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Jenny Frost
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Dear Jenny

Consultation Paper 09 / 11 FSCS: Temporary high deposit balances and implementing changes to the Deposit Guarantee Schemes Directive

We are grateful for being given the opportunity to comment on the above Consultation Paper. At the end of this letter further details about what AMPS is and who they represent is given.

Our comments are solely in respect of Chapter 2 and the proposed increase in protection under the FSCS for temporary high balances in specified circumstances.

Question 3:

In principle, we think the proposals are welcome, and agree that any further protection granted should be linked to a defined list of 'temporary high balances'. There needs to be clear definition so everyone is aware of where they stand.

However, a concern with the extension of the FSCS protection for bank balances is the potential liability this could impose on all regulated firms contributing to the FSCS (not just deposit takers). If a bank fails, the FSCS levy on other deposit takers is capped, we understand, at £1.8 billion. Any excess liability would then come from other financial institutions (including SIPP operators). Under your cost analysis in paragraph 2.37 (Table 2) you estimate that if a Bank with a 10% market share ('Bank A') defaulted the cost covering temporarily high balances would be up to £1.5 billion (in addition to the existing protection for balances up to £50,000). If this occurred, much of the extra liability would therefore fall on non-deposit takers.

We think that if the FSCS cover is extended for bank deposits it is reasonable in the event of default that deposit takers potential liability is extended, or the cross-subsidy removed. We accept your point that these measures will strengthen public reassurance in banks, meaning the risk of a 'run' on a bank (and the likelihood of a call on the FSCS) reduces. Given this decreased risk to

banks we think it reasonable deposit takers take on the potential increased liability through FSCS levies.

Questions 4 and 5:

Currently the list of circumstances proposed where temporarily high balances will be covered only catches personal accounts. We feel there is a strong case in principle to apply similar protection to certain situations where temporarily high balances arise in the main scheme bank account held within an individual's Self Invested Personal Pension (SIPP) scheme (or indeed any personal pension scheme). However, whilst we think in principle the proposals should extend to SIPP main accounts it is important that it is identified where any extra potential liability under the FSCS any extension of cover would create is likely to fall (see above). You would also presumably need to look at figures to do a cost analysis. We do not think the increase in protection on bank deposits should increase potential liability to non-deposit takers contributing to the FSCS.

All main SIPP Providers require their members to each hold a specific bank account in respect of their individual SIPP, generally with a bank of that Provider's choosing. This account will act as the primary account for that individual's SIPP. All transfers-in from other pension schemes and contributions made to the SIPP will be paid first to that account, as will any relief at source tax relief received from HMRC. Similarly any new investment will be made from that account (meaning any funds are moved there in advance from any other savings account to fund the investment), as will any distributions received from the sale of existing investments. All benefit payments will also be paid from that account (tax-free cash, annuity purchase, income withdrawal payments). In short, large amounts of money may be moving to and from that account on a temporary basis as part of the general operation of that SIPP.

Having such an individually designated member account is a necessity to ensure the integrity of each individual member's 'pot' is maintained and to keep a tight audit to ensure HMRC and other regulatory requirements are adhered to.

The bigger SIPP Providers hold thousands of individual SIPP members and will therefore have thousands of accounts held with their chosen bank provider. If that bank fails, it is likely that a large number of accounts will be over £50,000 and in many cases this will purely be down to bad luck on timing of SIPP transactions.

The principles of COMP 12.6 treat any claim by the trustee of a personal pension scheme (including a SIPP) as effectively being a claim by the individual member for the purposes of the FSCS. As this primary account and its traffic is forced upon the member (for good regulatory reasons) it is logical that, as effectively treated as their personal account for FSCS purposes, such accounts have a consistent level of protection for temporary high balances as personal accounts.

We therefore feel the list in Paragraph 2.10 should be expanded to include SIPP accounts. But again we would need to understand the potential extra liability on firms this would create and who this would fall on. This will no doubt involve further work by you, which we would be happy to help with.

We think it is reasonable for the protection to be limited to the main SIPP primary account only (i.e. the account required as a condition of SIPP membership), and not any other savings accounts set up within the SIPP at the direction of the member. The rules would need to cover where there were two accounts or more

with that bank provider (for example, some will have both a current and a notice account with the primary bank account provider).

The circumstances where the £50,000 FSCS limit may be exceeded temporarily under a SIPP are as follows:

1. Monies received in respect of transfer in from another registered pension scheme;
2. Contributions received in from either personal or employer contributions;
3. Basic rate tax relief received from HMRC on personal contributions (or Rebates received from HMRC where contracting-out from the State Second Pension on an ongoing basis);
4. Monies held and not yet re-invested following the sale of an existing SIPP investment;
5. Monies held in respect of a proposed SIPP investment not yet completed;
6. Monies held following a request to transfer out;
7. Monies held following disinvestment to comply with a pension sharing order on divorce;
8. Monies held pending a request to take benefits by the member (this will normally be accompanied with a disinvestment instruction);
9. Monies held after the death of the member (pending distribution), or any dependant of the member (where that dependant has gone into income withdrawal on the death of the original member); and
10. Monies held to fund a tax liability due to HMRC (see below).

