INTRODUCTION

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. SPC's Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across all non-State provision, through such a wide spread of providers of advice and services. It has no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 14,000 people providing pension-related advice and services.

This report summarises SPC's wide ranging involvement in the debate on pension policy and its implementation. If you would like more information on any aspect of it, please contact John Mortimer, the SPC Secretary.

HIGHLIGHTS

One of the notable features of the year were various government sponsored reviews.

Following his review in 2000 of institutional investment decision making, Paul Myners submitted a report to the Treasury, which led to government proposals on principles of institutional investment decision making. While the review did not recommend further wholesale regulation, there is a clear threat of legislation should the principles arising from the review not be implemented. There might therefore be a perceived obligation to adopt the principles when there would otherwise have been no justification for doing so. This would imply a greater burden on trustees and increased costs for sponsoring employers and might undermine occupational schemes.

Much more welcome were the Inland Revenue's review of tax approval requirements and the review by Alan Pickering of DWP legislation. We were enthusiastic supporters of these reviews and hope that they will encourage retirement provision by making it simpler to operate.

We welcomed the decision by the government to abolish MFR and to replace it with a scheme specific approach to funding along the lines of that advocated by SPC and others.

SPC continued to offer a rich variety of events and information services for its Members. A new development this year was a special one-day high-level strategic conference entitled "Employer sponsored pensions : new dawn or night fall?".

The aim was to assess current trends and discuss the way forward against the background of deepening public concern about pensions. The overall response from delegates, both from within SPC's membership and outside it, was extremely positive.

MYNERS REVIEW

Following his review in 2000 of institutional investment decision-making, Paul Myners submitted a report to the Treasury, which led to the latter issuing proposals on principles of institutional investment decision-making.

SPC made a detailed response to the proposals.

We welcomed the fact that the Myners review did not recommend further regulation now. Regulation is, however, clearly a threat, should trustees and, where appropriate, consultants and investment managers not adopt the Treasury principles. Some trustees might therefore feel obliged to adopt the principles when there would otherwise have seen no justification for doing so. This implies greater burdens on trustees and increased costs for sponsoring employers. This might undermine occupational schemes.

In particular, the principles appear to have been drawn up very much with large schemes invested in segregated funds in mind. Many schemes do not correspond to this model. They might be, for instance, invested in one or more managed funds and/or sponsored by small employers without the resources which the principles envisage should be made available.

It should be recognised that smaller schemes make up, the great majority of schemes by number. For smaller schemes some or all of the detail of the principles is inappropriate. These schemes should be able to confirm their adherence to the principles when they have operated in a manner consistent with them, even if they have not followed them slavishly.

The sponsoring employer

It is striking that the principles make no reference to the sponsoring employer, who is one of the key parties to a scheme, particularly a defined benefit scheme. In contrast, the need to retain the support of the employer, and to reward the employer for backing its defined benefit scheme, emerged strongly from the Myners review.

Paid trustees

We queried the desirability of paying trustees in all circumstances. We support debate between trustees and their professional advisers. We would not wish payment of trustees to jeopardise the system in which committed, but non-expert, trustees enter into a thoroughgoing discussion with their advisers.

Investment objectives

We agreed that trustees should set an overall investment objective which represents their best judgement of what is necessary to meet the fund's liabilities. However, care is needed that the objectives of the fund are not expressed in such a way as to prevent proper measurement of the fund manager's performance. While scheme specific investment benchmarks should play a key role in the expression of objectives, performance relative to other pension funds or to a market index can be essential supplementary information required to monitor the performance of the fund manager.

Mandates

It is already common practice to give investment managers three or five year targets, with set margins for under and over performance. We regard as unworkable the proposal that the mandate should be incapable of termination before the expiry of the evaluation period. It should certainly not be a principle of investment decision making.

Fees

We do not believe that transaction services should be included within management fees. Fund managers have a duty of best execution. If it is not being met, this should to be taken up with the Financial Services Authority, which should be monitoring this. If the principle remained as drafted, it could in fact lead to poorer execution, as more dealing would be done on a net basis, with wider spreads than on a commission basis.

