Written evidence from Mercer Limited [PPS0026]

Introduction to Mercer

At Mercer, we make a difference in the lives of more than 110 million people every day by advancing their health, wealth and careers. For more than 70 years, we have turned our insights into actions, enabling people around the globe to live, work and retire well. Mercer LLC and its separately incorporated operating entities around the world are part of Marsh & McLennan Companies, a global team of professional services companies offering clients advice and solutions in the areas of risk, strategy and human capital.

Mercer is a global consulting leader in talent, health, retirement and investments. In the UK, our client base includes employers and trustees providing occupational pension schemes to employees in all sectors of industry. We provide pensions advice and services to companies in the FTSE10, but we also have a large proportion of clients that are employers classed as 'Small to Medium sized Enterprises' or trustees of pensions schemes with sponsoring employers in this class.

Reason for submitting

Mercer is the largest private sector pension schemes administrator in the UK and this is a very important issue for the pensions industry and for pension scheme members.

1. What is the prevalence of pension scams?

The scams most likely to be associated with pension freedoms are connected to pension transfers (fraudulent schemes and investments, and high fees and charges), especially from DB schemes, and misappropriation of a member's benefits set aside for income in retirement.

Mercer has robust processes designed to identify and avoid potential scams activity against our clients' schemes. As a result, Mercer clients have had very few cases (less than 0.01%) where a member has transferred and the receiving scheme or investment has later been identified as fraudulent. We have no information on any scams perpetrated on members who have drawn their retirement benefits.

In addition to the fraudulent cases identified above, we see a small but regular number of transfer applications (approximately 200 each year) where members are being advised by overseas advisors, who are not regulated by the Financial Conduct Authority, where the investment and advisor fees seem disproportionately high and which may suggest an element of scams activity.

Another indicator of possible scam activity is where a member is transferring to a SSAS where they have no earnings or no earnings from a sponsoring employer.

2. What are the current trends in pension scams?

Our perception is that scams typically include one or more of the following elements:

- Members have engaged advisors who take substantial fees from the member's transfer value. These fees are sometimes hidden or not disclosed by the advisor and there can be substantial exit fees for accessing the pension funds. These advisors are often overseas and advise transfers to international SIPPS, sometimes for UK resident members.
- Members are told they can decide on their investments following the transfer of their benefits although the destination of the transfer is supposed to form part of the transfer advice.
- Members transferring from DB to DC arrangements often quote the reasons for transferring their benefits as control over their investments and being able to leave 100% of their pension to their dependants. In such cases, it is typically not obvious that they have the expertise to make informed investment decisions, nor that they do not require their pension funds to provide an income in retirement. It can be inferred that the investment advice they have received may not be suitable.
- Possible misuse of SSASs.
- Members being told they can access their pension benefits before age 55.

3. What are the common outcomes of pension scams for perpetrators and victims?

We do not have sufficient information to comment on this.

4. How are existing enforcement tools being used?

Mercer has a robust pension scam review process for potential pension transfers, which seeks to identify and avoid scams activity. The process incorporates all industry best practice and regulatory guidance, and includes:

- The issues covered in the "checklist" provided by the Pensions Regulator in its pension scams guidance
- The principles and processes developed as part of the Code of Good Practice on Combating Pension Scams produced by the Pensions Scams Industry Group
- The issues identified by the Pensions Ombudsman as being central to determining whether or not the member has a statutory right to transfer
- Additional issues that Mercer has identified as being indicators of potential pension scam activity
- A check of the Financial Services Register to confirm whether the proposed receiving arrangement's investment providers are registered with the Financial Conduct Authority (FCA)
- Independent research of parties involved in the transfer

- Contacting Her Majesty's Revenue and Customs (HMRC) to request confirmation that the proposed receiving arrangement is a registered pension scheme

If a scam is suspected, we refer transfer requests to the scheme trustees for a decision on whether to proceed and encourage them to report any suspicions to Action Fraud.

Pension scheme members who request a transfer are always provided with the latest ScamSmart leaflet and signposted to take advice from the MaPS bodies and FCA regulated financial advisors.

Members who ask for retirement figures are signposted to the MaPS bodies and FCA regulated financial advisors.

5. What more can be done to prevent pension scammers operating?

Process:

- Change the unauthorised payment requirements for pension scams to remove the scheme sanction charge and impose it on any FCA regulated advisor involved

- Where there are pension scam concerns, make it simpler and faster to request extensions from, or report breaches to, TPR. Better still, remove the requirement altogether, where the trustees have reasonable suspicions about scam activity and are seeking to protect the member's benefits.
- As part of the registration process, HMRC should perform a full check on all new pension schemes. This would include all ROPS, which HMRC does not currently undertake.

SSASs:

- Severely restrict the investments of SSASs.
- Prohibit/limit transfers to SSASs.
- Close the loophole on SSASs so that the member must be receiving earnings/fees from the sponsoring employer.
- Make employer contributions (at a minimum level for a minimum period prior to the transfer) a condition of transferring to a SSAS for it to qualify as an occupational scheme.
- Require SSASs to have a professional trustee.

