BIRCHWOOD INVESTMENT MANAGEMENT LTD NEWSLETTER

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It's plain sailing...

Regulator shuts £134m pension liberation schemes

Legal action by the Pensions Regulator has blocked five linked pension liberation schemes that received transfers totalling more than £134 million from over 1,400 people.

As the regulator published a report on the case on 21 November, executive director Andrew Warwick-Thompson said: "Our action in this case sends a message to anyone operating in this marketplace that we will take action to shut down schemes that pose the greatest risk to members' pensions, and which may, as a result, undermine confidence in the pensions system generally.

"This was one of the biggest, most highly-organised pension 'liberation' exercises we've seen. It spread quickly as a result of marketing by a network of introducers who attracted individuals by direct marketing including cold-calling. Fees of 11 per cent – totalling more than £14.7 million – were charged to implement these transfers.

"Those caught up in these schemes may face tax charges, even if they were told that the payments would be free of tax. This would have been the case whether or not we had intervened.

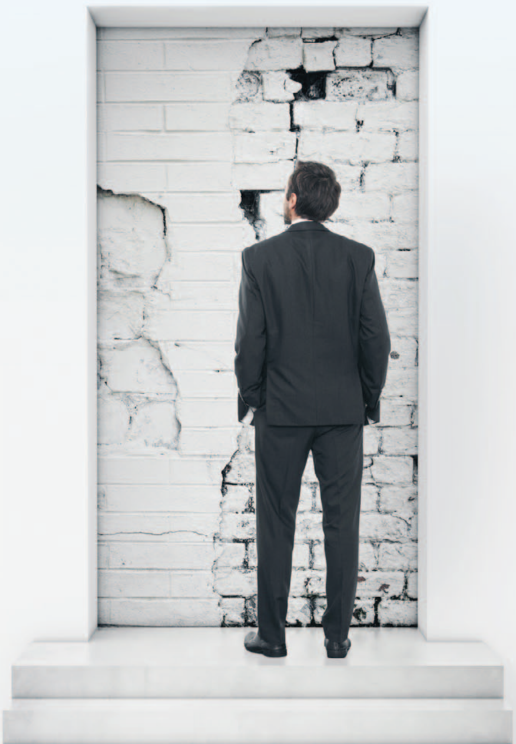
"Our aim was to ensure that the schemes were closed before more people were enticed to transfer their pension pots into these schemes. Where members feel they have lost out, these legal proceedings leave the way open for them to take their own legal action."

The regulator launched High Court proceedings in July 2013 against A Admin Ltd, Warwick Pensions Administration Ltd, Lincoln Pensions Administration Ltd, Baxendale Walker LLP, and Paul Baxendale-Walker, over concerns that the schemes had been set up with the main purpose of providing a cash payment to the member rather than providing retirement benefits.

The schemes operated according to complex arrangements that purportedly enabled funds to be 'lent' to the member via a company under the member's control, which would become their employer under one of the schemes. The member could then use the money as they wished.

The schemes sought to allow members to access their pension funds as cash through a supposed legal loophole. In May 2014, the High Court ruled that this supposed loophole did not exist, finding in the regulator's favour on three preliminary legal issues.

The defendants have signed a legally binding agreement confirming that the schemes are wound up, relevant defendants no longer act as trustees of the schemes and that the schemes are not able to accept transfers from any other pension schemes.



Over-40s 'hit by new mortgage rules'

Mortgage lenders are stepping back from offering loans extending into borrowers' retirement, according to a new report.

Research by the Intermediary Mortgage Lenders Association (IMLA), published on 24 November, suggests that people seeking a loan likely to remain outstanding beyond a "normal" retirement age of 65 are suffering from unclear Mortgage Market Review (MMR) rules.

Most private sector employees are now in defined contribution (DC) pension schemes, which can make it difficult to accurately predict pension income and harder for lenders to decide how affordable a loan might be post-retirement.