Activism

We suggested that any principle on activism should be drawn up with UK circumstances in mind. The US Department of Labour Interpretative Bulletin could be a starting point but, because it reflects the role in the USA of the investment manager as a fiduciary, a role the manager does not play in the UK, it

could not be adopted without modification. Any principle should reflect that private intervention may be preferable to public intervention.

Performance

We broadly agreed that the performance of trustees and their advisers should be evaluated. But for some advisers and types of advice it could be difficult to devise objective indicators capable of accurate measurement. We did have reservations about the principle that trustees should formally assess their own procedures and decisions because of the new layer of costs involved and the potential it has for opening up a new area of litigation.

Statement of investment principles

It should not be a principle that the statement of investment principles should be sent annually to all members. If it contains all the recommended information, it will be a weighty document and if the full version is sent to members there will inevitably be costs in answering questions arising from lack of understanding and some needless anxiety among members. This needless anxiety might cause trustees to be more cautious in their approach to following higher return and risk strategies. Where the employer carries the investment risk (as is usual in defined benefit schemes), this would not benefit the members. It would be more appropriate to make the full version of the statement available on request, as at present, while sending a simplified version to members.

Money purchase

Since group personal pension schemes and stakeholder schemes are alternative forms of defined contribution employee provision, even-handedness dictates that any principles should also apply to them.

The requirement that trustees satisfy themselves that they have taken their members' preferences into account is unworkable. Preferences are difficult to define and frequently change. Equally importantly, the preferences might be inappropriate. A member in his or her early 30's might prefer to be invested 100% in cash, but that is unlikely to be to their advantage. A better principle would be to take the members' circumstances into account, eg what is their level of financial understanding, what is the cost/benefit balance to members of offering a given range of options, including the cost of communicating the range?

At the year end further Treasury proposals, flowing from the Myners review, were awaited.

SANDLER REVIEW

The Treasury launched a review of medium and long-term retail savings, led by Ron Sandler.

He issued a consultation paper setting out the key issues which he believed the review needs to address. The stated starting point for the review is concern over the effectiveness of the competitive processes in the long-term savings industry.

SPC responded to the consultation paper.

Scope of the review

The review covers, among other things, insured occupational pension schemes. Insured money purchase occupational schemes (but not insured defined benefit schemes) share many common features with personal pensions, group personal pensions and stakeholder schemes, but they operate within a distinct framework of legislation and this needs to be kept in mind in the detail of any review.

Extending consumer influence

Education is important but many consumers place greater value on information, usually generic information. One of the greatest inhibitors to individuals obtaining more information is that those experienced in financial matters are wary of providing it, even generically, in case they contravene the Financial Services legislation. This applies to individual advisers, as well as employers/trustees of occupational pension schemes and covers a wide spread of environments, ranging from talking to local groups (e.g. Rotary and schools) to discussing financial issues in a social setting. There would be great benefit in the regulators spelling out more clearly where the boundary lies between generic information and advice and specific regulated advice.

We nevertheless agree that there is a need for consumer financial education, but we doubt whether consumer influence on products will become a reality. It is not clear how the market would differ if there was greater consumer power and influence.

Any discussion of disclosure and information needs to bear in mind the risk of information overload on consumers, which can be positively harmful.

Consumer education must avoid excessive emphasis on products e.g. pension and ISAs, at the expense of first principles, such as financial need (including whether it is appropriate to save at all), investment and the risks associated with it. In reality, however well education addresses these often complex issues, many consumers will be reliant on advice in making decisions.

The corporate purchaser

Corporate purchasers and intermediaries do exert competitive pressures on providers. Generally speaking, the larger the purchaser, the greater the pressure which it can exert.

Markets generally work better where employers are involved because they bring to bear bulk buying power. Excessive regulatory hurdles discourage employer involvement.

Information to consumers : the regulatory framework

Regulation has by and large been effective, but is over prescriptive at the sales stage (for example in respect of key features documents) and over mechanistic at the monitoring/enforcement stage. This has added to regulatory cost.

