themselves with the requirements in this regard, but further information is of course available on the HMRC website.

7. Compensation Payments

AMPS Newsletter 58 made reference to potential implications of compensation payments becoming available, as a consequence of failed investments. Both the Financial Services Compensation Scheme and HMRC had signalled their recognition of the pension scheme member as an eligible claimant, such that payment of the compensation to the pension scheme would be regarded as a relievable contribution, and that retention of the contribution, by the member, would not be an unauthorised payment.

RPSM03104511 confirms that the payment of compensation to the pension scheme, where compensation had been awarded to “an individual”, could be a relievable pension contribution, which would trigger loss of enhanced protection.

RPSM03104511 also states that where compensation was paid to the trustees of the pension scheme, the payment would not constitute a relievable pension contribution and would not, therefore, invalidate enhanced protection.

Despite this apparent clarity, confusion remains and discussions continue. Differences might be cited between ‘restitution’, which serves to place a member or a scheme in the position which he, she or it would have been had the event giving rise to the payment not occurred; and ‘compensation’, which might not equate precisely to a sum quantified as ‘loss’. Although HMRC guidance would suggest that only the latter should be regarded as a relievable pension contribution if remitted to the pension scheme, AMPS understands that several firms have been informed that HMRC regards restitution as compensation, and therefore a relievable contribution.

As the implications of this are wider than SIPPs and SSASs, AMPS has raised this issue with other industry bodies such as the ABI and ILAG and an initial meeting has been held where it was agreed to pursue making further enquiries with HMRC.

8. Pension Liberation

We would draw members’ attention to the AMPS website posting of 14 March 2013, which offered a link to publications produced by The Pensions Regulator, aimed at combating pension liberation.

AMPS continues to liaise with a number of organisations, to ensure that the most robust procedures are found for identifying pension liberation risks, notifying relevant bodies of suspicions, and strengthening the pre-transfer due diligence process. AMPS will keep its members informed of developments in these areas.

9. AMPS Conference

Robert Graves will be presenting an HMRC/Technical update at the AMPS Conference on Tuesday 21 May, which will consider many of the above issues.

FSA & COMPLIANCE REVIEW

The key focus of the committee over recent months has been on CP12/33. However, here is a summary of the main other FSA publications – excluding the Thematic Review GC12/12 - relevant to SIPPS since the summer of 2012:

1. CP12/19 UCIS consultation published in August 2012

Consultation closed in November 2012. Response is due to be published in Q2 2013.

The FSA considers that the majority of retail promotions and sales of UCIS that it has reviewed fail to meet the required regulatory standards, exposing ordinary investors to significant potential for detriment. Therefore, the FSA is proposing to intervene in the market by changing its rules to ban the promotion of UCIS and close substitutes to ordinary retail investors in the UK.

The FSA is proposing to extend the current regime to cover what it considers to be close substitutes of UCIS, which would include qualified investor schemes, traded life policies and securities issued by SPVs (other than investment trusts, covered bonds, or securities whose return is closely linked to shares or bonds admitted to a regulated market).

A useful summary of the issues in provided within the morning slides from the AMPS Compliance Workshop in November 2012

2. CP12/22 Client assets regime: EMIR, multiple pools and the wider review

Consultation closed in October/ November 2012.

The main relevance to our industry was a discussion regarding the potential for a fundamental review of the client money rules in part III of the consultation which was quite an unusual step for the FSA. A response is not expected for some time on this aspect.

3. CP12/29 Feedback to CP12/5 and final rules on disclosures by SIPP operators, and consultation on inflation-adjusted illustrations

This was split into a number of parts.

Part 2 removed the exemption for SIPP operators from producing illustrations and introduced the requirement to disclose information regarding retained interest and other commissions by SIPP operators which followed on from CP12/05. Implementation 6 April 2013.

Part 3 consulted on proposals for the issue of inflation-adjusted illustrations consistent with SMPI.

Chapter 4 – addition of new guidance on the preparation of key features (product information) documents, to help firms prepare information which is easier for consumers to understand and more useful to them

Both proposed an implementation date of 6 April 2014

A policy statement on Chapters 3 and 4 has subsequently been issued. See section 5 below.

4. Dear CF10a letter published in November 2012 to relevant firms holding unbreakable client money term deposits

The issuance of this letter followed a questionnaire sent to all firms holding and/ or controlling client money in July 2012.

The FSA were concerned that investors were not aware of such deposits being made and the risks that they were unknowingly taking on, whether the firm in question would have sufficient resources to make up any shortfall if the relevant deposit-taker became insolvent, the delay in distributing client money on the failure of the firm and the enhanced returns received by firms which were deemed to be a conflict of interest. FSA requested responses from firms affected

5. PS 13/02 personal pensions – inflation-adjusted illustrations

Issued in March 2013 in response to parts 3 and 4 of CP12/29

In broad terms the original proposals are being implemented with effect from 6 April 2014 with early adoption permitted from 6 April 2013. Thus key features illustrations will have to take account of inflation in years to come.

The cost-benefit analysis for SIPP operators was revisited leading to an increase in industry costs by £4.1m which the FSA believe doesn't alter the outcome of the cost benefit analysis.

The case for inflation-adjusted drawdown illustrations was found to be less clear and with costs outweighing the benefits. These will now stay in nominal terms with voluntary adoption if firms choose to. Some caution was given as to the way such illustrations should be drafted.

The policy statement also confirms the adoption of the guidance provided in CP12/ 29 on the presentation of key features documents which is a reflection of widely accepted good practice. Firms are urged to review their documents to ensure they are relevant to their target market.

6. PS13/04 FSCS funding model review

Published 25 March 2013 following on from CP13/01 and CP12/16. In broad terms the proposals in CP12/16 have been adopted in this policy statement.

However, a full review of this document has not been undertaken by the Committee given this very recent publication. Firms are urged to review this policy statement.

The Committee generally meet with delegates from the FSA every 8 weeks or so. Delegates attendance is dependant on the particular agenda topics to be discussed. The level of communication and interaction with the FSA and AMPS is improving although staff changes at the regulator make continuity somewhat difficult. This will be exacerbated in the next few months as the split to the FCA/ PRA is fully embedded.

PLATFORM SUB-COMMITTEE

CP12/12 Payment to platform service providers and cash rebates from providers to consumers

AMPS responded to this consultation in September 2012. A response from the FCA is expected soon. There has been a lot of press speculation on the outcome the main point being that unit rebates will probably also be banned.

One thing that would appear to have been an outcome of this consultation is HMRC's change in policy as regards taxation of rebates and trail commission paid to clients. Though this will not impact on SIPP & SSAS it will on client portfolio accounts on platforms. Further details can be found in HM Revenue & Customs Brief 04/13.

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