AMPS ASSOCIATION OF MEMBER-DIRECTED PENSION SCHEMES

Response to joint Department for Work and Pensions/HM Treasury document “Pension scams: consultation” published 5 December 2016

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About AMPS:

History:

- Founded in 2005 to provide a collective voice and lobbying forum for representatives of the self-invested pensions industry (Self-Invested Personal Pensions, SIPPs, and Small Self-Administered Schemes, SSAS)
- Formed by merging the Association of Pensioneer Trustees and SIPP Provider Group in anticipation of the simplified pensions regime introduced on 6 April 2006 ("A Day")

Structure:

- Managed by a Committee of elected members
- Monthly Committee meetings with a formal agenda
- Sub-Committees dealing with various key areas: Compliance, HMRC Technical, Legal and Platforms

Membership*:

- Approximately 150 SIPP Operators including James Hay, Suffolk Life and AJ Bell
- Membership operates/administers the vast majority of both SIPPs and SSAS
- Number of SIPPs under administration: 1m+
- SIPP assets under administration: £125bn+
- Number of SSAS under administration: 16,000
- SSAS assets under administration: £26.5bn+
- Law firms which specialise in pensions and compliance issues
- Information technology firms which provide ancillary services to SIPP/SSAS operators
- Independent compliance firms

Objectives:

- To provide an industry forum for the exchange of views and knowledge for our members
- To interact with government departments and regulators on industry issues
- To liaise with other Industry bodies in areas of mutual interest
- To provide a source of informed comment to the media

Activities:

- Engagement with HM Revenue & Customs, Department for Work and Pensions, The Pensions Regulator, HM Treasury and Financial Conduct Authority
- Providing training to our membership through regular targeted conferences and workshops
- Issuing newsletters to our membership
- Reporting items of interest on the membership website and facilitating open discussion and forums
- Responding to government-led and regulator-led consultations
- Maintaining close links with other industry bodies including the Association of British Insurers (ABI), Tax Incentivised Savings Association (TISA), Investment and Life Assurance Group (ILAG) and Wealth Management Association (WMA)

* Membership data based on latest estimates

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Question 2.1:

Does the definition in 2.1 above capture the key areas of consumer detriment caused by pension scam activity?

We are comfortable with the principle that by defining pension scams, the government might better educate pension savers in how to recognise and avoid potential scams. We are broadly supportive of the proposed definition, and we recognise that the range of potential scams is such that the suggested definition is unavoidably lengthy. We are concerned, though, that overuse of the word, 'scam', can be unhelpful; particularly where there is a risk that the word might be innocently yet malignly employed in dismissal of any concept or proposal, in pension planning, which is not immediately understood. Many investments may well be 'inappropriate' for a large number of potential investors, but we would not wish to see them routinely and unfairly dismissed as 'scams'. The word can be defamatory, and we do not regard its incorrect use or overuse as helpful to one of the most important factors in combatting pension scams, being the promotion of better understanding of pensions, particularly in regard to pension savings already held. There can be good reasons to stay in one's existing scheme, and there might equally be circumstances which make a transfer desirable. The process of evaluation, advice and decision should be able to be conducted in a sober manner, without a presumption of scam activity.

We are concerned that the term, "inappropriate investments", might invite ill-informed views as to what might or might not be appropriate for the investor. The choice of investments, in a pension scheme, is a matter for its trustees, whose number may or may not include the member or members on whose behalf the investment is to be made. In some cases, such as a self-invested personal pension, the member alone might choose the investment. Appropriateness, or suitability, of investment, should be expected to be considered by the trustees or member, with reference to professional advice as necessary. Whilst it is right that the definition of pension scams should extend to the marketing of investments which might not be suitable for some of the target investors, we would not wish this to result in a breakdown of the pension transfer system, wherein ceding schemes take it upon themselves to pass judgment on what is an appropriate investment within the receiving scheme. The current condition of the transfer system is considered elsewhere in this consultation response.

Question 2.2:

Are there any other factors that should be considered as signs of a scam?