Personal finance media and other information providers

The personal finance media are an important source of consumer information but one needs to be cautious as to how valuable a role they can play. Articles in the personal finance media need to be newsworthy and to attract advertising. While there might not be economic incentives relating to the sale of one product rather than others, there are, however, strong influences on the personal finance media which are not identical with the interests of consumers.

We believe that information providers can play a more significant role, but as commented above, the boundary between generic information and advice and specific regulated advice must be clear.

Choice of channel

Direct selling may well be appropriate where the consumer has clearly defined his or her need. We doubt whether strengthening brands in retail savings would materially increase sales, although it would affect market share within sales which are made.

Intermediaries : commercial incentives

All businesses seek to control costs, but the high cost of compliance, particularly among smaller IFAs, limits the scope for reducing costs. Inevitably, therefore, the emphasis will be on increasing revenue.

Both commission and fees must cover the cost of aborted as well as successful

business. Fees are becoming increasingly popular among employers and wealthier individuals, thus effectively unbundling advice from selling, since the ultimate product is free from loading for commission. The main factor in consumers' reluctance to pay directly for advice is probably the fact that it is a highly visible charge, payable directly by them, in a single instalment.

Commission disclosure is of limited real value to consumers, since they have no means of judging the appropriateness of a given rate of commission.

Commission levels are determined by market rates and pursuit of market share. They also have to cover compliance costs.

Differential commission could introduce product bias, but it is the role of the regulators to monitor this.

Commission levels were capped until 1990, firstly by the Life Offices Association (the predecessor of the Association of British Insurers) and later by LAUTRO. OFT deemed this capping to be anti-competitive and it was abolished. The result was a rise in commission levels. In principle, it could be appropriate to reintroduce capping of commission levels. Capping of fees would be inappropriate because they are often charged as an integral part of general financial advice, of which purchase of a product might only be a part.

Consumer loyalty is a function of trust in an individual adviser and, to a lesser extent, in their organisation. Our experience is that consumers engaging an IFA expect them to act independently on their behalf.

Intermediaries : regulation and scope of advice.

We agree that too much emphasis is often given to product advice over general investment strategy. To a degree this mirrors the emphasis in consumer education on products, rather than on understanding of financial concepts, to which we refer above. Suitability of advice is often a matter of subjective judgement, rather than of objective fact. Unfortunately, regulators generally apply mechanistic tests in relation to the monitoring and enforcement of suitability.

League tables are a useful tool for IFAs and the consumers alike.

Impact of government on product mix and design

CAT standards are appropriate in relatively simple products, e.g. stakeholder pensions and ISAs. However, regulators should not assume that a CAT standard product is automatically superior to a non CAT standard equivalent, for example in setting requirements for comparing suitability of stakeholder schemes with personal pensions.

Fiscal structures have a profound effect on product design and on consumer behaviour and expectations. The consultation document did not seem to take this into account at all.

Costs and charging structures

Front end loading of regular premium products is an inherent result of commission structures. Where, for example, fees are charged, there is no front end load in the product.

SPC followed up its written submission with a meeting with Ron Sandler.

DWP SIMPLIFICATION REVIEW

The government appointed Alan Pickering to undertake a comprehensive review of private pension legislation, to result in a package of options for simplification.

The review had the following aims :-

- To carry out a comprehensive review of Department for Work and Pensions (DWP) private pension legislation to identify a package of options for simplification and the reduction of compliance costs.
- To consider the principles behind the legislation as well as the processes and ensure that the law is proportionate to the policy purpose.
- To consider the means by which the regulatory framework is enforced.
- To identify areas of simplification which can achieved by secondary legislation and identify more fundamental reforms to be achieved by primary legislation.
- Report to the Secretary of State by July 2002 with proposals for simplifying the regulatory framework which do not compromise the security of individuals' investments.

SPC submitted an initial high level response to Alan Pickering.

We suggested that the review will only be a success if it leads to the disappearance of substantial volumes of legislation. It will not be sufficient to revise or re-express it without substantive change, or convert it into guidance. It must cease to exist, or be pruned back to a few essential principles.

