Government of JERSEY

Pension Regulation Feedback

High Level Summary of Consultation feedback –

The focus of Government's second consultation for pension regulation was what should be the principles for regulation of pensions in Jersey and how they should operate in practical terms. There were 7 key topics the consultation raised.

Below is a high-level summary of the responses received by Government.

(i) **Principles of scheme management and accountability**- Respondents were generally supportive of these principles, but the majority made a request for Government to keep pension regulation proportionate and focussed on specific risks applicable to Jersey pension plans (where there was a regulatory gap) rather than adopting a blanket approach. A number suggested where there are Group schemes regulated in other equivalent jurisdictions, such as UK, these should be exempted from additional regulation in Jersey. Overall it was felt that more detail on how the standards or requirements were to work was required.

(ii) **Lay trustees –** there was a mixed response as to whether they should be regulated or not. It was generally considered unhelpful to regulate them in the same manner as professional trustees, but all respondents supported the principle that there should be some standard level of knowledge and understanding with a CPD training requirement of lay trustees.

(iii) **Cooperation with relevant authorities -**all supported full cooperation with the Regulator and Comptroller, and to create an information gateway between the two.

(iv) **Record keeping –** the main concern was to keep this obligation reasonable and proportionate. Generally, it was felt more detail on these obligations was required before people could comment further.

(v) **Reporting -** the requirement for reporting was generally supported, but it was felt that care needed to be taken to ensure the obligation remains relevant to the specific scheme types and that appropriate member data privacy is maintained. Many respondents said care was also needed to keep the proposed reporting obligations reasonable, proportionate and cost effective and more detail was required.

(vi) **Remit of Ombudsman-** all respondents supported clarification of the Ombudsman's remit and for it to extend to all Jersey pensions plans and not just those managed by financial service providers. The main concern was the cost impact of increasing its remit and how that could lead to an increase in costs to the consumer.

(vii) **Regulation of International Savings Plan** – Various industry members through the Jersey Finance suggested that regulation of these plans should try and dovetail with existing regulation of providers under different Codes of Practice to avoid duplication and avoid any question about their historical regulatory position.

Industry respondents were divided as to whether this form of regulation should fall within the concept of pension regulation, particularly given their different tax treatment.

Industry request for a Staged approach

A number of respondents felt that a staged approach to allow providers and unregulated schemes time to meet the new obligations and put in place the relevant changes would be beneficial. They also felt it would be beneficial to stage the introduction of pension regulation so as to understand how each set of changes played out in practice, although others said introducing regulation piecemeal was not helpful.

Additional feedback on initial proposals of first consultation for regulation of pensions

Renewed concern was raised by non-industry respondents as to the proposed regulation of Self-Invested Pension Plans (approved under Article 131B of Part 19). They focussed on the lack of any additional consumer benefit in imposing regulation on these plans as they are already subject to an annual supervision requirement by Revenue Jersey (they are obliged to submit their annual accounts to Revenue Jersey for its review), and the likely adverse costs outcome in administering these plans.

There was also significant concern from international pension schemes and their providers as to the risk of ‘double compliance burden’ where the regulatory provisions Jersey adopted did not match those already applicable in other jurisdictions. Certain respondents felt this might have an adverse impact on an already limited market for pension provision in Jersey. Many respondents said that regulation of pensions should be targeted at achieving better outcomes for the ultimate consumer, higher quality, lower cost and better security and better control of funding rather than be a “tick box” exercise.

Key harms in local pension market identified by feedback from the Consultations

The following consumer harms were identified by Government’s two consultations and those consultations previously issued by the Jersey Financial Services Commission, which also touched on pensions and the suitability of investment advice given to consumers wishing to transfer their pension benefits:

(i) excessive charging by financial service providers in the local pension market;
(ii) lack of transparency of fees and charges imposed on members’ benefits;
(iii) unsuitable and/or self-interested advice being given by financial advisers to members;
(iv) the barrier to making and resolving complaints when an occupational pension scheme is managed by a non-regulated person.

In the main, these issues fall within the ‘retail’ side of pension provision in the Island, which is undertaken by way of business by financial service providers. It consists mainly of issues relating to the investment business side of pension provision.

Government’s proposed approach

Government believes a phased approach to pension regulation is the most appropriate approach to adopt in the circumstances. It is looking to introduce pension regulation in three phases to be delivered over the next few years.

Phase 1

Government proposes to close regulatory gaps in the pension retail market to address key consumer harms. It will look to bring all providers who offer investment business services to locally approved pension arrangements into direct regulation. This will ensure all providers operate according to the same standards and requirements and have the full protection of the Investment Business Codes.

Phase 2

Government proposes addressing the difference in standards between lay and professional trustees. It intends to first achieve this by way of extending the remit of the Channel Island Financial Ombudsman to all pension schemes. This can then be built on by Phase 3 with full regulation of all pension providers and functionaries.

Phase 3

Full regulation of all local tax approved pension products and service providers acting in both the local retail and private market by way of a new law.