Though the typical signs of potential scams are adequately addressed in the proposed definition, we would add that the most telling sign of a scam can simply be the presence of agencies whose motivation would seem to be their own interests, rather than those of the person whose pension savings are under consideration. Good quality financial advice is predicated on what is best for the person who is paying for the advice. The advice is a service of value, for which payment to the adviser is made. Whether the advice is to transfer a pension, or to leave it where it is, the outcome for the adviser should be the same: a fee is charged for the advice given, the member's interests are safeguarded, and trust is furthered. Though it is right that the dangers of pension scams should be publicised, there is opportunity for a more positive message to be promulgated in stressing the importance of obtaining professional advice from a regulated financial adviser. Pension scams are possible only through persuasion; improved knowledge could be the best defence against such attentions.

Question 3.1:

In your experience, how are consumers affected by cold calling about pensions? Do any consumers benefit from cold calling about pensions?

As a trade body, we do not have direct relationships with consumers, though our member firms do work directly with consumers. Our perception would be that cold calls can have the effect of undermining confidence in consumers' existing pension arrangements, such that the likelihood of a successful scam might be increased. For example, reference to deferred benefits in a defined benefit scheme as "frozen", ignoring statutory revaluation in the period to normal retirement age, could be enough to leave the called person easily persuaded to give up valuable benefits. Not only might a cold call significantly accelerate the process through which a pension scam is instigated and executed, it is likely in many cases to be the opening act in that process.

It is tempting to dismiss all cold-calling as malign and, as expressed in the response to question 2.2, likely to be motivated by the interests of the caller above those of the called. Whilst cold calling could be indirectly helpful in prompting an individual to think about an aspect of his or her life which has perhaps been neglected, we would perceive a degree of cynicism towards cold callers which perhaps would lessen the effect of a ban: cold callers might already expect a hostile reception. It is difficult to argue against a ban, and indeed we do not do so here; though we would invite the government to reflect on other areas of commercial activity in which cold calling is tolerated, and consider the broader question of to what extent unsolicited intrusion into citizens' lives, via various means of communication, is desirable; and how good-quality pension provision might be affected, positively and negatively, by being singled out for ostracism. We would not wish to see pensions becoming a taboo subject. The government might also consider how legitimate businesses develop and become known, including how they reach out to potential customers. We would not wish the activities of scammers to stifle honest industry.

The comments offered in the paragraph above should not be interpreted as equivocation in regard to our support for the ban on cold calling: that support is not in question. We respectfully add that a simple act of banning, without consideration for the broader context of the circumstances which make pensions vulnerable to cold callers, might undermine the effect. Cold calling might be a common route to a pension scam, but the motivation, as well as the method, should be assessed.

Question 3.2:

Do you agree that the scope of the ban should include the actions set out in paragraph 3.5 above? Are there any other activities that should fall within the scope of the proposed ban on pensions cold calling?

The actions listed in paragraph 3.5 would seem to represent a fair summary of the types of approach which might form the basis of cold calls relating to pensions.

Question 3.3:

Do you agree that existing client relationships and express requests should be excluded from the proposed ban?

Yes. The financial services industry should not be tainted by the cold calls concept in its furthering of relationships which have been actively sought by customers. Many people see potential wisdom in transferring pensions between arrangements, for purposes such as ease of management or convenience of investment, and might responsibly seek advice in evaluation of such prospect. Regulated financial services firms should be free to respond to such demand without fear of sanctions under rules relating to cold calls.

Question 3.4:

What would the costs and benefits be of extending the proposed ban to include all electronic communications?

Cost would be a matter for government to consider; we are unable to offer estimates in this regard. The principal benefit would seem to be to protect consumers from what might be more insidious means of giving potential effect to pension scams, when compared with the immediacy of a cold call. As the telephone is only one of the modern means of communication, it seems sensible to include other electronic media in a ban on cold calls. This might be difficult to enforce; it would seem that the most effective means of succeeding would be to ensure that the definition of “in relation to pensions”, as applying to the ban on cold calls, is adequately expressed and understood.

We would hope that the government would consider means through which firms or individuals acting in contravention of the ban might have their communication facilities shut down or suspended upon evidence or suspicion of their so acting; perhaps with an appropriate degree of publicity where necessary, such that those potentially persuaded to action via these illegal approaches can be warned of the risks.

Question 3.5:

How can the government best maintain the clarity of existing PECR concepts in light of the proposed ban on pensions cold calling?

