



ABI Response to the HMT/DWP Consultation on the Creation of a Secondary Annuity Market

June 2015

The UK Insurance Industry

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Insurance helps individuals and businesses protect themselves against the everyday risks they face, enabling people to own homes, travel overseas, provide for a financially secure future and run businesses. Insurance underpins a healthy and prosperous society, enabling businesses and individuals to thrive, safe in the knowledge that problems can be handled and risks carefully managed.

The ABI

The ABI is the voice of the UK insurance industry, representing general insurance, long-term savings and life insurers. Formed in 1985, today it has over 250 members who account for around 90% of UK insurance premiums.

The ABI's role is to:

- Be the voice of the UK insurance industry, leading debate and advocating on behalf of insurers
- Represent the UK insurance industry to government, regulators and policy makers in the UK, EU and internationally, driving effective public policy and regulation
- Advocate high standards of customer service within the industry and provide useful information to the public about insurance
- Promote the benefits of insurance to government, regulators, policy makers and the public

We welcome the opportunity to comment on HMT/DWP's joint consultation on the creation of a secondary annuity market.

Executive Summary

- i. Providers support greater pension flexibility and choice for customers and the Government's proposal to create a secondary annuity market could potentially extend these choices further. In principle, these reforms could be made to work if an appropriate framework is in place that allows a market to develop. However, there are very considerable challenges in establishing a functioning market, particularly regarding protecting consumers, and many unresolved complex legal, regulatory and prudential questions. It is also unclear whether there is sufficient appetite from institutions for the proposed market to develop.
- ii. Going ahead therefore poses a risk and given the experience of the Freedom and Choice reforms we do not support an April 2016 start date and strongly urge the Government not to rush these proposals. This would give more opportunity for a market and the required regulatory regime to develop – but even then there can be no certainty about this.
- iii. As such, the Government and regulators will need to play their part alongside the industry in managing expectations about how quickly the market will develop, and in particular, encouraging joined-up, realistic and informed commentary on what the likely outcomes could be for customers.
- iv. Although removing the tax charge on assignment addresses the key statutory barrier to the establishment of a market, several complex issues must be considered and addressed in legislation, or regulatory rules, if a fully functioning market is to stand a chance of being established:
 - Scope, including the approach to different types of annuity and the status of annuities purchased for occupational trust-based scheme members. This will need further detailed consideration and lessons must be learnt from the Freedom and Choice reforms about media confusion over scope.
 - Status of buy-back. Our view is that commutation of annuities is already possible in certain limited circumstances and the existing legislative position should not change. However, confirmation is needed that no provider will be forced to engage in buy-back and it is vital that no such expectations are created.
 - Regulation, with complete clarity on both prudential regulatory implications for annuity purchasers; and conduct regulation of the annuity purchase, including who can participate and the regulatory requirements they must meet.
 - Tax, both ensuring compliance is straightforward and providing certainty to buyers, annuity providers and particularly to customers.
- v. There are many practical considerations that may not require legislation but are barriers to the development of an efficient market, including reputational risks to market participants:
 - Pricing and the perception of value for money.
 - Development of the purchasing process, within the bounds of regulation, so that it works smoothly for customers and encourages participation.
 - Notification of death. This problem could be solved by allowing the use of existing public sector sources of information on notification of death.

- How best to deal with the contractual rights of dependents and beneficiaries, particularly minors and vulnerable individuals, such as older people, those with illnesses or those with reduced mental capacity.
 - Consumer vulnerability to poor outcomes, tax liabilities, the risk of compromising means-tested benefits, poor sales practices, scams and fraud.
- vi. It is essential to an effective market that customer interests are protected and that customers are appropriately supported in making the right decisions for their own particular circumstances. Advice, most importantly, and guidance for customers are critical elements of customer protection. The Government and regulators will need to learn lessons from the current safeguards in relation to pension flexibility, on the effectiveness of those safeguards and the availability and cost of advice.

Consultation Questions

1. In what circumstances do you think it would be appropriate to assign one's rights to their annuity income?

1.1 A judgment about whether it is appropriate to assign one's rights is a matter for the individual, and is highly personal depending on their circumstances and preferences, both of which may change over time. Consumer protection, however, does need to involve a value judgment – it should be an informed decision that the person is happy with, and is in line with their long-term interests. Answers to this question and views on this consultation should be considered in that context.

