ASSOCIATION OF ACA CONSULTING ACTUARIES

Warnford Court, 29 Throgmorton Street, London EC2N 2AT
Tel: 020 7382 4594 Fax: 020 7374 6220 Web: www.aca.org.uk

4 December 2007

Richard Jordan
Private Pensions
Department for Work and Pensions
3rd Floor
Adelphi
1-11 John Adam Street
LONDON
WC2N 6HT

Dear Richard

Subject: **Consultation on the success of the Occupational Pension Schemes (Cross-border activities) Regulations 2005 in implementing the cross-border provisions of Directive 2003/41**

I am pleased to provide a response to your consultation on behalf of the Association of Consulting Actuaries (ACA).

The Association is the representative body for UK consulting actuaries, whilst the Faculty and Institute of Actuaries are the professional bodies. The Association is the largest national grouping of consulting actuaries in Europe. The Association draws its membership from individual actuaries working in the consulting sector. Our members are all qualified actuaries – mainly Fellows of the Faculty or Institute of Actuaries.

The Association has over 1600 members working in around 80 firms. Members provide advice to thousands of pension schemes, including most of the country's largest schemes. As well as actuarial services to and the design of pension schemes, consulting actuaries in many firms are also involved in international benefits issues – it is in this context that this response is made.

We hope that the comments provided are useful and we would be pleased to provide further input or explanation as required.

Yours sincerely

Mark Sullivan
Chair of the International Committee of the Association of Consulting Actuaries

ACA Response to Consultation

The Efficiency of the Authorisation and Approval Process

1. ***Is the information requested in making applications for authorisation and approval reasonable and appropriate?***

   In general we feel that the information requested in making applications reflects the need for balance between regulatory requirements and minimising administrative burden. However, anything that can be done to further reduce the burden would be welcome.

2. ***What are the difficulties in providing this information? How could this be improved?***

   The most significant challenge is the need to translate documents into numerous local languages (reflecting the expected number of countries of operation) for approval proposals. In many schemes and countries this task is burdensome and expensive when viewed in the light of the need to translate technical documents, including amending deeds, often with several hundred pages.

   Consideration could be given to use of a shortened form of information to be accepted for approval purposes. To ensure integrity of data provided this could be accompanied by a signed statement from a suitable external pension professional e.g. the Scheme Actuary, auditor etc... This would be an approach ideally agreed through CEIOPS with common application.

3. ***What are the extra costs involved for a scheme which operates cross-border? How might these costs be reduced or efficiencies made?***

   There are three main areas of additional cost for cross-border schemes:

   – Firstly, for most schemes the need to be immediately fully funded (in the case of defined benefit (DB) schemes) leads to additional costs. This requires full valuations every year with the associated provider costs. There is also potentially a cost from tying up capital which might otherwise be invested within the business – the economic costs of this are difficult to quantify, however these costs can be significant if such contributions lead to trapped surplus.
   – There are also extra costs involved in the administration of cross-border schemes because different social and labour laws will apply in relation to employees in each of the other host Member States. Gathering and ensuring compliance with such rules is

likely to lead to additional set-up costs as well as ongoing governance costs to ensure continued compliance.
- Costs around translation for approval purposes and methods to reduce these costs are covered in our response to 2. above.

To overcome these costs there are a number of potential steps which could be taken:

- Model rules could be developed which can streamline approval and reduce translation and compliance costs if agreed by the Supervisory authorities (CEIOPS)
- We have not commented on the full funding requirements as we understand this is outside the scope of this consultation.

4. ***Time taken (from sending application form) to gain:***
(i) authorisation
(ii) approval.

We do not have sufficient experience to be able to respond to this question.

Achievement of policy objective – to allow occupational pension schemes established in the UK to be sponsored by employers in other Member States

Questions 5-7

Not applicable, however we would make the following observations:

The requirement for DB schemes to be immediately fully funded before they operate cross-border is a major deterrent. This is a more significant hurdle in the UK in contrast to many other EU States as the UK has mandatory revaluation of benefits in deferment and retirement. Solvency standards in other countries often exclude such indexation therefore the full funding requirement has a disproportionate impact on UK plans.

Compliance with Social and Labour Law

8. ***Has there been any difficulty in complying with host Member State social and labour law? If so, what were the problems? Please provide details.***

In our experience it is often difficult to establish precisely which relevant social and labour law requirements apply in Member States. Further there appears to be different national interpretation on issues such as:

- Minimum employee numbers to be a cross-border plan.
- Age discrimination in contribution design.

The lack of consistency will result in confusion over implementation.

Consideration of best practice when implementing EU legislation

9. ***Should we consider comparisons with any other Member States? (If so, which Member States should we consider, please state reasons why, e.g. what might we learn from making comparisons with that Member State?)***

The UK is not actively positioning itself as a location of choice for cross-border pension plans. This contrasts to other locations such as Belgium where political support is very evident in encouraging internal investment in Pan-European pension structures. This places the UK at a disadvantage if it wishes to

The approach taken in Belgium and Ireland appears to combine regulatory and tax authorities this creates a better framework for developing cross-border solutions.

10. Any other comments?

None

Produced by:

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020 7382 4594
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