It would seem that the most effective means of succeeding would be to ensure that the definition of “in relation to pensions”, as applying to the ban on cold calls, is adequately expressed and understood.

Question 3.6:

How can the government best ensure consumers are aware of the ban?

We would expect The Pensions Regulator to be closely involved in raising awareness of any change in the law. The Pensions Regulator has demonstrated its ability to communicate ideas effectively through its ‘Scorpion’ campaign against pension scams, and should be seen as a trusted source of information.

Question 3.7:

Do you have any views on enforcement mechanism set out in paragraph 3.10 above?

The proposed enforcement mechanism would seem proportionate; subject to there being adequate recognition and protection for those "legitimate interactions" referred to in paragraph 3.6 of the consultation document.

Question 3.8:

Is there any reason why legitimate firms' business models should be affected as a result of the ban?

It is stated in paragraph 3.3 of the consultation document, "*…no legitimate firm will ever cold call* (consumers) *regarding their pension…"*. Whilst this might be accepted by many as fact, we would hope that legitimate firms dealing in pensions and promoting their businesses without cold calling will not be indirectly tainted by negative attitudes towards those involved in this work. As stated in our response to question 3.1, it is important that discussion and awareness of pensions is not supressed and made taboo. Legitimate firms should not feel inhibited in promoting their business, and we hope that the ban would be implemented and policed in a measured manner not inimical to legitimate business.

Question 3.9:

Do you have any other views or information the government should consider in relation to the proposed ban on cold calling in relation to pensions?

The government should be particularly concerned as to the risks of a circumvention of the ban via calls from overseas, especially as pension scam activity might involve potential transfers to non-UK schemes. The government might consider requiring members to declare the source of their knowledge of their chosen scheme, and to offer freedom from sanction for those UK schemes which refuse to transfer to schemes which were made known to the member from a cold call from outside the UK.

Question 4.1:

Do you agree with the proposal to limit the statutory right to transfer in this way, or should this be further limited? If so, in what way and why?

The statutory right to a transfer was established in the mid-1980s, in recognition of a number of factors, including the fact that increased mobility of workers and the decline in the concept of a 'job for life' invited greater portability of pensions; and the availability of personal pension schemes, in furtherance of portability and of individual responsibility.

It is regrettable that the statutory right to a transfer should have become something to be asserted, or to be held up as justification for forcing a transfer, when arguably it should need only serve to distinguish a certain type of transfer from one that is subject to trustee consent or discretion, such as where a member has passed a scheme's normal retirement age. Restriction of the statutory right to transfer should be seen as a retrograde step; it is regrettable that circumstances have brought the prospect to this consultation. Of course it is regrettable that this consultation should be needed at all.

Despite the good intentions which informed the formation of the statutory right to a transfer, pension transfers have already seen controversy. The industry is still scarred by the pensions misselling scandal of the late 1980s and early 1990s, wherein many deferred members of defined benefit pension schemes were wrongly advised to transfer to personal pensions. The statutory right to a transfer, in those cases, might have done the transferring members little service.

Nearly thirty years on, we now see a system in which the statutory right to a transfer is used as grounds for transfers to occupational pension schemes for which the transferring member does not necessarily have an employment link. It might seem unquestionable that a genuine occupational pension scheme should be one established in connection with members' occupations, and that the right to a transfer thereto should be predicated on the receipt of earnings from the scheme's employer; it might equally seem an unintended and technical effect of legislation that a statutory right to a transfer to a scheme sponsored by employer A can be established via earnings with employer B.

Whilst it is difficult to argue against a correction of that apparent anomaly, we are concerned that the changing status of many potential transfer requests, from statutory to non-statutory, might offer grounds for increase in the number of rejected transfer requests. It should be expected that an erosion of long-enjoyed rights, even where the change is for protective purposes, should be balanced by an assessment of how those adversely affected by that change might be protected against unintended disadvantage. This prospect is addressed elsewhere in this consultation response.

Question 4.2:

Would a requirement to evidence a regular earnings link act as a major deterrent to prevent fraud? How could the requirements be circumvented?