1.2 We agree that in circumstances such as those set out in paragraph 2.4 of the consultation document, assigning an annuity may be appropriate assuming a 'fair' price is achieved for the customer and a bureau model, which we refer to later, could be a way to help drive competition. However, we also agree that assigning one's annuity may not be in the long-term interests of many consumers, as it involves giving up the security of a guaranteed income stream for life. Given the early experience of pension flexibility, it is likely that many customers will seek to do this.

1.3 It is also possible that a customer might want to reconfigure their annuity, for instance from a single to a joint life annuity – not just a more flexible pension product. Clarity is required on how this reconfiguration would work in practice, and we believe that legislative changes would be required to allow funds from a reassigned annuity to remain in a pension wrapper.

1.4 A large proportion of annuities in payment are relatively small and the simple convenience of exchanging a small regular payment for a lump sum may be tempting for annuitants – and understandably, annuitants may be looking to the proposed market to enable this. However, judgments on value for money will have to be made by the customer.

1.5 Furthermore, we understand that there is nothing in current legislation to prevent providers buying back small annuities (worth less than the small pots limit) and that this facility has been offered by some providers in the past. We return to this in the context of Question 3 below.

1.6 Other possible circumstances not cited in the consultation document may also include:

- Customers who want to drive better economic value from an annuity with a Guaranteed Annuity Rate than cashing-in a DC pot as an uncrystallised lump sum;
- Customers who have enough income from other sources like the state pension, a defined benefit pension, income drawdown or other annuities, and did not have the option of taking their savings as a lump sum when they previously reached retirement;
- Customers wanting to control their income and pay less tax. An annuity does not allow for the income level to be turned up or down to fit in with tax thresholds from year to year;

- Those wishing to pass on their lump sum to their family tax efficiently or use it in another way.

1.7 However, irrespective of a customer's personal circumstances, there will be a significant challenge for Government, the regulators and the industry in managing customer expectations on the value they perceive their annuity to be worth, versus the actual value offered by third-party buyers.

2. Do you agree with the government's proposed approach of allowing a wide range of corporate entities to purchase annuity income in order to allow a wide market to develop, whilst restricting retail investment due to the complexity of the product? What entities should be permitted and not permitted to purchase annuity income and why?

2.1 We agree that retail investors should be excluded and believe that the right balance would be struck through regulation. We would suggest that a market which consists of reputable operators that are already regulated by a common, existing set of market rules and principles would be easier to regulate. Any attempt to implement a common set of regulatory policies on participants that do not possess the same business functions or operate in existing common markets will likely be challenging and could lead to dysfunctional competition to the detriment of consumers. In deciding where to draw the line, there are a range of factors to consider.

2.2 There is a balance to be achieved between creating a wide enough market to enable sufficient competition and liquidity, and restricting those operating sufficiently to ensure it is a reputable market. Whilst the ABI believes that an effective market will require a number of players to be involved, the nature and complexity of the products concerned should limit the type of market players allowed to engage in such a market.

2.3 The accurate and fair valuation of an annuity in payment will be difficult. It will require an assessment of the time frame for continued payments therefore needing calculations based on factors such as age and health. This will probably require specialised individual underwriting and will be expensive for market participants to develop where it goes beyond what is already in place. Retail investors would not have the means to accurately price the value of annuities (nor the permissions to access consumer medical information if medical underwriting is to be a prerequisite of this market). This would make them unsuitable buyers in a secondary market.

2.4 We would support overseas players entering a secondary annuity market, as long as these entities comply with existing UK regulatory requirements. However, with reference to our answer to Question 9, we believe there may be some challenges around the tax arrangements for foreign entities, and it will therefore be important to address these before allowing such entities to enter any market. Therefore, we believe that operating within a secondary annuity market should be an FCA regulated activity.

2.5 Further consideration must be given to non-insurer participants, where there are specific requirements for insurers. For example, the Concordat and Moratorium on Genetics and Insurance – an agreement between Government and the insurance industry which bans the industry’s use of predictive genetic testing – would not apply to buyers who are non-insurers, but may need to undertake some form of medical underwriting to offer a price. Similarly, the application to all participants of the Equality Act 2010, and the exemption on gender price discrimination that was removed in 2012, but continues to apply to existing insurance contracts, would need to be clear.

