Creating a secondary annuity market: tax framework
Response by TISA to HMRC Consultation

15 June 2016

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.

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.

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.

Summary comments

In summary we believe the tax proposals represent a reasonable approach, would seek clarity on the treatment of non-advice broker fees which we assume by implication will be treated in the same way as non-advice commissions since RDR and believe it would be inappropriate for Insurers to face scheme sanctions for actions taken by other third parties following a surrender.

Reponses to consultation questions

Q1 - There may be some annuities still in payment that were bought in respect of certain 'old code' predecessor schemes not covered by the paragraph 1 Schedule 36 categories. Should annuities issued in respect of other categories of tax advantaged pension scheme be included in the market?

Our instinct is that there is only a small population left of such policies and it would be anomalous to leave them out of scope of the new market as policyholders would not understand the reasoning. We cannot think of any particular extra complexity to include them.

Q2 - Do you have any views on the number and scale of annuities purchased by relevant non UK schemes that are currently in payment?

We have no existing data sources that cover this area.

Q3 - Are there any particular restrictions on the surrender or assignment of such annuities imposed by non UK authorities?

We have no information on this aspect.

Q4 - Do you have any views on the extent to which annuity contracts in members' names may have more than one individual with an actual or deferred entitlement to receive payments under the contract – other than contingent rights to receive payments following the death of a person?

We have no specific data but our experience is that contingent rights form the overwhelming majority of non-member entitlements to annuity contracts.

Q5 – Do the proposed connected entity and anti-avoidance rules strike an appropriate balance between protecting against the risk of abuse and facilitating the new market?

We believe the proposals outlined in the consultation paper strike a reasonable balance.

Q6 - Do you foresee wider implications for adviser charging in respect of the assignment or surrender of annuities affected by the proposed changes?

The approach outlined is consistent with the provisions of facilitated adviser charging introduced through the Retail Distribution Review and represent an appropriate approach. Annuitants always have the option to pay separately for advice services. It is likely to be difficult for advisers to exclude consideration of the annuity holders other financial assets in the consideration (The consultation paper mentioned the advice should only relate to pensions advice related to the assignment or surrender of the annuity – rather than advice in relation to other savings, for example ISA's). Given a likely important consideration in the surrender will be the other financial assets the annuity holder has to sustain income in retirement and the launch of Lifetime ISA as a specific retirement savings product we do not think it is appropriate to try to restrict the scope of assets included in the consideration of the most appropriate action.

The paper is not clear on the tax treatment of fees paid to brokers for their services, which we note from the FCA paper CP16/12 cannot be set by the buyers and cannot take the format of a commission paper. If the broker is not offering advice, but sets a fee for their non-advice broking service (e.g. finding the highest bidder for the assignment/surrender) is this payment included in the authorised payment rules outlined for adviser charging? We would expect this consistency with current practice established under RDR.

Q7 - Do you have views on the extent to which individuals assigning or surrendering annuities in return for paying proceeds to another pension product will have a protected pension age?

Q8 - Should the protected pension age also apply for the purposes of payments/withdrawals under the new product?

Q's 7 & 8. We believe that annuitants with protected ages would expect their rights to be carried across and should not be expected to give up this valuable flexibility because of the format of benefit they wish to choose.

Q9 - Do you have any views on the extent to which LTA charges are likely to arise as a result of the proposed new benefit crystallisation event?

We believe it is likely that only a small number of LTA charges will arise as most deferred annuities are small benefits and even in aggregate with other benefits few people hit the LTA at present. As the LTA drops more retirees are caught and it is appropriate that disclosures are made when annuitants consider assignment and surrender.

It will bring into focus the differential treatment of DB and DC benefits in calculating LTA. A DB deferred annuity would be calculated as 20x pension for LTA but if assigned/surrendered it would be the value of proceeds in the calculation – recent example calculations we have seen have shown the cash equivalent transfer value of DB deferred benefits being as much as 40% higher than the 20x benefit calculation. This could conceivably knock an individual over the LTA unexpectedly and is another complication that might need a specific risk warning.

Q10 - The government recognises that aspects of the various transactions may be beyond some administrators' control. Do you believe existing that retaining the existing unauthorised payment discharge is an appropriate approach?

The approach seems reasonable but we do believe once the policy is assigned the original Insurer/scheme cannot track what happens to the payments once out of its direct control and should not be held responsible for subsequent transactions.

Q11 - Do you have any views on the wider implications of taking relevant annuities outside the Registered Pension Scheme environment?

No views on wider implications.

Q12 - Insurers who have issued annuities being assigned could also be required to provide information about the amount of the proceeds arising from the assignment, which they would need to obtain from the individual or from the buyer. What are your views on this approach?

Q13 – Views are welcomed into the most appropriate way to achieve the proposed notification to the new provider?

Q's 12 & 13. We don't believe there is any easy answer here. The Insurer loses control once the policy is assigned and any extra administrative burden is likely to be priced into the assignment value and may make the market unviable. Key questions will be the extent to which Insurers could to take information supplied at face value and the extent they would have to check or audit the data?

Q14 - Do you have any views on the proposed treatment of annuities following sale?

The approach seems reasonable.

Adrian Boulding

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