"Major deterrent" might be an exaggeration, given that those intent on giving effect to pension scams might find it only an inconvenience, rather than an insurmountable barrier, to construct some nominal form of earnings. We would also express concern that those whose earnings might be irregular in their receipt, such as those retained in a capacity which relates timing of earnings to work carried out, might see their transfer rights undermined. We might also fear that controlling directors, who are regarded as employed through holding the office of director but who might choose not to take earnings from their business for a given period, might be viewed negatively in an assessment of a transfer request. Whilst these concerns might not be material if there is confidence that non-statutory transfer requests will be addressed objectively, we are concerned that the absence of a statutory right to a transfer might be used by some schemes as grounds for a presumption against paying transfers. This prospect is considered elsewhere in this consultation response.

Question 4.3:

How might an earnings and employment link be implemented? Should the onus be on the scheme member to provide proof of earnings?

Provision of proof of earnings would seem a logical means of demonstrating a remunerative attachment to an employer that sponsors an occupational pension scheme. It should be recognised that bogus payslips or similar could easily be produced; it would be hoped that where there is doubt as to the authenticity of such items, ceding schemes would take appropriate measures to consider related evidence such as employer payroll records or member bank statements.

Question 4.4:

What would be the impact and cost to trustees / managers / firms?

We would hope that, as those involved in assessing and processing transfer requests should already be accustomed to a process of due diligence in the course of such work, there should be no significantly greater cost than that already being incurred. It is important that the measure is implemented in a manner which should avoid significant additional cost, lest cost prove an incentive to bypass due diligence in favour of either paying transfers without due care or, equally unfavourably, adopting an inadequate process in pursuit of a policy of refusing transfers wherever possible.

Question 4.5:

Under the proposals, how would the process for 'non-statutory' transfers change for trustees or managers? What would they need to do differently from the current situation?

The process need not change significantly, if it is accepted that such transfers should already be subject to an adequate level of scrutiny, at the ceding scheme end, before they are processed. It is incumbent on trustees, administrators or providers of ceding schemes to evaluate transfer requests in order to be satisfied that the receiving scheme is a registered pension scheme or qualifying recognised overseas pension scheme; this will not change under the proposal considered here.

We are concerned, though, that the potential increase in the number of transfer requests predicated on ceding scheme discretion, rather than on statutory right, might increase ceding schemes' temptation to dismiss transfer requests as potential scams. It is very regrettable to us that many legitimate transfer requests seem already to have been tarnished such; in many cases this might be due to genuine concern regarding receiving schemes' legitimacy; though in others we fear that ceding schemes have simply found it all too tempting to ignore transfer requests using unfounded or even unfound pension scam concerns as an off-the-peg excuse.

If the statutory right to transfer is to be curtailed, we would like to see some form of protection or assistance given to those persons who wish to exercise a non-statutory transfer option for sound reasons. Examples of such circumstances might include a member who has not left pensionable service but wishes to transfer from one scheme of a trading employer to another scheme of a trading employer; or a member who has passed normal retirement age or commenced taking benefits via drawdown, and wishes to transfer from one drawdown arrangement to another. Trustees or managers should be expected to exercise a greater degree of enquiry and understanding of the reasons for transfer requests; this should be expected as a minimum compensation for what is a regrettable and in some ways undesirable erosion of long-standing rights of transfer.

Question 4.6:

What are the pros and cons of introducing a statutory discharge form for insistent clients? How effective would this be as a means of combatting scams?

It is important that those schemes which pay transfers in good faith, particularly in cases where there is a statutory right to a transfer, should feel content that they should not face later sanction if the position was not as it appeared to be at the time of the transfer.

We would take the consultation document's use of the term, "insistent clients", as referring to those who choose to pursue a particular financial course despite having received advice against that course. Whilst this might be found typically in the area of transfers from defined benefit schemes, we would presume that the consultation question relates more generally to those pension scheme members who insist on making a transfer despite there being no statutory right thereto. We would welcome a clearer understanding, which provision of a statutory discharge form might help foster, that scheme administrators for schemes which pay transfers in such circumstances, having carried out adequate enquiry in regard to the legitimacy of the receiving scheme, should not be subject to scheme sanction charge in the event that circumstances retrospectively reveal that the transfer was not a permitted transfer. At present, it seems to us that HM Revenue & Customs offers little comfort to schemes in such a position at the point of transfer. This seems particularly apparent in regard to transfers to overseas schemes, where the list of recognised overseas pension schemes seems only of cosmetic value in the gathering of information in pursuit of justification for perceived safety of transfer.