2.6 Discussions on issues such as these may inform the extent to which the market is opened up and the type of corporate entity that is able to enter the market as a third party buyer. Consideration must be made to the implications that any changes to these agreements between Government and industry could have on other markets or types of product. Ultimately, this may rest on the nature of the contract and the definition attributed to reassigning one’s annuity, specifically as to whether this is adjudged to be a capital fund or an insurance transaction – and therefore clarity is required on this point in the first instance.

3. Do you agree that the government should not allow annuity holders to access the value of their annuity by agreeing to terminate their annuity contract with their existing annuity provider (‘buy back’)? If you think ‘buy back’ should be permitted, how should the risks set out in Chapter 2 be managed?

3.1 It is important to distinguish between commutation or surrender of an annuity, where the annuity provider pays a lump sum and the contract is terminated; and a re-assignment of an annuity back to the original provider so that the annuity contract continues. This may have an important impact on its regulatory treatment and on providers who choose to participate in the market in this way.

3.2 As stated in Question 1, the ABI believes that there is nothing in current legislation¹ to prevent providers commuting small annuities with values under the small pots limit and HMRC has explicitly told us and our members that it is possible - and we would not want to see the position change. This may well be relevant to a significant proportion of the target market for the new proposals and could be a more cost-effective approach for this sector, although this does not address the issue of the annuitant not shopping around.

3.3 However, for the reasons identified in the consultation paper, increasing the limit at which commutation is permitted would pose increased risks for both the original provider and the consumer, as well as significant reputational risks for the wider insurance industry. If the limit is to be adjusted, any change in legislation must reflect the fact that commutation is optional for the original provider, as this will likely result in significant consumer pressure on providers from consumers, and potentially from third party buyers

¹ The de minimis rule for pension schemes, in Section 11A of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (SI2009/1171, inserted by SI2012/522): http://www.legislation.gov.uk/ukxi/2009/1171/pdfs/ukxi_20091171_en.pdf

of annuities, to facilitate them. Further consideration must be made on how to mitigate this inevitable pressure on providers.

- 3.4 Extending commutation beyond current limits would have significant prudential implications within the Solvency II regime. Extension of the ability of annuitants to surrender their policies would likely see annuities become ineligible for matching adjustment portfolios, undermining the benefit of the matching adjustment that HM Treasury secured through Solvency II negotiations. This would result in higher prices for policyholders due to an increase in the regulatory valuation of the associated liabilities, and an increase in the volatility of the associated solvency ratio.
- 3.5 Clarity should be sought from the PRA that buy-back would not introduce a matching adjustment issue under Solvency II, by limiting or eliminating the liability's matching adjustment eligibility. To ensure continuing matching adjustment eligibility, Article 77b(1)(g) of the Solvency II Directive (2009/138/EC) will require the buy-back value to be less than the market consistent value of the backing assets.
- 3.6 Further to the possible Solvency II implications, the potential impact on reinsurance arrangements must also be considered. Allowing commutation of annuities in this market, irrespective of any change in value limit, would require providers to unwind any reinsurance arrangements and the surrender value would depend on the sale price of the actual assets held, in order to protect remaining policy holders. This could have a real impact on the quote given by a provider compared to the value that any third party would place on the payments.
- 3.7 Under some such arrangements, the reinsurer may hold the full liability and it would be for them, not the annuity provider, to decide if they were prepared to buy back, and if so, at what price. Further detailed consideration will also need to be made regarding other potential complex prudential risks for providers, including the implications for insurers who have longevity swaps.
- 3.8 If there is a practical difference in the view of the PRA between commutation and re-assignment by a provider to itself, this will be important to establish.
- 3.9 From a customer's point of view, entering into a buy-back agreement with their original annuity provider may be perceived as the simplest method by which to terminate their annuity rights, and therefore may deter customers from shopping around. As this is likely to be the 'path of least resistance' for customers, this poses a significant challenge. As with any financial decision, customers should be strongly encouraged to shop around for quotes to obtain the best price.
- 3.10 There are potential solutions that have been put forward to mitigate the aforementioned challenges, such as the establishment of authorised bureaux providing brokerage services, and we refer to these again under Question 13. These may limit the pressure on providers to bid, and would incorporate shopping around into the process, as well as delivering an external competitive and transparent valuation mechanism. However, we must stress that whilst similar systems already exist within the annuity market, they need not be driven by legislation. Furthermore, any bureau would have to

be economically viable for its establishment to be justified, as well as being fully regulated.

