TISAtalk 28th March 2014

# SET ME FREE?

The last couple of days have seen a lot of media coverage and summaries of George Osborne's Budget, with a tremendous focus on pensions and annuities. However, one aspect which seems to have slipped quietly under the media radar is another move within the Chancellors changes to clean up the issues around pensions liberation and fraud.

HM Revenue & Customs (HMRC) is set to receive new powers to help it fight the battle against pension liberation fraud. In the Budget the taxman has been granted new powers to de-authorize schemes which it suspects are being used for pension liberation fraud and to block the registration of schemes which it deems unsuitable. This has to be another positive in the Budget for consumers, savers and the Industry and TISA welcomes such.

This now means HMRC will have the power to require scheme administrators to pass a 'fit and proper person' test. These new rules will allow HMRC to refuse to register a scheme, or de-register an existing scheme if, in HMRC's opinion, the scheme administrator is not a fit and proper person. Unlike other start dates in the Budget affecting pensions, the test will come into effect in September 2014. So scheme trustees, administrators and governors need to begin preparing their risk oversight procedures immediately.

HMRC will have new powers to send information notices to the scheme administrator and other persons, in order to help it decide whether or not to register a pension scheme. This obviously means all the current activity on Auto Enrolment needs to pay due regard also.

HMRC will also have new powers to enter business premises to inspect documents, in order to help it decide whether or not to register a pension scheme. Those caught or investigated, could face new penalties of up to £3,000 for providing false information or a false declaration in connection with a registration application.

In October 2013, the Treasury toughened up its pension scheme authorization procedure from a 'process now, check later' approach to conduct a more detailed risk assessment ahead of it being registered at the point of scheme inception.

Now, from September 2014, HMRC will be able to refuse the registration of a scheme or de-register a current scheme if they do not consider the administrator to be suitable by requesting information or entering business premises to inspect documents. It will also look into claims from whistleblowers, in a very similar manner to the FCA's regime under RDR. The road of travel is becoming very clear from both regulators. This has to be good for the pensions industry and TISA has endorsed this by being part of the industry wide Pensions Liberation Industry Group.

The HMRC said: 'The fit and proper person test will ensure that registered pension schemes are not administered by persons who present a risk to members' tax relieved funds or the scheme's tax position. 'The scheme administrator is likely to be considered a fit and proper person if they are familiar with, and capable of competently performing, the scheme administrator's responsibilities and there is nothing in their past behavior to suggest that they should not be responsible for the financial management of the pension scheme.'

It said that factors that may lead the HMRC to deciding that an administrator is not fit and proper includes being previously involved with pension liberation, with tax fraud or have been disqualified of working in finance or corporate firms due to misconduct.

TISA has been running Pension Liberation workshops designed to support members with the operational issues that they face when trying to combat liberation. This has proved a valuable forum for attendees to learn from shared experiences and further develop their own controls. These workshops have now been updated to reflect the Budget announcements and other industry initiatives recently introduced.

***Peter Smith, Head of Distribution Engagement***