Welcome to TISAtalk, this week –

- Malcolm Small, Director of Policy at TISA, warns that the forthcoming Pensions Bill, which will contain the legislative basis for the move to a flat-rate basic state pension, may see the Department for Pensions replace the current complex pension rules for equally complicated architecture.
- Jeffrey Mushens, Technical Director at TISA, provides an update on the TISA FATCA and Client Assets Best Practice projects.
- Peter Smith, Head of Distribution Engagement at TISA, outlines his belief that the FCA may start to look closely at "liberation plans".

THE FLAT RATE STATE PENSION – NOT ALL IT SEEMS?

A flurry of announcements from DWP recently confirmed, among other things, that the forthcoming Pensions Bill will contain the legislative basis for the move to a flat-rate basic state pension. We have always argued for this and welcome this development, as it will bring to an end the system of means tested retirement income benefits and the fiendishly complex State Second Pension and its forebears. It will also create certainty around state-provided retirement income, providing a clear platform to save further.

However, for anyone who has read the papers supporting the new architecture, it could be argued that we may stand in danger of replacing one complexity with another. A whole new jargon of phrases such as "Foundation Amount" is emerging, with quite complex formulae being required for anyone to work out what their ACTUAL state pension will be – it will still be linked to NI history – and these calculations will be beyond the ability of many, I would suggest.

And a big uncertainty is around the treatment of those with long periods of contracted-out employment. The vital factors for these calculations are, significantly in my view, yet to be disclosed, but there seems little doubt that the intention is that these groups will receive a lower state pension. The argument for this is likely to be that they paid a lower rate of National Insurance when contracted out, which is true. However, they also took their pension liabilities off the government balance sheet to some extent and the rebates towards the end of the scheme were arguably inadequate to compensate for the investment risk being carried. That risk was, and is, considerable, and government will need to be careful not to give the impression that doing the bidding of the past governments of the day in taking the decision to contract out, does not result in a financial "kicking" later.

Malcolm Small, Director of Policy at TISA

UPDATE ON FATCA & CLIENT ASSETS BEST PRACTICE PROJECTS

The new FCA and HMRC have been keeping us busy.

FATCA is becoming less of an issue now, as uncertainties are being reduced, however there are still concerns around the tax status of customers, HMRC guidance and what we expect to be global FATCA. From our perspective, we continue to regard FATCA as an unnecessary strain on already stretched resources. Billions have been spent to date and will continue to be spent annually, in an effort to raise - as far as the IRS now estimates - less than $800m a year in tax. Nevertheless, we will continue to work with HMRC, which have been really helpful in practical implementation and guidance, and informing members. HMRC will be coming along to the next FATCA meetings scheduled to take place on 2nd and 16th July – if you'd like to participate, please get in touch.

On the client asset front, the Client Assets Technical Committee has now agreed to document and agree industry Best Practice in a number of areas, and we've begun to engage with FCA on how this guide can help firms and the FCA. The inaugural meeting of the Client Assets Best Practice Working Group is taking place on 22nd May, with additional meetings to follow throughout the year. If your firm can contribute, or you would simply like to share knowledge with other firms, please do let us know.

Finally, we are also working with HMRC on practical ways of implementing the requirement to deduct tax on payment of rebates of AMC to clients outside ISAs and SIPPs, and will update members with any relevant news following these discussions. Happy days!

Jeffrey Mushens, Technical Director

DON'T LOOK BACK IN ANGER

With the arrival of the new Regulator in town, it will be interesting to see what time elapses before they look closely at a new phenomenon in the pensions world - "liberation plans". In the recent past, pension savers are being drawn into liberation schemes which interestingly within the past year have amassed more than £400million from retirement funds, more than doubling in assets within the last 12 months.

Such schemes promise to access members' pension pots earlier than the minimum age of 55, normally with an eye-watering fee for the privilege, and - probably unbeknown to most employees - may attract extra tax charges from HMRC.

These plans operate typically with funds being transferred into schemes, quite often offshore, with the providers promising to pay out a proportion of the money. However, they also often charge 20% of the value of the pot as commission. In addition, accessing money in the pension fund before age 55 leads to tax penalties of up to 70% of the value of the payments or investments, a fact which the member is probably not fully aware of.

Currently neither the Pensions Regulator, the FSA or HMRC have taken any action. It will be interesting to see if the new sheriff in town - the FCA under Martin Wheatley - will take any tough action in this respect. A number of high profile pensions commentators agree that it is crucial these schemes are outlawed as pensions are designed to be locked up for later life and not to be spent along the way, as that is why tax relief is given to incentivise savings for retirement.

Let's watch this space to see if we get the much-vaunted intervention outlined with the arrival of the FCA.

Peter Smith, Head of Distribution Engagement