Whether a statutory discharge form would be effective as a means of combatting scams is another matter; this might depend largely on how the form were worded. If in reading the form prior to signing and contemplating the full implications before signing, a member resisted making a transfer in circumstances which might spare him or her from a pension scam, the form could be very effective.

Question 4.7:

How could it be ensured that a statutory discharge of responsibility did not reduce the requirement on firms and trustees to undertake due diligence?

As identified in the response to question 4.6, scheme administrators already have a strong incentive to carry out due diligence, in pursuit of a position as close as possible to certainty in support of their view that a receiving scheme is properly a registered pension scheme and therefore one eligible for receipt of a recognised transfer. We would suggest that members signing a statutory discharge form should be encouraged to recognise their corresponding responsibility for being certain that their chosen scheme meets this requirement. Again, the relative weight of the words included in the statutory form of discharge should bear some significance in both the member's willingness to sign and the ceding scheme's confidence in the process.

Question 4.8:

What are your views on a 'cooling-off' period for pension transfers? Do you have any evidence of how this could help to combat pension scams?

We would be wary of a measure, however well-meaning, which added a further layer of complexity to the transfer process, without certain benefit. A cooling-off period of some arbitrary length, at the culmination of what might already have been a lengthy exercise in contemplation, advice, further contemplation and decision, might do little more than introduce delay and further frustration to an already tortuous endeavour. We would prefer that measures to combat pension scams focus on disruption to scam activity and protection of scheme members, rather than give rise to delays that might affect all transfers. The timing of transfers can be sensitive, particularly in regard to investment opportunities in the receiving scheme; we would not wish transferring members to be prevented from taking up those opportunities by a period of forced inactivity. Some transfers might already be subject to a cooling-off period where allied to establishing of a new arrangement which itself carries cancellation rights, but our perception is that such privileges are not widely used.

Question 4.9:

What additional measures or safeguards could be put in place to ensure that trustees or managers appropriately handle transfers that do not meet the new proposed statutory requirements?

Again, this would seem to be a matter of due diligence and understanding. An example of a potential non-statutory transfer of relevance to our organisation is that of an individual wishing to transfer to a SSAS sponsored by that person's family business, where that person is not employed in the business but wishes to join in the family's pension investments using a transfer of existing pension savings. Under the proposed new definition, that transfer would be non-statutory. Based upon our experiences to date, we would fear that ceding schemes would not look upon a transfer request, in such circumstances, favourably. We would hope that trustees and administrators of such schemes could be subject to agreed minimum standards of enquiry, such that reasons for transferring can be properly assessed and understood. We would caution against a presumption against the validity of a non-statutory transfer.

Question 4.10:

Are there other potential risks that this proposal might present? Do you have any suggestions as to how these risks might be mitigated?

A general risk is that, in potentially increasing the number of transfer requests that fall outside of the statutory right, there are more refusals, more member complaints, and a greater corresponding workload for The Pensions Ombudsman in considering claims of maladministration. We would hope that restriction of the right to transfer would be accompanied by publicising of circumstances in which schemes would be encouraged to recognise the legitimacy of transfer requests. Much has been done, at government level, to encourage member participation in pension decision-making and guidance-seeking through pension freedoms and Pension Wise; members should expect information also in regard to circumstances in which their benefits may or may not be portable between schemes.

Question 5.1:

Do you agree that new pension scheme registrations should be required to be made through an active company? If no, what are the legitimate circumstances in which a dormant company might want to register a new pension scheme?

We understand the concern that a dormant company's sponsorship of an occupational pension scheme might indicate potential scam activity. The definition of dormant company is wide, and we would ask the government to recognise that pension scheme trustees might wish legitimately to invest in companies whose technical status is 'dormant' only in the sense that trade is still being prepared for.

An example is where a small self-administered scheme (SSAS) is established by a sponsoring employer that has not yet commenced trading. Provided that a charge of adequate value can be taken, and provided that the pension scheme trustees are confident in the prospects of the employer, it is quite legitimate for those trustees to grant a loan to that employer to assist in its business. It should not be forgotten that whilst the assets of occupational pension schemes are built from the profits of successful businesses, enterprise can also be nurtured and furthered through pension scheme investing. This happens on a large scale through the institutional investing of large, defined benefit schemes, but it can also occur at through the co-beneficial relationship that exists between a SSAS and its sponsoring employer. The SSAS supports the sponsoring employer's business through investment, and the SSAS grows through the sponsoring employer's payment of loan interest to that scheme. We would not wish to see this important aspect of enterprise stifled through the unintended consequences of a restrictive measure which, although well-meaning and potentially beneficial elsewhere in pensions, was to the detriment of genuine business development.

