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Our ref: ICAEW Rep 07/13

Jane Woolley
Department for Work and Pensions
Enabling Retirement Savings Programme
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Dear Ms Woolley

Supporting automatic enrolment: A call for evidence on the impact of the annual contribution limit and restrictions on transfers on the National Employment Savings Trust

ICAEW welcomes the opportunity to comment on the call for evidence *Supporting automatic enrolment: A call for evidence on the impact of the annual contribution limit and restrictions on transfers on the National Employment Savings Trust* published by Department for Work and Pensions on 6 November 2012, a copy of which is available from this link.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 138,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

This response reflects consultation with the ICAEW Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

NEST restrictions on transfers

Given the need to deal with the proliferation of small pension pots, particularly as the implementation of automatic enrolment will only increase this issue over time, we were supportive of the DWP initiative to increase their aggregation (see ICAEW Rep 43/12), and we believe it is vital that NEST is capable of participating in any proposed solution. We supported the use of NEST as an automatic national aggregator fund, but with employees (at their option) being able to override this automatic transfer by requesting a 'follow-me' transfer to their new employer. Whether our proposed approach is used, or a 'follow me' arrangement that is currently favoured by the government, the NEST restrictions on transfers in and out should be lifted in order that NEST is able to participate in any solution. We therefore support Approach 3 (in combination with Approach 8, see below), under which the restrictions are completely lifted.

Regarding timing, we believe that these changes should be brought in as soon as it is possible to achieve the necessary Parliamentary approvals so that the changes are made before too many small pots arise as a result of auto-enrolment, which has already started to be rolled out.

As we suggested in ICAEW Rep 43/12, we believe that (over time) the small pot solutions should be extended to deal with 'legacy' small and dormant pots, and we therefore believe that bulk transfers of them into and out of NEST should be permitted at some point in the future. However, in order to mitigate any potential adverse effect on NEST (as outlined in paragraph 100 of the DWP consultation paper *Meeting future workplace pension challenges: improving transfers and dealing with small pension pots* available from this link), we believe that opening up transfers to such 'legacy' pots could be after a transitional period (to be determined by DWP but for example after 2017/18, to allow NEST, auto-enrolment and the automatic transfer regimes to bed in), and could perhaps also be phased in order to mitigate the impact on NEST. The treatment of legacy pots may also need to be split between member-initiated and scheme-initiated transfers. For instance, consideration could be given to enabling employees to request 'follow-me' transfers of legacy pots sooner than permitting scheme-initiated transfers.

There is, we should point out, a separate need for bulk transfers to stop what would become future 'small pots'. This is where a group of employees change scheme because either their employer switches to another auto-enrolment scheme or where they are subject to a change in employer such as a TUPE transfer. There is logic to addressing such transfers at an earlier stage in the legislative process.

NEST Annual Contributions Limit

Regarding the Annual Contributions Limit (ACL), we are concerned there will be a lack of capacity and/or appetite in the pensions market to deal with the very large numbers of smaller employers that are expected during the peaks anticipated at certain points through the staging of auto-enrolment. During these peaks of smaller employers (when more than 100,000 employers are to be staged in each month), the pensions industry may be unable to cope due to a lack of capacity or unwilling to cope due to a lack of profitability in serving these smaller employers. Smaller employers who are unable to find a solution elsewhere in the market will look to NEST under its public service obligation to accept any employer. However, NEST's ACL could undermine NEST's public service obligation in respect of any such smaller employer who also has one or two higher earners, as such employers would be required to implement a two tier system with their higher earners in a separate arrangement (with the associated complexity and cost). We therefore support Approach 8, which is for these ACL restrictions to be lifted during the auto-enrolment implementation period. We note that, while NEST's default (target) funds are aimed at lower earners, NEST does offer other options, eg, higher risk funds, which may be more suitable for higher earners that are more sophisticated.

Regarding timing, we believe that these changes should be brought in as soon as it is possible to achieve the necessary Parliamentary approvals, to facilitate the choice of 'qualifying scheme' for smaller employers and reduce possible complexity and cost. We therefore think these restrictions should be lifted ASAP, if possible before the peaks around January-July 2014 and (at the latest) by June 2015, in time for the rump (96%) of employers that have fewer than 50 employees. In this regard we note that most diligent employers are addressing auto-enrolment 6-9 months ahead of their staging dates.

Yours sincerely

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