AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

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5 September 2012

Greg Clark MP
Financial Secretary to the Treasury
HM Treasury
Horse Guards Road
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Dear Mr Clark

Using pension funds to help stimulate the economy

May I firstly congratulate you on your appointment as Financial Secretary to the Treasury. I had occasion to write to your predecessor in my role as Chairman of the Association of Member-directed Pension Schemes (AMPS), the trade body that represents providers of self-invested personal pensions.

In March 2009, AMPS submitted a paper to the Treasury setting out how monies invested in self-invested pensions, both director-based Small Self-Administered Schemes (SSAS) and personal Self Invested Personal Pensions (SIPP), could be used to help economic stimulus. I attach a copy of our report for your full information.

AMPS believe that the initiatives set out in 2009 still have merit three years later, despite not being taken up by the previous Government. I am writing now on behalf of AMPS to provide you with updated proposals that we believe could help stimulate the economy whilst protected tax revenues.

SIPPs have continued to grow in popularity since 2009 and evidence suggests that there are now around 900,000 SIPPs with combined assets of £117bn, though of this probably only £57bn is represented by bespoke SIPPs of a size and flexibility that would be able to accommodate any proposed changes. We probably underestimated the number of SSASs in the market in 2009 and think that there are now in fact some 30,000 in existence with perhaps £16bn of assets.

There is therefore £70bn or so of pension assets that, with the right incentives for the scheme members and protection for HMRC, could be utilised to help stimulate the economy. Anecdotal evidence continues to suggest that many members of such schemes are interested in investing in their businesses rather than on volatile markets or leaving money on deposit earning low rates of interest. Yet the investment rules set in 2006 do not encourage this. Every other aspect of the pension rules (contributions, retirement benefits, death benefits) has been tweaked since 2006 yet the core investment rules have not.

1. Revising the criteria for company loans from SSASs

AMPS understand the need for Treasury to protect future revenues from tax-relieved pension funds and so, for example, authorised employer loans from SSASs must meet set criteria with regard to loan amount, interest rates, term, security and repayment terms.

There is a strong demand from small to medium businesses for loan finance and from conversations with clients AMPS are left with the clear impression that banks are seeking to reduce existing lines of credit and are not willingly entertaining new lines of credit.

It is our strongly held view that the current criteria for lending from SSASs are too restrictive to be of use to most small to medium enterprises. Insisting that pension scheme loans have priority over other secured lending means that it is not normally possible for a pension scheme to provide additional finance if a bank is already providing finance. This could easily be achieved if legislation was amended to simply require "adequate security" rather than a first charge and will still provide protection of tax revenues.

Our proposal in 2009 was that unsecured loans or loans secured other than by way of first charge should be allowed if there is a higher rate of interest (see 1.3.1 of the 2009 proposals). We now suggest that the requirement for a charge to take priority over all other charges (i.e. Condition C of Paragraph 1 of Schedule 30 of Finance Act 2004) is removed and increase the minimum interest rate (set out in SI 2005/3449) by 2% per annum.

The combined impact of a maximum term of five years and requiring capital to be repaid throughout the term also stifles investment in medium term projects. We would therefore propose that the maximum term is extended to ten years.

2. Allowing company loans from SIPPs

Many business owners have chosen SIPPs over SSASs in recent years, yet their SIPP is unable to make a loan to their business as the authorised employer loan rules only apply to sponsoring employers of occupational pension schemes such as SSASs.

On the other hand, SIPPs are permitted to make unsecured loans to third parties and this has been a potential source of pension liberation in recent years as it seems some advisers are promoting unconnected people to "buddy up" and use their SIPPs to lend to each other.

It seems counter intuitive that a SIPP cannot lend on a secured basis to the member's company but can lend on an unsecured basis to an unconnected third party, which seems to be at higher risk of tax leakage, or capital loss.

We propose that SIPPs are able to make loans to companies connected with the member on a similar basis as authorised employer loans, preferably with the improvements noted above.

3. Clarifying investment in plant & machinery

The third proposal contained in the 2009 paper is in my view the least useful and the hardest to apply. Nevertheless, I set out some updated thoughts.

There is current confusion over the extent to which large items of plant & machinery are excluded from the definition of tangible moveable property. In 2009, we sought a specific exclusion for plant & machinery. We still support this and believe that the Treasury has the power to exclude items of plant & machinery under Paragraph 11 of Schedule 29A of Finance Act 2004.

Our revised proposal is therefore to exclude any asset that is tangible moveable property from the definition of taxable property provided it meets the following conditions:

a) the item is considered plant & machinery; and

b) the asset is not used by the member.

4. Improving the borrowing capabilities of pension schemes to finance property purchases

Maximum borrowing limits changed from April 2006 from a maximum loan-to-value of 75% to a maximum of 50% of the SIPP fund (i.e. equivalent to a loan-to-value of 33%). The motivation for the reduction we believe

was due to concern over inflating residential property prices as, at the time, it was proposed that residential properties would be an allowable investment. As we know, these proposals never came into force.

It is our view that the borrowing limits need not have been reduced if residential property continued to be a non-allowable investment. The existing limits were entirely consistent with general market practice and individual lenders would make their own decisions based upon the acceptability of the property.

In 2009, we suggested that the pre 2006 limits were restored as this would also relieve some issues with consumers being locked-in to SIPP providers.

We still support a return to the original borrowing limits or at least an increase in the limit from 50% to 100% of the value of the pension arrangement.

By improving borrowing limits, more funds can be injected into the commercial property market and companies that own their premises may now also be able to enter into a leaseback with a pension scheme, thereby releasing much needed cash for their business.

As you might imagine, there are other ancillary proposals that could be reviewed if you agree that the investment rules warrant a rethink.

I do hope that you consider these proposals thoroughly. They have been designed by leading industry figures to help stimulate economic activity by improving the situation for small to medium businesses. The proposals are not in themselves being made to encourage greater pension savings – although we believe that this will be an important and valuable secondary aspect – and therefore you may view the proposals as being impartial.

I would welcome the opportunity to discuss our proposals further with you and fellow members of the Treasury team on a confidential basis.

Whilst writing, I have also noted other proposals for using pension funds to stimulate certain markets, for example investing in infrastructure projects and allowing investment in residential property. Whilst these ideas do not form part of these proposals, as a representative body, I would be more than happy to participate in discussions regarding other ideas for stimulating the economy through use of pension fund.

I look forward to hearing from you and wish you every success in your new post,

Yours sincerely

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cc. George Osborne MP

Enclosure – 2009 Report of Economic Stimulus Through Pension Schemes