Overseas transfers/advisors:

- Remove the statutory right to transfer overseas except where the member is permanently living and either working or retiring in the receiving country. We recognise that removing the statutory right to transfer means that the risk then falls on the trustees if they allow a transfer. It will also encourage more transfers to SIPPs that could then allow an onward transfer.
- Impose a tax charge on all overseas transfers.
- Remove the statutory right to transfer where a non-FCA regulated overseas advisor is involved even if there is also a FCA regulated advisor.
- Ban transfers to international SIPPs unless the member is resident overseas.
- Impose stricter regulation on transfers to Malta, Gibraltar, the Channel Islands and IOM.
- Prevent FCA regulated advisors from working with overseas advisors who accept commission or who use contingent charging.
- Prevent FCA regulated advisors from working with overseas advisors unless the overseas advisor is based in, and regulated by, the country in which the member is permanently resident and works or is retiring to.
- Amend the ROPS requirements to make it illegal for the receiving scheme to work with non-FCA regulated advisors on a QROPS transfer and impose a tax charge on the ROPS transfer, if the provider has worked with such an advisor.

- Require all ROPS / SIPPS to state that they will only work with FCA regulated advisors and will deny any transfer where a non-FCA regulated overseas advisor is involved unless the member is overseas and the non-FCA regulated overseas advisor is based in, and regulated by, the country in which the member is permanently resident and works or is retiring to.

6. What more can be done to prevent individuals becoming victims of pension scams?

- Continued and sustained education for scheme members – both by trustees and employers, and by industry groups, regulators and government. The education needs to balance carefully the risk warnings about transferring out against the government's drive to speed up transfers, since some conflict seems likely. Risk warnings about DB risks also need to be balanced against the desire for members not to transfer unnecessarily, and a coherent message is needed.
- Require all communication to be direct with the member – remove any correspondence with advisors. This would ensure the member was always aware of what was happening, although we acknowledge that this could make transfers slower.
- Require all overseas transferees to take advice from an FCA regulated advisor (i.e. DC members and all DB members including those with transfer values less than £30k).
- Improve regulation on SIPPs investments.
- Require standard warnings about the use of overseas advisors.
- Require all DC members with a pension pot over £30k to take appropriate financial advice before transferring.
- Make it illegal to invest in unregulated investments.

7. What role should the pensions industry have in preventing scams?

- As a main contact point for pension savers, the pensions industry has the responsibility to raise savers' awareness about pension scams and pass on up-to-date, relevant information. This should be brief and engaging with a view to signposting savers to information maintained by public bodies (see the reply to 9 below).
- As a third party administrator, we also have the opportunity to raise awareness of the latest developments in pension scams and can highlight these to our employer/trustee clients, who can then choose to educate their employees/scheme members.
- Pension providers should have robust procedures in place to ensure they are paying benefits to the correct person, adopting digital solutions where available to maximise security without introducing unnecessary delays to the settlement of benefits.
- When processing pension transfer requests, providers should follow the principles of Combating pension scams: Code of good practice.

- Proactively join with intelligence-sharing initiatives, like the Pension Scams Industry Group and Forum.

8. Is HMRC's position on the tax treatment of pension scam victims correct?

Before applying tax penalties, HMRC should assess pension scam cases to decide if an individual has benefited in any way from the transaction or if there was any intention to act illegally. The law may need amending for any HMRC discretion to be applied.

9. Are public bodies co-ordinating the response to pension scams?

The existing public bodies could do more:

- The various bodies should unite to provide one information sheet/link for members. Instead of or in addition to the current scam leaflet, the FCA/TPR/MaPS could jointly provide a central document which is kept up to date with links to guidance and warnings, information on the requirement to take the requirement to take appropriate independent advice (AIA), recommending that members who don't need to take AIA still take regulated financial advice, where members can find a regulated advisor and what questions they should ask, where members can find more guidance (MaPS etc), who to contact with suspicions and so on. This would provide consistency, ensure that all pension administrators are providing suitable information and make it simpler for members to understand. Regulators and pension providers could then link to the document from their websites and reference or send out the leaflet/link in communications, thus allowing single central updates where necessary and a single source of information for members. At the moment, there is a plethora of ever-changing, overlapping information, rather than centralised information and high quality guidance for providers and members.
- The FCA could publicise cases where they have restricted the permissions of advisors in relation to pension transfers (and issue updates when restrictions are subsequently removed). This could be done by way of a daily website bulletin or via email to subscribing parties.
- Public bodies should unite to create a publically available 'Whitelist' for potential receiving arrangements, possibly maintained by MaPS.
- Public bodies should unite to create a watch list of schemes, providers and individuals, possibly maintained by MaPS, which could be accessed by approved, fee-paying subscribers. Trustees could be permitted to delay or decline transfers to schemes on this list
- TPR could set up a confidential mailbox where transferring schemes can raise concerns. Like the HMRC status requests, the answer could just be negative – "We have no known concerns with this firm/scheme at the present time" or "We are unable to confirm the validity of the scheme/firm at the present time". The FCA would provide the data. Only registered users would be able to access the service. Subscribers to the service paying a fee could cover costs.

10. Other relevant information

It is impossible for trustees to know what happens after benefits have been drawn from their scheme, for example onward transfers or changing the investment of pension commencement lump sums. Although possible risks can be signposted, trustees have no control over what happens after a member has transferred their benefits out of the scheme.

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