4. Do you agree that the solution to the death notification issue is best resolved by market participants? Is there more the government should be doing to help address this issue?

4.1 The ABI believes that the issue of death notification would be best resolved by Government, either through the creation of a central death register or another centrally driven system of recording deaths – the basis of which already exists within Government.

4.2 The three alternative solutions outlined in the consultation all pose significant practical and financial challenges to the annuity providers, and do not fully address the issue. A central register would also provide the greatest certainty as to whether annuity payments should be continued or not, particularly given the lack of financial incentive on the consumer to provide notice.

4.3 Further, we disagree with the consultation paper that the establishment of such a system will be complex, expensive or disproportionate. Currently, relatives are required by law to register deaths and we would expect that the ‘Tell Us Once’ system already in operation to assist with the cessation of state pension payments on death could play a role. Therefore, an expansion of and extension to insurers’ access to this database would negate the death notification issue quickly and with minimal cost. If not, whilst a central death register may incur some initial costs, we believe that such a system will have added use outside this specific market. Government and regulatory initiatives such as Gov.UK Verify and other future policy proposals, could play a role in resolving the death notification issue.

4.4 In terms of other possible solutions, some providers already operate tracing systems to ascertain whether annuitants are still alive. Whilst some providers will be able to continue doing so, others currently use a paper certification system and therefore this method would be void for this market, because the customer would have no incentive to prove otherwise. In addition, tracing systems are somewhat limited in that they produce a range of matches which subsequently require follow-up work. Further difficulties are encountered when attempting to trace annuitants who have moved abroad.

4.5 However, we strongly believe that these are secondary to the proposal for a central death register, and anything established and run by the industry would be far less comprehensive than a system run by Government. Finding simple, low cost remedies to the more complex challenges will be the key to creating competition and attracting the participants required for such a market to become established, whilst also ensuring additional costs are not borne by customers.

5. Do you agree with the proposed approach of the government working with the FCA regarding the fees and charges imposed by annuity providers?

5.1 We broadly agree with this approach and it is right that HMT and the FCA should monitor how a fees and charges regime develops within the new market. However, there are important factors that need to be borne in mind when thinking about a potential new fees and charges regime.

5.2 The cost of assessing the value of an annuity and the viability of an assignment by a provider and third party could be high, potentially involving specialised medical underwriting for example, as well as the costs of general administration of payments to the third party by the provider. The FCA should monitor the value chain, including introducer fees, levels of commission and adviser charges, and potential underwriting costs.

5.3 Fees and charges could be further complicated by the size of the annuity involved, and in the event that the market allows an assignment of a portion of an annuity, varying fees and charges could apply depending on whether a portion or the full annuity is assigned. The regulatory approach therefore needs to be proportionate and take account of the overheads generated by the operation of the market and potential complexities. In addition, costs for anti-money laundering and 'know your customer' checks, processing tax records, the cost of amending scheme records and producing customer communications will all be incurred by the provider, which will ultimately impact on the price a customer is quoted and ultimately, the ability of the provider to re-assign the annuity.

5.4 The Government and regulator should seek to minimise the risks and administrative impacts on the annuity provider to reduce the need for high charges and to reduce opportunities for regulatory arbitrage. The latter concern must be closely considered if the market were to include entities based abroad where regulatory and other conditions may be different. Any regulatory approach should promote a level playing field for all prospective market entities on the disclosure and monitoring of charges, irrespective of whether they are an annuity provider or not.

5.5 Of course, there is much work ongoing in the area of costs and charges disclosure in workplace pension schemes, the Markets in Financial Instruments Directive II (MiFID) and the Key Information Document (KID) regulation for Packaged Retail and Insurance-based Investment products (PRIIPS). With this in mind, we would like to see consideration of how lessons learned from these areas could be applied in time and in a proportionate manner to any developing secondary annuity market.