The MMR requires lenders to ensure mortgages are affordable for the lifetime of the loan. IMLA said this was leading some lenders to impose lower maximum age limits, to avoid potential future accusations of breaching the rules should customers' pensions not be enough to meet mortgage repayments after they retire.

As a result, anyone over the age of 40 could find their mortgage options restricted when seeking a loan with a term that would take their borrowing past the age of 65.

Executive director Peter Williams said: "Restricting access to mortgage credit is the right decision in some circumstances for the consumers' long-term security, but equally there are situations when a refusal to lend can prove to be to the borrower's financial detriment."

He added: "There is still a place for the majority of non-standard borrowers in the post-MMR mortgage market. An expanse of products remain on offer, backed up by expert broker advice which is increasingly vital to help consumers pick their way through the maze and find a product to fit their circumstances."

As an independent advisor, Birchwood can research the whole mortgage market for options, including those offered by less well-known lenders, to source appropriate products as well as providing support throughout the mortgage application and purchase process. For more information, please contact us.

Smaller firms offered help on auto-enrolment

The Pensions Regulator is set to publish a list of pension schemes to help small and micro employers prepare for automatic enrolment.

Research by the organisation, which regulates UK workplace pensions, suggests that one in five (290,000) employers in this category will not seek advice when choosing a pension scheme in which to automatically enrol eligible workers, while one in ten (130,000) do not know how to select a scheme, or think it will be difficult.

Now the regulator plans to publish on its website a list of schemes meeting key criteria, as a starting point for smaller employers to find out what is available. The regulator, which has been seeking views on the proposal in a consultation that closed on 1 December, will make it clear that there may also be more suitable schemes on offer.

Charles Counsell, the regulator's executive director for automatic enrolment, said: "We want to head off the risk that small and micro employers may struggle to comply because they lack the information they need to identify a scheme for their staff."

Meanwhile, new research has found that almost half of the businesses that have so far had to auto-enrol have postponed the process.

Law firm Hugh James found that 4,590 out of 10,817 firms (42.4 per cent) had taken advantage of rules enabling them to delay auto-enrolment by up to three months.

The firm said smaller firms – which will be coming on board in 2015 – tended not to have large HR and payroll teams, which meant they were likely to rely even more heavily on postponement. Partner Louise Price said: "The biggest reason for businesses to postpone appears to be a general lack of preparation."

Birchwood Investment Management's fully qualified team offers extensive experience in auto-enrolment and other occupational pension issues. Our experts can provide advice on a one-to-one basis, or through seminars, or we can provide more specialist assistance with reviewing and upgrading pension schemes or implementing new schemes. For more information, please contact us.

Market Report

23 December 2014

Global Review

Global equity markets continued to decline in the first half of October as investors took profits following confirmation from the US Federal Reserve that their programme of quantitative easing would end as expected during the month. The 6-year stimulus package, designed to reinflate the economy, has also driven the recovery in asset prices and its withdrawal prompted investors to take risk off the table. Tensions between Russia and the West, military action in Syria and Iraq, the Ebola crisis and the threat of recession in Europe and Japan also served to subdue investor sentiment.

However, announcements from both the US Federal Reserve and the Bank of England suggesting a delay in future interest rate rises, coupled with further stimulus from both the European Central Bank and the Bank of Japan, all in reaction to weak inflation numbers, triggered a sharp rebound in stock prices during the second half of the month. The recovery continued into early December before equity markets again declined as the tumbling price of oil was taken as a sign of weaker global demand.

UK

Despite the number of unemployed dropping below two million for the first time since 2008, inflation has continued to fall with lower fuel and food costs holding CPI at 1% in November, the lowest level in 12 years. The good news for consumers is that wages are now growing in real terms as inflation has dropped below the average pay increase. Weak inflation figures have also extended the timetable for future interest rate rises with no signs of a sharp pick-up in economic activity.

