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Private Pensions Policy and Analysis
Department for Work and Pensions
1st Floor, Caxton House
6-12 Tothill Street
London
SW1H 9NA

By email to: reinvigorating.pensions@dwp.gsi.gov.uk

Dear Sir or Madam

Better workplace pensions: Putting savers' interests first

I am writing on behalf of the Association of Consulting Actuaries (ACA) to respond to the above DWP consultation. We set out our comments in detail in the Appendix to this letter. I am sorry that our submission comes slightly after the consultation deadline but I hope our response can still be considered.

We hope that you find our comments of assistance and would be happy to discuss them further if that is helpful. If you would like to discuss our comments further, please contact me through David Robertson of the ACA secretariat on 020 3102 6761 (david.robertson@aca.org.uk).

Yours faithfully

Hugh Nolan

Hugh Nolan
Association of Consulting Actuaries

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APPENDIX

Please note that we have not considered the detailed drafting of the regulations and therefore have made no comments on those aspects of the consultation questions.

Q1. a) Does the definition of "relevant scheme" (regulation 2) meet the policy intention of protecting members of schemes used for automatic enrolment from high and unfair charges?

b) Does the definition of "relevant scheme" at (regulation 13) meet the policy intention of ensuring that workplace schemes are well governed in members' interests?

Q2. Do the draft regulations (regulations 4(3) and 4(4)) meet the policy intention of excluding from the charge cap members of qualifying schemes who have the advantage of a third party promise?

Q3. Do the regulations achieve the policy intention of protecting against trustees being restricted to particular service providers, while allowing employers to set appropriate parameters around investments?

Q4. Do the regulations adequately describe professional trustees?

Q5. Does the definition at regulation 1(2) capture those schemes described as master trusts in chapter 2?

Q6. Do the draft regulations meet our policy intention of ensuring that occupational schemes are well-governed?

Q7: Do you have any comments regarding the policy on who should have the duty of compliance with the charges measures?

Do you have any comments about how the draft regulation (regulation 4) meets the policy intention?)

We believe that it is correct for this duty to fall on the trustees/managers of the schemes.

Q8. Do you have any comments on the policy regarding the member borne deductions that fall within the cap, and how the draft regulations reflect the policy intention? These exclusions are:

(a) the non-recurring variable transaction costs which are incurred by a scheme when buying, selling, lending and borrowing underlying investments ("transaction costs" definition in regulation 2)

(b) pension sharing and compliance with court orders ("charges" definition in regulation 2)

(c) winding up costs ("winding up costs" definition in regulation 2)

Our only comment is that tax charges could be explicitly excluded.

Q9. Do you agree with the policy on which the draft regulations are based (see regulation 3) – to capture as many workers as possible who made no active or informed choice about their investment strategy, whilst also minimising the risk of capping funds where members made an active choice?

We do agree that this is important. Members should be free to actively choose their desired investment strategy without unnecessary constraints.

Q10. Do you agree that the draft regulations (regulation 3(3)) should allow members who have made a recent active choice to remain in an arrangement which is not subject to the charge cap?

Is the 3 month time period allowed reasonable?

Yes, this should be allowed.

The three month time period is slightly short in our view and we would prefer six months.

Q11. Do you have any comments on the policy about protecting the members to whom the cap applies?

Do you have any comments about how the draft regulations meet the policy intention?

We welcome the policy to protect members to whom the cap applies, as well as the measures to protect other members by giving them an option to transfer to a compliant arrangement. We are pleased that the policy recognises the need to allow members to pay additional charges for extra services during decumulation.

Q12. Do you have any comments on the policy intention of:

(a) imposing the cap on the total fund of the member and no just on contributions made after the relevant date?

(b) prohibiting charge structures other than those set out in paragraph 68 (and reflected in regulation 5?

(c) limiting the opportunities for altering charging structures as described above, whilst avoiding locking schemes into particular charging structures indefinitely? (regulation 5(4))

a) We endorse the policy intention to impose the cap on the total fund, purely to give the full benefit of the cap to members (rather than any spurious argument about the burden on trustees, providers or regulators).

b) We endorse the policy intention to prohibit other charging structures. While this may admittedly constrain flexibility and innovation slightly, we believe this is a price worth paying for the extra simplicity, comparability and transparency of the limited charging structures allowed.

c) We endorse the policy intention to limit alterations to charging structures to the end of each charges year as a practical way to prevent abuse without unfairly preventing reasonable changes.

Q13. Do you have any comments on the policy described above in relation to the valuation of the member's fund and the period over which the charge cap applies?

And do you have any comments on how the draft regulations reflect that policy (regulation 7)?

No.

Q14. Do you have any comments on the policy regarding opt-in services described above?

Do you have any comments on the draft regulation (regulation 8) which reflects that policy?

We believe it is wholly appropriate to allow members to actively select opt-in services even if that leads to a higher cost. Providers will need to persuade members of the benefits of these additional services rather than relying on inertia and confusion but members should then have access to better services and the possibility of better outcomes.

Q15. Do you have any comments on the policy in relation to Active Member Discounts?

Do you have any comments on the draft regulation (regulation 10) which reflects this policy?

Although it may be argued that allowing employers to pay (some of) the charges for employees but not former employees has the same impact as an Active Member Discount (AMD), we endorse the policy. Employers will be more likely to negotiate the best possible terms if they are explicitly bearing the costs and deferred members will benefit from this alongside active members. The subsidy will also be more transparent and demonstrate to active members the full extent of the charges paid on their behalf by their employer.

Q16. In addition to the questions already asked, is there anything else in the policies as set out in this paper on which you have any comments?

Do you have any comments on how the draft regulations reflect the policies explained in this paper?

No.

Q17. Is the scheme return the most proportionate way to obtain information on compliance with the governance standards and charges measures? Draft regulation 23 sets this out in more detail.

We believe the scheme return is indeed likely to be the most proportionate way to obtain this information.

Q18. Is the proposed compliance approach to the Chair's Statement, as described in draft regulations 24 and 26 appropriate and proportionate?

Yes, we believe it is both appropriate and proportionate.

Q19. Do the adjustment regulations (regulation 9(2)(a)) reflect our policy intent of providing an adjustment mechanism for occupational schemes which cannot stay compliant with the charge cap, to take action to resolve the situation promptly?

Q20. Do the adjustment regulations (regulation 9(2)(b)) meet the policy intention of providing an adjustment mechanism for occupational schemes when, as a result of an unexpected event; they are unlikely to be able to comply with the cap?

About the Association of Consulting Actuaries (ACA)

Members of the ACA provide advice to thousands of pension schemes, including most of the country's largest schemes. Members of the Association are all qualified actuaries and all actuarial advice given is subject to the Actuaries' Code. Advice given to clients is independent and impartial. ACA members include the scheme actuaries to schemes covering the majority of members of private sector defined benefit pension schemes.

The ACA is the representative body for UK consulting actuaries, whilst the Institute and Faculty of Actuaries is the professional body.

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