6. Do you agree that the scope of this measure should be annuities in the name of the annuity holder and held outside an occupational work scheme?

6.1 We agree in principle with the distinction made in paragraph 2.26. There are challenges in drawing a clear distinction, but we agree the scope should be focused on annuities that are owned by the individual rather than a scheme. Providers may find it difficult to identify the origin of an annuity.

6.2 Further confirmation from Government on whether the following are in scope would be welcome:

- privately held annuities with GMP or protected rights, and;
- buy-in / buy out arrangements.

7. Are there any other types of products to which it would be appropriate for the government to extend these reforms?

7.1 This is a very difficult line to draw as experience gleaned in developing pension flexibilities seems to suggest there is a difficult grey area between a straightforward annuity in the name of an annuity holder and a defined benefit. For providers, the issue of clarity regarding the distinction is as important as where the line is actually drawn. It would also be desirable in formulating a clear distinction to ensure consistency with the approach to this issue in other areas – for instance in determining what qualifies in the context of the extension of the death benefit changes to cover annuities.

Further Market issues not brought out in response to questions above

7.2 Although not brought out in our answers to the questions above, there are a number of other issues which need to be considered and, where possible, resolved in order to enable an efficient and functioning market.

Adverse Selection and Risk Pricing

7.3 There is a danger that adverse selection will distort the market and hinder 'fair pricing'. At its simplest, an annuitant will know more about their personal medical circumstances and consequently the likely duration of the annuity stream than the buyer. The buyer could therefore perceive a risk that an annuitant wishes to sell their annuity because they know something about their own likely longevity which impacts on the annuity's value. At its most extreme, there is a risk that annuities offered for sale, will be skewed towards annuities that deliver a lower net present value (i.e. annuitants with shorter than average life expectancy) causing adverse selection to occur, meaning buyers will have to factor this risk in to their pricing.

7.4 Further to this, women, on average, live longer than men and therefore a gender imbalance could be created within a prospective market, with a theoretical potential impact on pricing, which in practice, buyers will not be permitted to factor in. Clarity on the Government's view on whether pricing can be affected by gender or other factors, particularly regarding definitions as to whether reassigning one's annuity will be classed as an insurance transaction or not, will be vital to an effective market.

Further Re-assignment

7.5 Discussions on who to allow into the market must also consider the issue of further assignment of an annuity stream, taking into account the need for regulated entities to mitigate against transactions to unlawful entities.

7.6 The practicality of getting an annuitant to undergo a medical examination, to go through the underwriting process on subsequent sales of their annuity or for buyers to gain repeated access to medical records, will pose serious challenges for further re-assignment. Customers will not want to go through any such process more than once and will have no incentive to do so for the purpose of further re-assignment, which could ultimately deter customers from the process completely. From the customer's perspective, this will be a one-off transaction, so further consideration must be given to potential pitfalls within this aspect of the market.

'Veto'

7.7 We note the Government's concern about the position of the original provider and its effective 'veto'. This needs very careful consideration as handled wrongly, it could become a major reputational issue for the industry. We would expect that as the FCA monitors the development of fees and charges within the market, it would be in a position to identify any potential issues. As noted above, for assignment on the open market, if administrative impacts and ongoing risks can be minimised it will increase the likelihood of the provider being able to assign.

8. Do you agree that the design of the system outlined in Chapter 3 achieves parity between those who will be able to access their pension flexibly and those who will be able to access their annuity flexibly? Are there any other tax rules which the Government would need to apply to individuals who had assigned their annuity income?

8.1 We believe this provides the necessary parity and is logical in policy terms. If it is envisaged that the market will extend to assignment of parts of an annuity – see for instance our response to question 15 – then further consideration will need to be given to the potential tax implications.

8.2 But more immediately, lessons need to be learnt from the PAYE administration challenges posed by the introduction of the new flexibilities on 6 April 2015, especially if as proposed the buyer is going to be responsible for deducting PAYE on a lump sum

payment to the original annuitant. In particular, any potential process changes or innovations should be flagged as far in advance as possible to allow sufficient lead time for providers and buyers as appropriate.

