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HM Treasury
Horse Guards Road
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SW1A 2HQ

13 February 2017

Dear Sirs

Pension Scams

The Association of Professional Pension Trustees is an organisation of over 160 individuals who act as professional independent trustees to UK occupational schemes, some as sole practitioners and some working in firms of such practitioners. Our members represent a large number of mainly larger pension funds with combined assets of several hundred billion pounds.

Our aims are to:
- encourage and promote the highest professional standards in those who practise as professional pension trustees
- promote the role of professional trustees

Our response to the consultation is as set out below:

Chapter 2: Common pension scams

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

We are satisfied that the definition in 2.1 adequately identifies the key characteristics of pension scams.

Question 2.2: Are there any other factors that should be considered as signs of a scam?

The proposed transfer may be to a single-member Small Self-Administered Scheme (SSAS).

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Chapter 3: Banning cold calling in relation to pensions

Question 3.1: In your experience, how are consumers affected by cold calling about pensions? Do any consumers benefit from cold calling about pensions?

Anecdotally, we have heard that unsolicited calls offering 'free pension reviews' are a common way for fraudsters to establish an initial contact with members.

We see no legitimate reason for anyone to use cold-calling, and do not see how this practice can be beneficial for members.

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?

We agree that the range of activities set out in 3.5 should all be banned.

Question 3.3: Do you agree that existing client relationships and express requests should be excluded from the proposed ban?

We would argue that if there is any existing relationship between a scheme or adviser and a member any contact would not fall within the definition of cold-calling. Certainly, it would not be appropriate to apply if there is an existing relationship.

Question 3.4: What would the costs and benefits be of extending the proposed ban to include all electronic communications?

In the era of electronic communication, a ban solely on telephone communications would not be effective. We would support a ban on all forms of electronic communications.

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?

We do not believe that a ban on cold-calling would require any changes to the existing PECR regulations.

Question 3.6: How can the government best ensure consumers are aware of the ban?

The Pensions Regulator's 'scorpion' campaign has been effective in warning the public about pension scams. Future communications could make explicit reference to the ban on cold-calling. Pension schemes could be encouraged to include warnings on benefit statements and other regular communications.

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Question 3.7: Do you have any views on enforcement mechanism set out in paragraph 3.10 above?

We are satisfied that the regulatory regime as described in 3.10 would be effective. However, it would be a simple matter for fraudsters to base themselves outside the UK and so be outside the ICO's jurisdiction.

Question 3.8: Is there any reason why legitimate firms' business models should be affected as a result of the ban?

We see no reason why this ban should have a negative impact on the business of legitimate firms.

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?

We have no further comments to offer on this topic.

Chapter 4: Limiting the statutory right to transfer

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?

We are concerned that it remains too easy to establish an occupational pension scheme (and therefore not subject to FCA regulation). A requirement that the scheme demonstrates that is genuinely an "occupational scheme" sponsored by a willing participating employer with which the member has an employment relationship would be a major hindrance to fraudsters and a major protection for members.

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?

This would prevent transfers to bogus arrangements.

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?

We believe that the onus should be placed on the transferring members to demonstrate proof of earnings through the provision of payslips. Individuals would find it harder to forge such documents.

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Question 4.4: What would be the impact and cost to trustees / managers / firms?

Currently, a great deal of time and money is lost investigating suspicious transfers. The introduction of constraints would make fraudulent transfers more difficult and so would, if anything, actually reduce costs.

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?

We see no reason why arrangements for non-statutory transfers be changed at all.

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?

We are not convinced that this would be an effective measure. Whilst it would protect trustees from claims brought by members it would not exempt them from HMRC sanction charges.

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?

We believe that in the majority of cases trustees and their agents demonstrate high standards professionalism when dealing with suspicious transfers and that this would not be affected by a statutory discharge of responsibility.

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 do not see this as having any practical benefit. Crucially, where the transfer has been fraudulent, a scammer would simply ignore any request for a payment to be returned.

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?

No comment.

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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?

No comment.

Yours faithfully

Nita Tinn
Association of Professional Pension Trustees