Subject: Pensions Liberation – A joint meeting with the APPG Pensions Group

Presenters	APPG	Others
John Lawson – Head of Policy at Aviva Yvonne Brown – Head of Savings & Retirement Care, The Association of British Insurers Helen Forrester – National Association of Pension Funds (from the floor)	Baroness Sally Greengross OBE Lord David Hunt Heather Wheeler MP Jonathan Evans MP Mark Durkan MP	David Worsfold Paul Clarke (PwC) Others – approximately 10 representatives of the industry and trade press

Background

Funds paid into pension arrangements commonly attract tax benefits at the point of investment. Equally funds may be withdrawn from pension funds before retirement date at the request of the policyholder. This may be attractive because it provides early access to savings, however, there is a clawback of tax relief at this point potentially at the rate of 55% of the funds withdrawn. If the withdrawal is near to actual retirement date then the tax suffered can be significant and the policyholder would often be better off waiting to draw the funds at retirement. Funds can also be transferred between different pension providers without incurring a tax deduction.

The concern here is that policyholders may be badly advised to withdraw funds from pension arrangements early, or are advised to transfer funds between pension arrangements for no particular benefit but in ways which generate fees for advisers.

A separate briefing paper from Aviva is attached.

Note of key matters:

1 Presentation by John Lawson - Aviva

Key highlights:

- Aviva are observing increasing and varied methods of liberating pension funds
- There is concern that requests for withdrawals close to age 55 are being promoted by essentially fraudulent intermediaries seeking fees
- In the 12 months to July 2013 Aviva received 3,000 requests in this area covering funds of approximately £80 million
- Insurers cannot refuse to action properly authorised transactions although Aviva have a review process that involves policyholder contact to confirm that the individual understands the nature of the withdrawal and the consequences
- It was previously easy to establish an authorised pension scheme which enabled unscrupulous agents to create schemes with high charges into which funds from standard

schemes could be transferred. HMRC had recently changed the process for registering pension schemes to make it harder to create vehicles to receive transfers. There is not currently any centralised list of authorised schemes

- Policyholders are sent annual statements of pension value although the evidence is that this has mixed success in assisting policyholders with understanding their pension arrangements

- The effectiveness of regulation in this area is diluted because occupational pensions are not regulated by the Financial Conduct Authority but by the Pensions Regulator. Relatively speaking the FCA appears better resourced to pursue these areas. Equally , not all pension schemes appoint independent trustees.

2 Supplementary comments from Yvonne Brown and Helen Forrester

- Both reinforced the comments from John Lawson

- The ABI would consider drawing up a manifesto of specific actions which might be taken to address the situation

- The NAPF supported increasing the barriers to entry for creating new pension schemes and for consolidating responsibility for regulating pensions with a single authority.

3 Discussion

- There was a general discussion about ways to improve the quality of documentation provided to policyholders which would provide a more simplified summary whilst equally drawing attention to valuable features of policies such as guarantees which might not otherwise be recognised.

Paul Clarke
5 November 2013

Aviva Briefing: Pensions liberation

- Consumers targeted by organisations seeking to 'raid' pension funds for early access to savings
- Scale of pension liberation rapidly escalating - an estimated £600m this year alone
- Industry experts call for new regulatory requirements for independent trustees, a robust new scheme registration process and rules to prevent intentional unauthorised payments

What is pension liberation?

Pension liberation is the release of a pension holder's pension fund to them in cash before the age of 55. Pension funds are normally only available to the pension holder before the age of 55 in extreme circumstances such as terminal illness.

Releasing pensions early is not illegal, but is heavily disincentivised by HMRC through high taxation rates in order to encourage saving for retirement. Pension schemes that allow too many people to access their pension outside of the normal rules also face deregistration leading to tax penalties for these schemes and their members.

Why is pension liberation a problem?

For consumers:

Liberating a pension before retirement will not only significantly deplete (often entirely) the saver's retirement funds, but also incur charges of around 55%, further reducing the savings pot.