8.3 Further clarity on the tax treatment of the annuity in the hands of the buyer should also be provided as a priority – otherwise there is a real risk that uncertainty in this area will deter potential buyers and hinder creation of the market.

9. How should the government strike an appropriate balance between countering tax avoidance and allowing a market to develop?

9.1 The ABI agrees that if there is manipulation, it is likely to involve connected parties. We would therefore support the proposed approach.

9.2 In addition, further clarification from HMT/HMRC is required on how offshore purchasers will be taxed, subject to regulatory approval. There may be possible loopholes for said participants - for example they would not operate PAYE - and the answer to this would further inform our answer to Question 2.

10. What consumer safeguards are appropriate – is guidance sufficient or is a requirement to seek advice necessary? Should the safeguards vary depending on the value of the annuity?

10.1 As the consultation outlines, guidance and advice, how an annuity is valued competitively, preventing poor market practice, possible charges and fees, and protection for dependents and beneficiaries, all need to be addressed to safeguard consumers.

10.2 It is critical that only reputable, strictly regulated buyers can enter this market. One organisation, the FCA, should have a lead role in regulating the market, with regulated activities for arranging re-assignment of annuities and purchasing a re-assigned annuity that capture every market participant, including those involved with further re-assignment. This should also minimise the risk of scams and financial crime and reduce the administrative burden on annuity providers. It would be unacceptable if annuity providers find themselves in the same position as pension providers who have to undertake extensive due diligence before making pension transfers. A similar process for annuity providers could limit providers' ability to re-assign.

10.3 Various types of safeguard will need to be explored, including those noted within the consultation document. Access to help to understand the options will be crucial, and the outcome and lessons from the FCA review of retirement and pension rules, and an assessment of the effectiveness of current safeguards should be at the centre of guiding the development of safeguards for the secondary annuity market.

10.4 Consumers should not be limited to just one body or a restricted range of sources for accessing information and guidance when considering their options within a secondary

annuity market. We would expect access to Pension Wise to play a part, but they will only be able to provide generic guidance about the options available, and not a personal recommendation, which may be required for assignment. We agree they will need to be resourced; both in terms of headcount and levels of expertise, to take on new commitments, and that levy will need to be reconsidered to take account of a different group of firms benefiting from the service.

10.5 Standardised risk warnings would also be appropriate, but lessons need to be learnt from the experience of implementing the current retirement risk warnings. The approach should be consistent with pension flexibility: the annuity provider can give general information, but the onus should be on the party that engages the customer in the re-assignment of their annuity, be it a broker, adviser or other firm.

10.6 An advice requirement is logical and consistent with the approach to transfers of safeguarded benefits. Sacrificing a guaranteed income stream for life for a lump sum is the same trade-off as cashing in a DB entitlement, especially for the significant proportion who have a joint-life and/or escalating annuity. However, there are several challenges that come with this:

- There is a lack of affordable advice and we are aware that many advisers feel unable to service customers with smaller pots seeking help on the new pension freedoms. Regulated advice can be expensive and may outweigh the benefits for a large proportion of annuity-holders. According to ABI statistics, in Q1 2014 the median annuity purchase price was around £20,000, rising from less than £10,000 in 2004. Therefore, while a de minimis threshold would be logical and consistent, it could miss out a potentially significant number of annuity holders with smaller annuity values.
- A close look at the effectiveness of similar advice requirements in the broader freedom and choice environment, and the advice market in general, is needed before considering the options here. The advice requirement in relation to safeguarded benefits has led to some frustration among insistent customers who wish to proceed with a transaction after being advised not to do so. Related to this, many advisers choose not to offer this type of advice at all and there is some concern about adviser capacity. It will be difficult for advisers to contradict the Government's statement that continuing with the existing annuity will be the right choice for the vast majority of people, but that is a reasonable test to pass to protect customers.
- The consultation also puts too much emphasis on innovative and simplified approaches to delivering advice. While we agree with the potential for services like this, there are continued concerns and desire for the Government and FCA to do further work to promote access to advice, including considering whether the advice boundary as it stands delivers good enough outcomes for customers. Whilst the ABI has welcomed the work undertaken by the FCA so far on clarifying the advice boundary, firms still face regulatory risks in helping customers make decisions, which is a barrier to such services being developed. However, customers may still need a personal recommendation for assignment.

