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HMT / DWP

CONSULTATION RESPONSE

CREATING A SECONDARY ANNUITY MARKET

18th June 2015 (v0.03)

INTRODUCTION

TISA is a not-for-profit membership association operating within the financial services industry.

TISA's membership comprises over 145 member firms involved in the supply and distribution of savings and investment products and services. These members represent many different sectors of the financial services industry, including banks, stockbrokers, asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, consultants and advisers, software providers, financial advisers and pension providers.

What makes TISA unique is that its membership covers the entire industry, incorporating cross sector policy, industry and technical expertise. Whilst we maintain a solid partnership with government, the regulators and wider industry, we remain independent and develop neutral views and opinions. This impartiality is reflected in our ability to drive development projects, which improves industry performance and puts us in the unique position of being able to constantly challenge the status quo to bring about material improvement. At the forefront in all of our recommendations and actions is to consider national and consumer outcomes.

RESPONSE TO CONSULTATION

TISA welcomes the consultation into the creation of a secondary annuity market and is supportive of it in principle as a natural progression of the pension freedoms already introduced. We believe the instinct to trust people with their own money is a good one and are enthusiastic about working with all interested parties to ensure that the reforms work for customers, the industry and the wider national interest.

Before responding to your specific consultation questions we would like to make the following comments:

Statutory override

In our response to last years Freedom & Choice consultation we recommended that the reforms which came into effect in April 2015 should be introduced by way of a statutory override, requiring all defined contribution schemes to offer the flexibilities. This did not happen and we are currently witnessing the consequences of this as consumer frustration builds due to being unable to access their funds flexibly (without the cost and inconvenience of transferring), because their existing scheme has chosen not to offer freedom and choice.

We therefore recommend that these annuity reforms are introduced as a statutory override so that as many consumers as possible have the option to assign their annuity income, without experiencing unnecessary barriers. Unlike the reforms introduced in April 2015, annuitants are unable to transfer to another provider to access the freedoms and so without a statutory override many will have no way at all of benefitting from these latest reforms and will remain stuck in their annuity.

FSCS protection

We believe that it is vital to the functioning of the market that the FSCS protection covering the annuity in the unlikely event of the insurer going into liquidation should remain in place for annuities that have been sold on.

RESPONSE TO QUESTIONS
A new secondary market for annuities (Chapter 2)

1. **In what circumstances do you think it would be appropriate to assign one's rights to their annuity income?**

   TISA strongly believes in providing choice to consumers and allowing them the freedom to make financial decisions that are appropriate to their specific circumstances and family needs, which will differ across the demographic. Some decisions will be purely analytical, others more emotional and behavioural and some a mix of the two. The important principle is that consumers have choice without unnecessary barriers being put in place. As such TISA recommends that a prescriptive list of appropriate circumstances where consumers may assign the rights to their annuity income is not created.

2. **Do you agree with the government's proposed approach of allowing a wide range of corporate entities to purchase annuity income in order to allow a wide market to develop, whilst restricting retail investment due to the complexity of the product? What entities should be permitted and not permitted to purchase annuity income and why?**

   TISA agrees in principle with the proposed approach to allow a wide range of corporate entities to enter the market. We believe that this will result in a greater number of firms participating which will help to accelerate the development of this new market, generate greater competition and ultimately better consumer outcomes. We would however urge that only firms regulated by PRA. FCA or TPR are permitted to participate (or firms authorised and regulated by an appropriate overseas authority).

   We support the proposal to restrict retail investment.