A market is emerging in which organisations target individuals encouraging them to liberate their pension as a means of gaining access to cash, offering services to facilitate this transfer of funds as either a lump sum or a loan. In some instances this activity, often solicited online or via cold calling/text messaging, is fraudulent, making false claims and places savers' funds at risk.

These services come with significant fees, in addition to the tax deductions, of which savers are often not fully informed. Particularly vulnerable consumers such as those with little financial awareness may be taken in by such sales approaches. They also create risky, unregulated investment structures for the fund payments or loans.

Customers who 'liberate' are being charged large fees of 10% to 15% of fund value, although in extreme cases this can be higher. They are also not being told that liberation attracts a 55% tax charge. They could therefore lose 70% or more of their pension fund. Whilst tax is due on the sums liberated, it is questionable how much of this tax is collected by HMRC given that most of the people liberating their pensions are outside the scope of self-assessment.

Those liberating will have no funds to draw in retirement and are likely to become a burden on the state.

For the pension industry:

Activity is increasing – in the case of Aviva, from 25 per month in Q4 2012, to 50 per month in the 9 months to September 2013. This year, Aviva has stopped transfers with a value of over £10m (to end September), but that may be the tip of the iceberg, as we do not know for sure when a receiving scheme is planning liberation. These figures do not include overseas transfers.

If Aviva is stopping around 600 UK cases a year with a value of approx. £14m, the whole insurance industry may be stopping approx. £150m,. Add in transfers from occupational pension schemes and transfers to dubious overseas schemes, and the overall size of the issue is likely to run into several hundreds of million pounds a year.

The latest UK trends point to the use of single-member small self-administered schemes (SSAS) as liberation vehicles but also to facilitate investment in foreign hotel developments encouraged by cold-callers promising huge returns.

In addition, it is thought that the overseas transfer market to QROPS (qualifying recognised overseas pension schemes) is also around £250m a year*, many of which are to jurisdictions that allow liberation such as Latvia and Malta.

The current solution of trying to prevent transfers at the point of execution is expensive and only partially effective. A solution further upstream is needed.

What are possible solutions?

Aviva are calling for Government to review current legislation on unauthorised payments in order to take action against pension liberation and protect savings. This includes clamping down on fraudulent and irresponsible organisations targeting individuals to liberate their pension.

1. For internal UK transfers, liberation schemes tend to be trust-based occupational schemes because they are easy to set up. Anyone can set up a trust-based scheme, but only regulated firms (insurers, banks etc.) can set up personal pensions.

   A **more rigorous registration process for trust-based schemes** would prevent the set up of many schemes whose intention was liberation. A registration fee could fund the process and be set at a level to discourage all but bona fide schemes. We suggest £5,000.

   At the same time, **all trust-based schemes should be required to appoint an independent trustee**, who is registered to act in this capacity by the Pensions Regulator. This would restore the pre-2006 position applying to SSAS where an independent professional trustee was required to prevent scheme assets being misappropriated.

   We welcome the announcement by HMRC that they will operate a more robust new scheme registration process which will involve individual vetting of all applications for registration. However, more needs to be done, as HMRC may be able to prevent practices that whilst dubious, are permitted within a strict interpretation of the law.

2. The sums being paid out by UK liberation schemes may be technically within the law. "Unauthorised payments" are allowed for within Finance Act 2004, but were intended to cope with administrative anomalies. The **rules on unauthorised payments could be tightened** to ensure that they are not used beyond their original purpose.

3. Genuine providers may be acting illegally in preventing transfers to suspected liberation schemes because the law generally requires transfers to be made within 6 months of request. Providers **should be able to delay transfers indefinitely** on condition that they have reasonable grounds and that these are reported to government agencies. An appeal system could be established through the Pensions Ombudsman Service.

4. **Tighten up the overseas transfer regime**:
   a. Only allow transfers to non-EU countries where the person can prove that they are now tax resident in that country.
   b. Within the EU, explore a temporary agreement via the European Commission/EIOPA with a view to legislating in the longer-term.

* http://citywire.co.uk/new-model-adviser/aj-bell-reveals-500m-transferred-to-qrops-in-two-years-after-a-day/a377274