10.7 In addition, consideration will have to be given to consistency with existing regulatory requirements for investment products. Our view is that it should be consistent, with cancellation periods (only after which period the re-assignment transaction process goes ahead), a complaints regime and clarity on compensation arrangements and protocol if any market participant becomes insolvent. It is important that current FSCS protections are extended to this market and confirmation on this critical point is sought.

11. What is the best way to implement these safeguards? Should the safeguards include expansion of the remit of Pension Wise?

11.1 Guidance will not, in itself, be sufficient to protect consumers.

11.2 As with the broader implementation of safeguards for the pension flexibilities, we would suggest that a range of players would have a role to play in helping those who may wish to assign their annuity. This could include Pension Wise, providers and third party participants, as well as MAS, TPAS and the CAB.

11.3 An expansion to the existing remit of Pension Wise would seem a logical way of ensuring that customers receive a basic level of information and guidance. Much depends on performance, take-up and capacity of the Pension Wise service since 6 April as to whether it should be expanded to account for safeguards associated with the secondary annuity market. Its focus on ensuring consumers are informed and empowered to interact with the pension flexibilities should continue. In addition, it should be accepted that the Pension Wise service would only be able to give guidance and would not likely be able to perform the detailed assessment needed to attribute a value to an annuity. As with the wider system of safeguards, we would expect that the experience of the service in the post 6 April environment is built on.

11.4 If Pension Wise were to become the chosen vehicle of guidance, the ABI would strongly advise the Government to ensure that it has the capacity and knowledge at its disposal to manage any additional responsibilities. Government must also consider the implication of providing guidance on the secondary annuity market through Pension Wise, and how it may, because of the nature of the potential market, stray toward advice. If, for example, the guidance were to be personalised and deal with customers' options in trading the rights of annuities, it is likely to be significantly more complex and more like advice. In addition, it would likely require a greater level of training in the minutiae of the market for current and new employees. Ensuring Pension Wise and other potential providers for guaranteed guidance have the right level of expertise will be essential.

12. Should the costs of any advice or guidance be borne by the annuity holder (mirroring the arrangements for conversion from a defined benefit scheme)? If not, what arrangements are appropriate?

12.1 As per our answer to Question 10, and assuming that the remit of Pension Wise is to be expanded then we would fully expect the delivery of guidance to remain free of charge; this would mean the levy used to pay for Pension Wise would need to be

revisited. In the event that Pension Wise is expanded, the levy will need to be revisited to include new participants. If regulated financial advice for the cash lump sum of annuities valued over a certain amount is required then we would expect the annuity holder to pay for any advice provided.

13. Do you agree that the government should introduce a requirement on individuals to obtain a number of quotes? How else should the government best promote effective competition to ensure consumers obtain a competitive price?

13.1 Pricing is a fundamental facet of the proposal with significant challenges for the consumer, provider and third party purchaser, not least in promoting shopping around for multiple quotes.

13.2 First and foremost, the accurate valuation of an annuity in payment will be very difficult. It will require actuarial assessment of the likely time frame for continued payments therefore needing calculations based on factors such as age and health, likely requiring specialised individual underwriting, as well as the expertise to discount future flows of income. For the market to come into existence in the first place a financial incentive from the point of view of prospective buyers will need to be accounted for and this could well lower the offer price for an annuity. This makes the idea of providing benchmark selling prices likely inaccurate for some customers.

13.3 One potential idea that could be explored is to incorporate into the re-assignment process a mechanism for enabling comparison of re-assigned annuity prices, as well as potentially trading annuities on the secondary annuity market. For example, price comparison services, which could give an indicative whole of market illustration of options available to customers, could also take account of costs such as underwriting and advice to help give the customer an early indication of what their annuity may be worth. It could also be possible to give customers a narrow channel of options following a short assessment, without incurring further cost or the inconvenience of health checks to customers or providers. Intermediaries, including advisers or brokers, could then offer competing services with guaranteed quotes.

13.4 However, it cannot be taken for granted that brokers and software firms that could facilitate a bureau will want to enter the market. The FCA would need to monitor development of the intermediary market, given the concerns that have persisted in the non-advised annuity market.