With all the above circumstances, except possibly point 5, we are dealing with easily provable events (for example, receipt of a transfer in or contribution, or a request to transfer out or take benefits).

We also think the extra protection should be extended to any money deducted from a member's SIPP account by the scheme administrator and being held by them pending payment to HMRC. This tax deducted would not be held in the member's individual SIPP account (but a holding account of the scheme administrator) but would be still clearly linked to that member for HMRC accounting purposes.

The reason why there would be a delay in accounting is because we can only account for tax to HMRC quarterly or annually (within set timescales). Examples would be where there

- has been a death in income withdrawal before age 75 (where a 35% tax charge is due on any lump sum paid),
- is a lifetime allowance charge or scheme sanction charge, or
- is an Inheritance Tax liability on death of a member after age 75.

These tax charges are all accountable by the scheme administrator.

Similarly any relief at source tax relief received from HMRC in respect of personal contributions (point 3 above) may be held in a scheme administrator account (rather than the designated member bank account). We receive a bulk payment from HMRC into a central settlement account and then must allocate to the respective members' SIPPs. The same applies with National Insurance rebates received from contracting-out. These sums are linked to specific members.

We think the 6 month timescale suggested is reasonable for most of the above circumstances listed above, but again consideration needs to be given under cost-benefit analysis on the potential future liability under the FSCS for each circumstance in the event of a large bank failing, and who would bear this liability. We would certainly want to consult with our membership on any increased potential liability in return for extra FSCS protection. Obviously the longer the period covered the higher the potential liability under the FSCS.

We are happy to discuss these ideas with you further if that would help.

Questions 6 and 7:

We agree the £500,000 limit seems reasonable as a general rule. You may consider this reasonable as well for the circumstances listed above for SIPPs. But again we need to understand whether the increased potential liability caused by such an upper limit could fall beyond 'deposit takers' on other financial institutions.

Subject to the concern regarding the over-spill of liability through FSCS levies to non-deposit takers, in relation to the circumstances listed for SIPPs above we think in principle consideration should be given to granting higher cover than other circumstances where disinvestment occurs to cover

- the requirements of a pension sharing order (point 7),
- a death benefit payment (point 9), or
- a tax charge due to HMRC (point 10).

Questions 8 and 9:

We think 6 months seems reasonable, although you may consider

- a shorter timescale appropriate for some of the suggested circumstances for SIPPs, or
- a longer timescale where dealing with a pension sharing order on divorce, death claim or tax liability within a SIPP (we suggest the time limit should be any time after the granting of the order, death of the member / dependant or arising tax liability to the discharge of the order, payment of death benefit or deadline to account for the tax due).

Small Self-Administered Schemes:

In principle, we think there is a case for granting a similar level of protection to the main account held by Small Self-Administered Schemes.

Whilst here the trustees are more in control of investment decisions, the same circumstances arise as under a SIPP where temporary high balances occur in the

primary SSAS account due to transfers-in, contributions or because benefits are being paid out or there is a pension sharing order on divorce or tax liability.

Conclusion:

We feel that there is a strong case to cover temporarily high balances in an individual's primary SIPP account in the same way as proposed for personal accounts. Similarly with the main account held in a SSAS.

However, if the FSCS cover for bank deposits is being increased it is important that the cost of that increased protection (through FSCS levies) falls on deposit-takers, not other contributing firms. If the potential liability under the FSCS is being increased the cross-subsidy rules need looking at in the light of the proposals.

We are more than happy to meet to discuss the issues discussed above further.

Regards



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On behalf of the Association of Member-Directed Pension Schemes
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ABOUT AMPS

The Association is a combination of two former associations from the self administered industry, the Association of Pensioner Trustees (APT) and the SIPP Provider Group (SPG).

It was agreed to combine the two associations following the introduction of the Simplification and Taxation of Pension Schemes in order for the industry involved in the administration of, provision of and establishment of self administered arrangements to have a single cohesive voice rather than the possible fragmentation of a very professional group of pension professionals.

The Committee is drawn from all walks of the self administered industry and includes pension's consultants, actuaries, lawyers and insurance company representatives.

AMPS represent 180 member organisations operating or providing services to Small Self Administered Schemes (SSAS) and Self Invested Personal Pensions (SIPP).

Pensions Management (December 2008 "SSAS" survey):

- 24,889 SSAS with assets of £13.1bn

Money Management (September 2008 "SIPP" survey):

- 315,000 SIPPS in the UK with assets of £32.95bn

Note: these surveys understate actual figures as not all providers or schemes participate.

Employers sponsoring SSAS membership are typically family-run businesses, employing up to 100 people, although the membership of SSAS is generally limited to the directors or owners of the businesses and their families.