Though we recognise those circumstances which have prompted the suggestion that registration of occupational pension schemes be reserved to those which are sponsored by active employers, we would hope that, as registration of schemes has been subject to HMRC discretion since 2013 rather than an automated process as had been the case since 2006, HMRC might hold ability to grant registered pension scheme status in circumstances where they are satisfied that the scheme is being established as a genuine occupational pension scheme for a company that is genuinely preparing to trade. If this were combined with other protective measures such as those which are addressed in question 5.2, there might be adequate reassurance as to the scam-free intentions of the trustees.

We accept that there might be concern over those SSAS which are sponsored by a newly-established employer. Markets evolve, and it would seem that recent developments in the SSAS market have extended to attractiveness of SSAS for companies whose trading activities might only be nascent, if existing at all. This is possible because of the broad manner in which the definition of occupational pension scheme applies. It does not mean that the resulting schemes are unworthy of their registered pension scheme status, and it should not mean that those schemes should carry a presumption of untrustworthiness. We accept, though, that for the unsuspecting pension saver for whom the term, "SSAS", means nothing, it could be easy for persons of malign intent to persuade that person that they need a SSAS in order to invest in what this consultation terms "inappropriate investments"; and that the effort of establishing a company and becoming a director of it will be worth it. Establishing a SSAS should not need to be such an effort; personal pension schemes were made available for reasons including to provide for those without access to an occupational pension scheme.

We would hope that better financial education and, crucially, provision of regulated financial advice, might serve to reserve SSAS to those who genuinely need and want them. It should be remembered that the SSAS acronym incorporates the term, "self-administered"; any person taking on the responsibility for trusteeship of a SSAS should ensure that he or she understands precisely the investments which are being chosen for the scheme. Investments through SSAS should not occur without the members' knowledge; the members are trustees, and are therefore in control of the scheme. Pension scammers cannot just snatch funds; they rely on persuasion through which funds are effectively handed to them. Taking away persuasion takes away the scam.

Question 5.2:

Are there any further actions that the government should consider to prevent SSASs being used as vehicles for pension scams?

This, for AMPS, is a particularly welcome question in the consultation, and we relish this opportunity to engage with government in regard to an area of the pensions industry that has been unfairly maligned, and to which we wish to contribute to an urgent restoration of confidence.

At its best, a SSAS is a majestic realisation of what a pension scheme can be. It is a pension scheme which is sponsored and funded by its sponsoring employer, but which can in turn stimulate the growth of that employer through secured lending facility. It can support the employer's security of location by acquiring the employer's trading premises. These two facilities respectively provide that loan interest and rental becomes part of the members' pension funds, rather than being lost to commercial lenders and third-party landlords. This gives directors of growing and established companies incentive to establish and maintain SSAS and, crucially, to ensure that they are properly run in order that they maintain their registered pension scheme status. Perhaps more importantly, SSAS gives directors a positive experience of pensions, which, one would hope, should make them more likely to appreciate the worth of good-quality pension provision for their staff, and to sponsor schemes generously as a result. It is to no one's benefit that SSAS be suppressed, and that transfers to SSAS be curtailed or treated with suspicion. SSAS should need no clever marketing; for many company directors, the benefits of establishing a SSAS are as obvious as were the reasons to have commenced trading in business. It is in the economy's interests that SSAS be supported.

We have noted, with great regret and alarm, recent trends towards suspicion over SSAS. The AMPS Committee receives frequent reports from member firms, in regard to struggles to secure payments of transfer values from other pension schemes, typically those managed by insurance companies. We would encourage insurance companies to remember that they are not without credit for the development and success of SSAS; the growth of SSAS in the 1980s and 1990s was greatly helped by those insurance companies which operated in the market, and which offered and continue to offer managed funds in which many SSAS have successfully invested. We are very concerned that the fight against pension scams has seemed at time to risk having a regrettable side effect of civil war within the pensions industry; would-be pension scammers might look on with relish at such distractions for the industry. AMPS was a founding member of the Pension Liberation Industry Group and was closely involved in the writing and subsequent re-examination of the Code of Good Practice for Combatting Pension Scams, and has therefore witnessed the benefits of a united industry approach to protection from pension scams. We hope that this consultation will reinforce this concept.