13.5 Models already exist in the market today for specialist organisations to collect medical and lifestyle information from customers efficiently, which prevent customers being charged more than once for the costs of underwriting, and allow doctors to share this information securely with regulated participants. This method of data collection could be replicated in a potential market to enable a valuation to be determined.

14. Does the government's approach sufficiently protect the rights of dependants upon assignment? If not, what further steps should the government take?

- **Should the government or FCA issue guidance to annuity providers about protection for dependants?**
- **Are there particular classes of beneficiary which require special consideration, for example minors or following a divorce or dissolution of a civil partnership?**
- **Are there specific equality impacts that should be considered in this context?**

14.1 Potential market participants, including providers and third parties will, as the consultation states, want to ensure that the contractual rights of dependents and beneficiaries are protected. Where a dependent or beneficiary has contractual rights in the event of an assignment of an annuity, it seems sensible and simple that there should be written proof that the dependent or beneficiary has consented to the assignment before the annuity is authorised.

14.2 As recent legal discussions have demonstrated, there are scenarios, especially with beneficiaries, where protection and a permissions regime may be more complex – particularly with minors and with vulnerable individuals such as older people, those with illnesses or reduced mental capacity. For ex-spouses and civil partners, permission of a court may be required to vary an existing order. In addition, some joint-life annuities are written on an “any spouse” basis. To ensure clarity and good consumer outcomes around how permission to assign can be gathered from dependents and beneficiaries, FCA guidance would be helpful. Its focus should likely be on providing different dependant and beneficiary circumstances and case studies on what constitutes an appropriate permission. Any advice requirement would take spouses’ and dependants’ interests into account.

15. Should the government permit the principal annuity holder's income to be assigned while dependants retain their own income stream? Should the decision on whether to do so be left to the discretion of the parties to the transaction?

15.1 The question of whether it would be possible to assign part of an annuity whilst allowing a dependant to continue receiving payments under the original annuity is an important one. It also raises questions around whether an annuitant could assign only part of their annuity instead of all of it.

15.2 There are a range of views and as the consultation paper highlights, contractual changes to enable this and the administrative cost of partially assigning an annuity could be complex and expensive, and may also give rise to further tax considerations.

15.3 Consumers looking to pursue this option will need to fully consider the tax implications, the potentially higher fees and charges for undertaking this, and the impact on their entitlement to means-tested benefits as well. It will be important to ensure that any advice and guidance reflects these potential impacts too.

16. How can any proposed consumer protections for the assignment of annuities ensure that any impact on means-tested entitlement is understood by those deciding whether to assign their annuity income?

16.1 The ABI believes that any guidance or advice should make consumers aware of how trading their annuity for a lump sum could impact on their eligibility for certain benefits, as well as wider implications, such as the impact on tax. We would therefore support the use of retirement risk warnings as is currently operational in the context of wider pension freedoms to address this. However, as our answer to Question 10 makes clear, lessons must be learnt from the existing implementation of risk warnings and from the eventual findings of the FCA review of retirement and pension rules to ensure that this process works as effectively as possible. Further, we would add that there would need to be a specific risk warning about the intentional deprivation of assets.

16.2 A Government-backed guidance provider could have a role in helping people to understand how their 'at' or 'in retirement' actions might affect future means-tested benefit entitlements.

17. Should those on means-tested benefits be able to assign their annuity income?

17.1 We believe that those on means-tested benefits should be able to assign their annuity income. As above, whilst there will need to be specific risk warnings and guidance on the implications of doing so, we believe that parity should be given to those eligible for the existing pension freedoms that were implemented on 6 April 2015, and that discriminating against those who do receive benefits would be unfair.

18. What are the likely impacts of the government's proposals on groups with protected characteristics? Please provide any examples, case studies, research or other types of evidence to support your views.

18.1 We agree with the consultation document that the areas of gender, age and disability will be significant considerations within the demographics likely to want to assign their annuity or be impacted as dependants or beneficiaries.

18.2 When looking at the impact on these groups, access and clarity would likely be significant considerations, especially with regards to the distribution and content of information. Learning lessons from current work being undertaken by the FCA on communication involving retirement products and on vulnerable consumers may be helpful.