ASSOCIATION OF CONSULTING ACTUARIES

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16 December 2016

James Calverley
Decumulation and Transfers Team (Overseas)
Department for Work and Pensions
1st floor
Caxton House
Tothill Street
London SW1H 9NA

Dear James

The advice requirement and overseas pension transfers

I am writing on behalf of the Association of Consulting Actuaries in response to the above consultation document dated September 2016.

In general, our view is that it is important to ensure that any changes to facilitate more flexibility for overseas transfers are carefully drafted so that the risk of pension scams or poor financial decisions is not increased for the significant group of potentially vulnerable scheme members.

Our comments on the consultation are set out in the Appendix.

We hope that you find these of assistance and would be happy to discuss them further if that is helpful. Please contact either me on 020 7432 6635 (david.everett@lcp.uk.com), or my colleagues Nigel Sloam (020 8209 1222 nigel@nigelsloam.co.uk), or Peter Williams (01372 733763 peter.williams@aonhewitt.com) both of whom prepared this response.

Yours sincerely

David Everett

David Everett
Chairman, Pension Schemes Committee
On behalf of the Association of Consulting Actuaries Limited

Sent by e-mail to: james.calverley@dwp.gsi.gov.uk

APPENDIX

The advice requirement and overseas pension transfers

1. Do you have any information on the scale of transfers of safeguarded pension savings over the last five years to overseas pension schemes, and any assessment of future demand for pension transfers?

We understand the number of individuals considering such transfers is relatively small, but is increasing steadily as a result of increasing job mobility and international trade as well as people increasingly considering retirement abroad. There is also a significant community of foreigners who work within the United Kingdom, but who wish to return back to their original domicile in later life. Consulting actuaries dealing with individuals report an increasing demand for overseas pensions transfers from these groups – who have legitimate and genuine reasons for transfer. A balance needs to be struck between satisfying and not frustrating the legitimate and reasonable demands of these groups and protecting the vulnerable from scammers and financially unscrupulous advisors.

Tax law also places constraints on transfers overseas, with recognised transfers being restricted to QROPS and subject to specific safeguards.

2. What are the advantages, or disadvantages, of continuing to apply the advice requirement in its current form to members now resident overseas?

The main advantage of maintaining the current approach is that it ensures a high level of protection for the large number of members who could potentially be encouraged to transfer overseas inappropriately – perhaps as part of a pension scam – with serious consequences for their financial welfare. We support the current regime but feel that a specific new residency test would be inappropriate for those who are planning properly in advance for a move abroad – and who are better placed to access sound UK advice than they would be once having moved abroad. In our view, a flexible approach is needed, but subject to ensuring there is a requirement that any such transfers should be based on the individual concerned having received full advice from appropriately qualified UK-based advisors, who are fully regulated in the UK and answerable to their UK professions and regulators.

Although the current approach has the disadvantage that it could lead to relatively expensive advice costs and that there may be the need to make an intermediate transfer to a money purchase pension scheme before an overseas transfer is made, there are three important resultant benefits of the present system– namely a) that the member is and is seen to be properly advised b) that the process will deter scammers and unscrupulous advisors and c) that any fees involved are likely to be a deterrent to the more vulnerable.

We believe that the correct approach is to incept – a perhaps better – advice-based requirement, which could help deliver much needed pension flexibility, whilst simultaneously eliminating unacceptable proposals.

3. What are the advantages, or disadvantages, of lifting the advice requirement for members living overseas, or potentially moving overseas?

These are broadly the converse of the advantages and disadvantages outlined in our previous answer: an advantage is that transfers could be made more readily and potentially at lower cost; a disadvantage is that individuals may lose out financially, perhaps as part of a pension scam.

A significant disadvantage of lifting the advice requirement for members "potentially moving overseas" is that this would be difficult to verify and so raise a significant risk of pension scams. We note that you are currently consulting, alongside HM Treasury, on specific new steps to reduce the general risk of pension scams.

4. We welcome views on the use of permanent resident criteria to establish whether the advice requirement should be lifted. How might trustees, scheme administrators or others verify that the residence criteria had been met?

Pension scheme members should be able to plan well in advance for a move overseas. If they can plan while they are in the UK, they will have access to advice which will be harder to obtain once an overseas move is made. Therefore, we believe that it would be counterproductive to insist on having achieved permanent overseas residency as a pre-condition to making an overseas transfer. **Indeed, some overseas territories – including the United States – do not normally permit inbound transfers and also actually apply penalties on transfers to other jurisdictions if made while the member is resident in the US. Such problems may be avoided if the transfer is made prior to residency being taken up.**

In the experience of our members, in genuine cases consideration of and pre-planning of aspects of a move abroad takes place over a considerable period prior to the actual move. Our view therefore is that the focus of attention should remain on ensuring that all advice given in such cases is by independent qualified UK pension professionals who are subject to regulatory discipline and who will be able to comment as well on the appropriateness or otherwise of any particular suggested transfer outcome.

We believe that abolishing the advice requirement will lead to poor consumer outcomes across the spectrum – and that reliance simply on overseas residence criteria will be unhelpful to members and be more likely to encourage scammers.

5. How can Government best ensure local advisers meet appropriate quality standards?

The FCA should be required to monitor and maintain a register of advisors who are qualified to advise on considerations affecting overseas transfers from UK pension schemes – and who are subject to UK regulation.

Such registered advisors should be required to ensure that any transferring member receives similarly qualified advice (possibly also from themselves) on the appropriateness or otherwise of any receiving pension arrangements, before recommending a transfer.

6. We would welcome evidence on the type and level of financial redress that is available for overseas residents transferring their safeguarded pension benefits to overseas jurisdictions other than that provided by the UK.

We have no evidence to present on financial redress from overseas jurisdictions. The availability of financial redress for inappropriate advice could be one of the issues the FCA takes into account in monitoring and maintaining a register of advisors. We believe that the interests of transferring members will be safeguarded and protected by demanding a high standard of advice on the UK regulated advisor.

7. How can members with safeguarded benefits who are now resident overseas demonstrate to the ceding scheme that they have obtained independent advice from a local adviser?

Where the adviser has acceptable UK qualifications, a form of certificate similar to that used for domestic transfers of safeguarded benefits in excess of £30,000 could be adopted.

8. The Government welcomes any information on current transfer practices involving scheme or advisers in third countries, including how these processes meet the existing advice safeguard.

Our understanding from our members is that in cases where there are no suitable receiving schemes – such as the US – typically, very careful advice is obtained from UK advisors and in addition from those qualified to deal with matters affecting the country of intended residence.

9. What are the risks and benefits of allowing overseas members with safeguarded benefits to take advice from a financial adviser who is authorised in a country different from their country of residence – for example in the country where the receiving pension scheme is registered, or in another country?

Our view is that requiring a combination of advice from a UK qualified expert plus a reputable advisor who specialises in matters affecting inhabitants of the territory of intended residence is sufficient – provided that the UK expert certifies that such overseas advice is available and has been taken. In a world of wildly fluctuating currencies, ensuring that the currency of pension payments is matched to the living needs of the pensioner is vital – and in circumstances where it is not possible to make a direct transfer to the territory of residence then the aim should be to ensure that the onus of advice is placed on the UK regulated advisor, who should certify that proper and relevant advice has been taken. If this practice is enhanced and enforced, the risk of scams should be reduced considerably.

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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