3. **Do you agree that the government should not allow annuity holders to access the value of their annuity by agreeing to terminate their annuity contract with their existing annuity provider ('buy back')? If you think 'buy back' should be permitted, how should the risks set out in Chapter 2 be managed?**

   TISA believes that consumers should have the ability to sell their annuity to their existing annuity provider ('buy back'), where the annuity provider is willing to do so and where the provider joins in a wider tendering process going on in the market. It would be inappropriate to have a marketplace where consumers deal directly with only the insurer they originally purchased from, as the asymmetry of knowledge exposes them to too much risk. Allowing 'buy back' would potentially increase the number of purchasers, increase competition and improve consumer outcomes. In addition we should not ignore the possibility that some firms may be very happy and willing to 'buy back' their annuities and prepared to offer a premium price to buy themselves out of the ongoing liability, (although caution should be exercised here to prevent unscrupulous firms from actively targeting consumers who otherwise had no intention to sell).

   We recognise the arguments made but believe that:

   a) Annuity providers should be capable of resisting any pressure from consumers to 'buy back' their annuities, i.e. they should have the right to refuse any individual 'buy back' request if they believe that it will be detrimental to their policyholders generally.

   b) Consumers must be made aware that they can assign their annuity rights to any willing (appropriate corporate entity) purchaser, which must be the case irrespective of whether the existing annuity provider is allowed to 'buy back' their own annuities or not.

4. Do you agree that the solution to the death notification issue is best resolved by market participants? Is there more the government should be doing to help address this issue?

TISA recommends that a central national death register is created that interested parties, like annuity providers, could examine periodically to see if their annuitants have died.

5. Do you agree with the proposed approach of the government working with the FCA regarding the fees and charges imposed by annuity providers?

TISA agrees that to adequately protect consumers' interests and to ensure that a market develops that offers consumers good value for money, then the Government and FCA should work together to monitor the fees and charges imposed by annuity providers.

We are in favour of clear disclosure of costs and mechanisms for comparisons (of yield and capital value). We do not support the concept of any form of charge capping.

6. Do you agree that the scope of this measure should be annuities in the name of the annuity holder and held outside an occupational pension scheme?

Where an annuity originated from an occupational pension scheme but has been assigned by the trustees to be an annuity belonging to the member, we believe a second hand market should apply.

7. Are there any other types of products to which it would be appropriate for the government to extend these reforms?

We would like to see Government helping those individuals trapped in Section 32 policies with Guaranteed Minimum Pensions (GMPs) to have freedom to access their pot.

If the value of the fund does not cover the GMP an individual can't transfer their pension and has to take the GMP at age 65, with Limited price indexation (LPI) (and 50% for spouses), even if it is not right for them. Offering individuals in these schemes the opportunity to assign their rights would offer them greater freedom and choice.

Legislative changes (Chapter 3)

8. Do you agree that the design of the system outlined in Chapter 3 achieves parity between those who will be able to access their pension flexibly and those who will be able to access their annuity flexibly? Are there any other tax rules which the Government would need to apply to individuals who had assigned their annuity income?

The design achieves parity in terms of options available to the consumers but it doesn't necessarily achieve parity in terms of cost and value to the consumer. However, since consumers could potentially arrive at the same point through different routes (i.e. one taking their whole fund as an UFPLS at retirement and the other from selling an annuity), it is inevitable that this is the case and a consequence of the legacy of those annuities already sold.

9. How should the government strike an appropriate balance between countering tax avoidance and allowing a market to develop?

As we have previously stated we recommend that only firms appropriately authorised and regulated are permitted to participate in this market.

Consumer protection (chapter 4)

10. What consumer safeguards are appropriate – is guidance sufficient or is a requirement to seek advice necessary? Should the safeguards vary depending on the value of the annuity?

Regulated advice should be positively encouraged but not imposed.

TISA is against mandating any requirement to take regulated advice, as this could be seen by consumers as an unnecessary barrier and expense. Instead we believe in providing consumers with guidance and information to allow them to make fully informed decisions, which may result in a decision to take regulated advice.

We do recognise that many consumers with annuities will be of advanced age, where US research shows they have reducing numerical ability but frequently fail to realise that their cognitive powers are waning. Clearly, for this population, the requirement to receive advice could protect them from making poor decisions. However, this would not necessarily be of benefit to those younger annuitants or those of advanced age that retain good numerical ability.