To the contrary, the Office of Budget Responsibility has predicted weaker GDP growth in 2015 as the global recovery slows. However, the UK economy expanded at a healthy rate of 0.7% in the third quarter, in line with consensus expectations and only marginally slower than the 0.9% recorded in the second quarter of 2014. This contrasts with growth of just 0.2% across the Eurozone, the UK's largest trading partner, as Germany narrowly avoided recession by growing at a rate of just 0.1% in the three months to the end of September.

US

After the shock contraction of US GDP during the first quarter due to extreme weather conditions, economic expansion has comfortably exceeded expectations with annualised growth of 4.6% and 3.9% in the second and third quarters respectively. The economy has now grown at an annualised rate of 3% or more in four of the last five quarters adding to confidence that the US has the momentum to sustain a recovery without the need for central bank support. This was further enforced by strong employment figures as the number of new jobs created in November came in well ahead of expectations.

The health of the jobs market has been one of the key measures used by the Federal Reserve to express the health of the economy and the timing of the withdrawal of quantitative easing. Whilst the US central bank shares the view that the economy has reached escape velocity, the prospect of higher interest rates remain subdued given the threat of deflation and lack of demand that currently persists in other major global economies. It is likely that the Federal Reserve will be the first to increase the cost of borrowing but higher interest rates are not expected before September 2015.

Europe

Expectation is rising that the European Central Bank will engage in outright quantitative easing in 2015. All measures by the Bank to date, including negative deposit rates and offering commercial banks cheap loans in an attempt to force money into the economy, have failed to stimulate activity. Germany has softened its opposition to full-blown quantitative easing following its brush with recession, leaving the door open to "the purchase of other assets, one of which may be sovereign bonds".

The idea of full-blown quantitative easing in Europe and further stimulus from the Bank of Japan buoyed global equity markets. Sentiment was improved further by the results of the European Central Bank's Comprehensive Assessment of the EU banking system that, whilst not perfect, did not contain any surprises. However, there was less positive news from Greece after Eurozone ministers decided not to release the final €26bn bailout payment on grounds that the necessary reforms, a condition of the rescue package, had not yet been implemented. In response, Prime Minister Antonis Samaras declared a snap election leaving the implementation of the reforms in further doubt.

Japan

Prime Minister Shinzo Abe also called and convincingly won a snap election in December, a firm vote of confidence in his planned economic reforms. The size of the victory allows the government to push ahead with the third phase of 'Abenomics', a programme designed to achieve the twin targets of 2% inflation and 2% growth. The Bank of Japan had shocked markets only weeks earlier by stepping up its quantitative easing programme by ¥10tn in response to falling inflation and weaker growth. The decision coincided with confirmation of the end of quantitative easing in the US.

Official figures subsequently confirmed that Japan fell back into recession in the third quarter as economic output shrank by 0.5%. Consensus had predicted a rebound from the 1.8% contraction in the second quarter, attributed to a hike in sales tax, making the fall even more of a shock to markets. Core inflation has also been falling with a 13-month low of 0.9% registered in October, driven by the lower oil price and weaker consumer demand. With both inflation and growth falling well short of government targets, Prime Minister Abe has postponed a further planned rise in sales tax that was intended to help balance government spending.

Asia

The People's Bank of China added to equity market impetus in November by announcing a surprise cut in interest rates. The cut, the first in two years, was a response to weaker economic activity and concerns over rising debts levels. Growth is expected to fall short of the government's goal for 7.5% in 2014 despite targeted injections of liquidity in recent months. It is feared that slowing growth will be unable to fund the rapid rise in debt, now estimated to be 250% of GDP, built up following the financial crisis.

Equity markets in India have risen over 40% during the year to the end of November, driven by the expectation of meaningful economic reform following the election of Prime Minister Narenda Modi. With a majority in the lower house for the first time in 30 years, no indication of a rise in interest rates from the US, large falls in the price of oil and easing inflation, conditions could not be better for the ruling BJP. India is the world's third largest importer of crude oil and spends $11bn per year on fuel subsidies alone.