Amongst all pension scheme types, SSAS might be said to have changed most dramatically as a result of 'Pensions Simplification', as introduced on 6 April 2006 ("A Day"). Examples of "before and after" changes are as follows:

Before: New schemes subject to a rigorous process of "approval", involving submission to HMRC of scheme rules, principal and associated employer information, controlling director details, investment details.

After: April 2006 – October 2013: Automatic registration of new schemes, once scheme administrator has followed online process of registering as a scheme administrator. October 2013 to date: Registration of new schemes subject to HMRC discretion, subject to submission of such documentation as HMRC might deem relevant in any given case.

Before: Requirement for trusteeship to include a professional pensioneer trustee, drawn from HMRC-maintained list of registered pensioneer trustees.

After: No requirement for professional trusteeship.

Before: Requirement for pensioneer trustee to be a co-signatory on all scheme bank accounts and registered co-owner of all scheme assets.

After: No requirement for professional participation in bank mandate or in scheme asset registration.

Before: Requirement for employer participation to be approved by HMRC.

After: No apparent HMRC scrutiny of employer entry.

Before: Submission to HMRC of three-yearly actuarial assessments of funding, including a statement of assets held by the SSAS.

After: No apparent HMRC monitoring of scheme funding. Scheme administrator notification of contributions confined to reference within composite 'Registered Pension Scheme Return'.

The above summary of changes is concerned only with governance aspects of SSAS. The effect of A Day on, for example, the calculation of maximum tax-privileged contributions to SSAS, and benefits from SSAS, is not relevant to this consultation response. Nearly eleven years on from Pensions Simplification, it seems to us that whilst the ways in which SSAS are funded and can pay benefits are indeed far simpler than before 2006, accompanying aspects of the Pensions Simplification regime, as considered above, have undermined confidence in SSAS and exposed them to use by those who either do not properly understand them, or who understand all too well the weaknesses that have been there since 2006. As late as December 2003, twelve months after the original consultation paper, "Simplifying the taxation of pensions: increasing choice and flexibility for all", HM Treasury published its statement of intent, "Simplifying the taxation of pensions: the Government's proposals", which still included questions for further consultation. One of those questions was, "What will be the impact of removing the mandatory requirement for pensioneer trustees?" This question had not been considered in the original consultation of 2002. In March 2004, only three months after the document of December 2003, it was announced in the Budget that the government would be proceeding with the proposals set out in the December 2003 report. It would seem that the question of the likely effect of removing the mandatory requirement for pensioneer trustees was perhaps lost in the greater complexity of replacing eight taxation regimes with a single system. Regrettably, the effects have since been shown, and are largely negative. This can be put right for the future.

We would propose the following as a means of restoring confidence to SSAS:

1. Requirement for a professional trustee who can demonstrate experience and understanding in regard to pensions and relevant tax legislation via "fit and proper" test.

2. Maintenance of a register of such professional trustees, entry to which is subject to statutory declaration of good faith.

3. Annual submission to HMRC of list of SSAS to which the professional trustee is appointed.

4. Requirement that resignation of professional trustee be subject to replacement within one month, and for a moratorium on investment activity during any period of absence of professional trustee.

5. Exclusion from the register for professional trustees who are shown to have been complicit in pension scam activity, with financial penalties as appropriate.

Notwithstanding these technical changes, we repeat that pension scammers rely on persuasion in order to succeed. The greatest resource in combatting pension scams is the intellect of pension scheme members; in understanding what pension benefits they have, in appreciating their worth, and in considering transferring them only in circumstances which they recognise to be appropriate for their needs. Regulated financial advice can go far towards reinforcing these principles, though too often such advice is either undervalued, or considered unaffordable. Given the large sums involved in pensions tax relief, we would hope that the government would give urgent consideration to how access to affordable financial advice, and to better financial education generally, can be furthered.