ICAEW
REPRESENTATION 86/23

PENSIONS REFORMS

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ICAEW welcomes the opportunity to comment on possible reforms to the UK's pensions regime outlined in the speech by the Chancellor of the Exchequer his Mansion House speech on 10 July available from this link and the series of associated consultations and calls for evidence from Department for Work and Pensions, Department for Levelling Up, Housing and Communities and HM Treasury.

For questions on this response please contact us at representations@icaew.com quoting REP 86/23.

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This response is made following consultation with ICAEW's Pensions Sub-committee, which includes auditors, accountants and trustees of UK pension schemes.

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KEY POINTS

Our approach to responding to the consultations.

1. This representation addresses some of the key themes raised by the Chancellor's speech and the related consultations.
2. We are not submitting detailed responses to the individual consultations, but would ask that this high-level response is considered by the teams responsible for the following consultations:
   - Pension trustee skills, capability and culture: a call for evidence (DWP/HMT)
   - Options for Defined Benefit schemes: a call for evidence (DWP)
   - Local Government Pension Scheme (England and Wales): Next steps on investments (DLUHC)
   - Helping savers understand their pension choices: supporting individuals at the point of access (DLUHC).
3. We would be happy to discuss any issues arising with those concerned if that would be helpful.

Importance of pensions savings in the economy and need for a good regulatory regime

4. We agree that pensions play an important role in the UK's economy and that it is in the national interest that assets are used in productive ways.
5. We also agree that there may be scope to improve the current regime so that assets might be used more productively, although we are not sure that the sums involved would be as significant as government seems to believe, given other options available to some funds (eg buy outs) and the overriding need to put the interests of beneficiaries first. With the increase in buy-outs, the focus should not just be limited to pension funds.

DB Schemes – role of trustee - balancing interests of beneficiaries and employer

6. We agree that treatment of surpluses in DB schemes and the ease of their return to sponsoring employers merits further consideration. The regime was largely designed to protect beneficiaries against risks of underfunding and surpluses are to some extent an emerging issue as more schemes reach maturity and yields have increased.
7. We see the attraction in enabling trustees to take greater account of the interests/desires of the sponsoring employer compared to those of the beneficiaries where there is a substantial surplus with little or no risk to beneficiaries should it be invested in relatively high-risk investments. This should, however, be a decision for individual trustee boards based on the specific circumstances and not a mandated requirement. In addition, there are some hurdles that will need to be overcome if government is to take this forward without risk of unintended consequences.
8. It seems to be the case from the Mansion House speech that interests of beneficiaries are still to be put first. This may limit the discretion of trustees (as the regulatory regime currently stands).
9. The current position is a natural result of regulatory initiatives over many years and guidance issued by the Pensions Regulator. If government wishes trustees to adopt a less risk-averse approach regarding surpluses, it should consider the withdrawal or amendment of the relevant regulations and guidance. We believe that this is a more important factor than the qualification and skills of trustees, who will typically also take investment and other professional advice to meet their regulatory obligations. The skills and expertise of these advisers is a further factor that merits consideration.

10. Trustees could be put in an invidious position if they are required to have potentially competing duties towards beneficiaries on the one hand and sponsoring employers on the other in relation to the same pool of assets. If government takes the view that certain surplus assets should be regarded as belonging to the employer, then it may need to legislate to specify how these assets would be defined and what, if any, duties a scheme trustee might have in relation to them.
11. Clarity will be essential or there is a risk that there is a tension between employers and trustees on the investment of assets and that trustees (or employers) will feel it necessary to take advice (legal, investment etc), with significant cost implications.
12. There is also a risk that the fundamental principles of separation of pension scheme assets from those of the sponsoring employer and the independence of trustee boards are undermined and that the sponsoring employer becomes overly focussed on the creation of a surplus from pension scheme assets rather than a focus on its business objective.
13. The use of surpluses returned to a sponsoring employer should also be left to the discretion of the sponsoring employer.

Government as investment advisor

14. Some of the proposals appear to assume levels of certainly and predictability about the risks and returns of types of investment (eg private equity v gilts) that we would question – it is generally believed that higher returns come from greater risk and therefore uncertainty.
15. In view of this it is unclear to us why government would require the private sector to invest its assets in ways that the private sector investors might not otherwise do. Either way any reforms in this area should be accompanied by mechanisms to enable the success or otherwise of its initiatives to be measured.
16. It is, of course, essential that the risk and reward attached to a greater level of investment in alternative and unlisted investments is clearly communicated to members. Any promise of additional return must be suitably caveated.

Maintaining choice and UK growth

17. We generally support a reform agenda designed to increase the investment options open to trustees of DB schemes and investors in DC schemes, but are sceptical about measures that would mandate (or coerce) them into particular types of investment for reasons touched on above (eg risk v return equation, differing investment needs).
18. We suggest that, if government wishes to promote investment it particular kinds of assets, eg UK infrastructure, private equity, UK listed companies, it should consider offering incentives, such as tax reliefs. This would enable those taking investment decisions to weigh up the risks and benefits and take decisions to suit their own circumstances and their own risk appetite.
19. Government should also ensure that the UK is an attractive place for business to attract investment. This includes ensuring that the regulatory regime is suitable for the purpose – a cause that ICAEW supports (including through its better regulation project).

