RESPONSE BY TISA TO ‘FLEXIBLE ISA – TECHNICAL CONSULTATION’

6TH NOVEMBER 2015

About TISA

TISA is a not-for-profit membership association operating within the financial services industry. The focus of our recommendations and actions is improved outcomes for consumers and UK plc with this approach leading to a stronger UK financial services industry.

TISA’s growing membership comprises over 150 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 asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, consultants and advisers, software providers, financial advisers, pension providers, banks and stockbrokers.

Having a legacy of focusing predominantly within the tax incentivised products area, TISA has in recent years moved into the broader savings and investments world, extending our standing as trusted adviser over a much greater remit.

TISA has a successful track record in working cooperatively with government, regulators, HMT, DWP and HMRC to improve the performance of the industry and the outcomes for the public. Effective policy and regulation and the creation of efficient industry infrastructure continues to be the major focus for our members. TISA is unique in that it represents the entire financial services 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 improve industry performance and consumer outcomes, putting us in the unique position of being able to constantly challenge the status quo to bring about material improvement.

Consultation Response

TISA is supportive of the changes announced in the March 2015 Budget to allow ISA savers to replace cash they have withdrawn from their account earlier in a tax year, without this replacement counting towards the annual ISA limit for that year. This is of great benefit to consumers and reflective of the often combined savings strategies of investors who are married or in a civil partnership.

The initial proposal excluded stocks and shares ISAs from this new flexibility, insisting that all such withdrawals had to be made from a cash ISA.

We recognize that increased flexibility will not be appropriate for all ISA products and that offering this will require significant systems development and as such implementation is, and should remain, optional to ISA managers.

Following a series of industry meetings with HMT and HMRC, cash withdrawals from a stocks and shares ISA were included in the proposal and announced in the 2015 Summer Budget. Issues around the reporting of information following the transfer of ISAs offering flexibility were also discussed with a period of easement agreed over the 2015/16 tax year to allow for development of the electronic ISA transfer system provided by BACS.

We ask HMRC to reconsider the inclusion of ISA management fees in the definition of a flexible withdrawal, subject to ISA manager terms and conditions. Previous discussions concluded that ISA management fees were not considered an investor withdrawal and as such would not be included. However we believe if ISA managers were given the ability to define ISA management fees as a withdrawal in their terms and conditions they could be included where ISA managers wish to do so.

This consultation response aims to provide technical comments on the draft ISA regulations and guidance provided by HMRC.

Technical Response – Draft ISA Regulations

We have provided feedback on relevant points of the draft regulations issued where further explanation or clarification may be useful.

- 9 5DDB(8)(a) – note that subscriptions may be made before or after the replacement subscription

Technical Response – Draft ISA Guidance Notes

We have provided feedback on relevant points of the draft guidance issued where further explanation or clarification may be useful and also areas of existing guidance that may benefit from additional wording or explanation.

- 3.1 - there may be an issue in investor understanding of what is the correct process where they have subscribed to a flexible ISA and withdrawn current year subscriptions to nil and then wish to open another ISA of that type (e.g. cash ISA)
- 4.2 - reference to paragraph 6.81 should reference paragraph 6.82
- 6.54 – question whether the additional text is needed in this section as it is repeated at 6.54a
- 6.54a – confirm whether any additional evidence would need to be provided in the case of a defaulted ISA to support any additional flexibility
- 6.78 – following a number of member queries and a general misunderstanding on the ability to withdraw cash from a stocks and shares ISA it would be useful to include examples of how this could be achieved, including realisation of cash from the sale of investments
- 6.81 - add to this paragraph a note that this also applies to closures or to transfers to another ISA
- 6.82 – an example may be useful to ensure there is no misunderstanding of this requirement
- 6.83 – in this section is may be useful to reference that the date of first subscription (DOFS) must be provided to, and reported by, the acquiring ISA manager where there is a transfer of a nil current year subscription balance following a flexible withdrawal of current year subscriptions
- 6.83 – it may be useful to include details of reporting obligations for transfers from flexible to non-flexible ISAs
- 6.83 – it would be useful to reference and explain the agreed year of easement for 2016/17 reporting obligations following transfer
- 6.84 – note in this section that this is subject to individual ISA manager terms & conditions
- 6.85 – the second paragraph refers to reporting obligations between ISA managers following a transfer, this text should be moved to section 11.35
- 6.85 – it would be useful to include reference to the date of first subscription to be reported in the examples shown

- 10.60 – the first paragraph states 'this includes cash held in ISAs', this should read 'this includes cash held in cash ISAs' and possibly reference this would only apply to authorised deposit takers
- 11.18 (date of first subscription in current year) – it could be useful to call out that this would also apply where the current year subscription is nil following flexible withdrawal of a current year subscription
- 11.18 (type of ISA) – clarification is needed whether A or X should be used when transferring a flexible ISA with nil current year subscriptions and a valid date of first subscription
- 11.35 – examples should be included of reporting scenarios where there is a date of first subscription but a nil or negative current year subscription amount
- 16.6 – the additional text should also be added to the number of stocks & shares ISAs bullet

- 11.14 (new amendment required) – additional information is required to confirm the treatment of withdrawn funds in the calculation of the lower limit
- 11.19 (new amendment required) – this section may need to be updated to reflect additional information at 6.84
- 12.51 (new amendment required) – reference that any replacement amounts should be included in the repairs and voids calculation to be counted towards the amount of invalid subscriptions