Tax debt recovery safeguards strengthened

The government says it has improved safeguards to protect vulnerable taxpayers in its plans to recover tax and tax credit debts directly from taxpayers' bank accounts.

Direct Recovery of Debts (DRD) will give HM Revenue & Customs (HMRC) the ability to recover cash directly from the bank, building society and ISA accounts of personal and business taxpayers who owe £1,000 or more.

HMRC estimates DRD will apply to around 17,000 cases a year and involve an average debt of £5,800. It says around half of these cases will involve debtors with more than £20,000 in their accounts.

When the government launched a consultation on the plans in May 2014, they included safeguards such as only applying the powers to established debts and only targeting debtors who had repeatedly ignored attempts to make contact.

HMRC also said it would always leave a minimum of £5,000 across debtors' accounts and only put a hold on the funds in an affected account up to the value of the debt due.

In response to feedback gathered during the consultation, the government announced on 21 November that it had further strengthened the safeguards to include:

- a face-to-face meeting with an HMRC officer to ensure that anyone subject to DRD will have had a chance "to challenge and settle their affairs" – whether by paying in full or setting up a payment plan – and that DRD will only apply to those who have chosen not to do so. The visit will also allow HMRC to provide appropriate support to vulnerable taxpayers
- setting up a new unit to deal with cases involving vulnerable taxpayers, as well as providing a dedicated DRD team and helpline
- giving taxpayers the right to appeal to the County Court
- giving taxpayers 30 days – more than twice as long as previously planned – to contact HMRC and arrange payment of a debt or object to the use of DRD, before any money is taken.

Financial Secretary to the Treasury David Gauke said: "The vast majority of people pay the tax that is due, on time, but there is still a very small minority who try to gain an unfair advantage by persistently refusing to pay what they owe, despite being able to. These are the people who will be targeted by the powers for the direct recovery of debts.

"We already set out robust safeguards to protect vulnerable debtors in our original Direct Recovery of Debts proposals, but feedback from the consultation process told us we could do more to make sure this only catches those who are playing the system.

"We're strengthening the guarantees we can offer taxpayers that the powers will only be used when debtors have consistently refused to talk to HMRC and settle their debts, and their use will be subject to the toughest scrutiny and oversight possible."

Webb: Some pension savers will make wrong choices

Pensions Minister Steve Webb has warned that some people will make "the wrong choices" when new pension freedoms take effect in April 2015.

Speaking at the Institute of Chartered Accountants in England and Wales (ICAEW) Retirement Summit in London on 17 November, he said: "This coming April, some people will get it wrong.

"They will make the wrong choices. They will get a worse outcome than if they had, for example, fully taken up our guidance or paid for advice or if they had bought an annuity. That's what happens when you set people free."

From April 2015, people aged 55 will be able to take their defined contribution pension pot how they want, with 25 per cent tax-free, as it is at present, and any other money withdrawn subject to their marginal rate of income tax in that year.

Pension savers will have the freedom to buy an annuity if they wish to do so, take their whole pension pot in one lump sum or keep their pension invested and draw funds from it over a period of time.

The government will be offering a free guidance service for people aged 55 and over from April, to help them assess their options. Mr Webb told the summit he saw that advice as a "taster" that he hoped would help people "realise that advice might be worth paying for".

At Birchwood, we recognise that the pensions environment is a confusing one and that the imminent changes to pension rules can make it even more challenging to make decisions that will maximise future financial security. For more information on any aspect of pension savings or release, or retirement planning, please contact us.

Birchwood Investment Management Ltd, 8 Prospect Place • Welwyn • Hertfordshire AL6 9EN • UK
Tel: 01438 840 888 (Welwyn) • 0161 932 1038 (Manchester) • **Fax:** 01438 840 097 • **Email:** info@birchwoodinvestment.com