We therefore recommend that before consumers are able to sell their annuity they must first receive relevant tailored guidance from Pensions Wise, which may then result in a decision to take regulated advice.

We feel that this approach is a sensible compromise which will not incur cost to the consumer (unless they choose to take regulated advice) and will not exacerbate the growing consumer perception that regulation is acting as a barrier to them accessing the new freedoms.

11. What is the best way to implement these safeguards? Should the safeguards include expansion of the remit of Pension Wise?

The consultation paper rightly references the role guidance could play to complement other safeguards and suggests one option would be for the annuity provider to offer guidance. We would strongly advise against any guidance being offered through the annuity provider.

As we referenced in our response to the "freedom and choice" consultation paper, any involvement by pension providers in guidance would compromise the independence of any financial guidance given.

In order to provide consumers with the information that they require and to ensure adequate consumer protection we support:

- The idea that the Pension Wise guidance service should be extended to cover this aspect of the post-retirement market;
- The extension of the 'second-line-of-defence' rules, i.e. so that they apply to all annuity buy-back transactions;

- The creation of technology enabled tools and calculators through which annuitants can analyse the impact (especially the tax impact) of selling their own annuities, e.g. delivered via the MAS website.

12. Should the costs of any advice or guidance be borne by the annuity holder (mirroring the arrangements for conversion from a defined benefit scheme)? If not, what arrangements are appropriate?

Yes, we believe it is fair and appropriate that the costs of any advice or guidance are borne by the annuity holder. In particular, ensuring advice costs are borne by the annuity holder will help to drive the online and telephony advice market for retirement advice, which increases the channels through which advice is provided, increases competition and lowers cost to the consumer.

13. Do you agree that the government should introduce a requirement on individuals to obtain a number of quotes? How else should the government best promote effective competition to ensure consumers obtain a competitive price?

Yes, we support this idea and think it will help to drive competition in the market. We envisage that online marketplace portals could be developed which consumers could go to, to sell the annuity and ensure the most competitive price. In this way consumers will have clear visibility of how offers from various firms rank alongside each other.

14. Does the government's approach sufficiently protect the rights of dependants upon assignment? If not, what further steps should the government take?

- **Should the government or FCA issue guidance to annuity providers about protection for dependants?**

  Yes. For example, guidance (rules) should be imposed requiring beneficiaries (whatever their benefits), to willingly provide written confirmation of their informed consent before any assignment is allowed to proceed.

- **Are there particular classes of beneficiary which require special consideration, for example minors or following a divorce or dissolution of a civil partnership?**

  Special consideration should be given to minors as they will unlikely have the financial capability to understand the impacts of the decision, nor will they legally be able to provide written confirmation of consent.

- **Are there specific equality impacts that should be considered in this context?**

  No comment.

15. Should the government permit the principal annuity holder's income to be assigned while dependants retain their own income stream? Should the decision on whether to do so be left to the discretion of the parties to the transaction?

This option would be very costly and complicated for annuity providers to implement.
If someone wishes to realise the value of their annuity now we believe they should be considering making appropriate provisions from that lump sum rather than trying to effectively rewrite the original annuity contract.

16. How can the proposed consumer protections for the assignment of annuities ensure that any impact on means-tested entitlement is understood by those deciding whether to assign their annuity income?

For those consumers who choose not to take regulated advice, this can be delivered through standardised risk warnings, the Pensions Wise service and a 2nd line of defence.

17. Should those on means-tested benefits be able to assign their annuity income?

Yes, but it must be made clear they may relinquish benefits should they do so. Any guidance or advice would help to address this issue and we believe a compulsory requirement should be placed on the annuity provider to inform them about the implications for means-tested benefits.

18. What are the likely impacts of the government's proposals on groups with protected characteristics? Please provide any examples, case studies, research or other types of evidence to support your views.

No comment.