Peripheral improvement could be on balance worse than no change at all, because it would require schemes, which have put in place administrative systems to cope with the existing burden of legislation (for example, contracting-out), to incur the expense of changing systems for what might be, in overall terms, trivial advantage.

In similar vein, simplifications which apply to some groups of members, but not others, could well only add to complication.

Worthwhile simplification will probably require alteration of accrued benefits. Section 67 of the Pensions Act 1995 will need to be radically amended (or deleted) to permit this. Where appropriate, actuarial certification of equivalent expected value could protect members, but this certification would have to be on the basis that value was expected to be equivalent, not guaranteed to be so.

In the case of employer sponsored provision, simplification must go far enough to make employers remain, or become, willing sponsors of schemes. Sponsoring pension provision must be primarily perceived by employers as providing an attractive part of a benefit package understood and appreciated by employees. The current perceived risk of entering a problem area, involving never ending reviews and mind numbing complexity, is a disincentive to employer sponsored pension provision.

For legislation which survives the review, we would like to see some form of "crystal mark test" against which it would have to prove its clarity.

A supplementary response was planned for early 2002.

INLAND REVENUE REVIEW OF DEFINED BENEFIT TAX RULES

The Treasury announced a joint Inland Revenue and pensions industry review of defined benefit tax rules. SPC was among the pension bodies invited to participate in a steering group to oversee the project, which was due to report back to ministers in February 2002. SPC nominated Graham Withers, the then Chairman of the SPC Legislation Committee, to serve on the steering group.

The specific stated aims of the projects are:-

- To review the Inland Revenue occupational pension scheme practice notes, looking for opportunities to abolish, ease, simplify or streamline existing rules, specifically including retained benefits, pensions in payment, death benefits, part-timers and definition of final salary
- To reformulate the Practice Notes to reflect the principles which guide the Board of the Inland Revenue when exercising its discretion
- To consider how Inland

Revenue and pension schemes communicate, including information returns and the means by which schemes receive tax approval

- to consider the ways in which simplification can be maintained in the future.

SPC submitted numerous proposals to the review team.

MFR : LONG TERM

SPC submitted its response to the DSS/Treasury consultation document on the future of the minimum funding requirement "Security for Occupational Pensions".

Our main suggestion was that MFR had proved to be an inappropriate means of enhancing security in occupational pension schemes and that it should be replaced by measures focussing on the funding of particular schemes.

SPC welcomed the prompt decision by the government, announced at the time of the Budget, to abolish MFR. The proposed scheme-specific approach to funding is one which SPC and others had advocated.

SPC nominated Donald Duval (Aon Consulting), a member of the SPC Council, to serve on a DWP led consultation panel on a replacement for MFR.

The government's proposals for the replacement of MFR embody potential tension between the suggested long-term scheme specific funding standard, which we support, and a recovery plan for returning the scheme to full funding within a relatively short period. A requirement which emphasises short-term full funding might in practice not be consistent with a long-term funding standard.

The government's proposal referred to advisers taking a view on issues such as the strength of the employer's covenant. Experience of operating guidance note 16 of the Institute and Faculty of Actuaries illustrates the difficulties which can arise when actuaries are called upon to assess the financial strength of the employer.

Specific government proposals

The Funding Statement

The requirement to take a view on the strength of the employer's covenant could, it seems, oblige trustees to increase target funding levels in under funded schemes, thus increasing the contribution demands on the employer. This would lead to a ratchet effect as an employer's financial difficulties deepen. In an extreme case, the demands of the trustees could sabotage the employer's chances of recovery and increase the risk of insolvency.

The recovery plan

It is unclear what level of funding the recovery plan is intended to achieve. The proposals began by referring to a recovery plan for returning the scheme to full funding. After that, reference is consistently to adequate funding. It will need to be decided what level of funding the recovery plan is intended to achieve.

The three years suggested for a return to adequate funding is even shorter than the five year which schemes are allowed to achieve 100% MFR funding. The five year MFR period has already been widely criticised as being too short. Consistent with the scheme specific approach proposed for the funding standard, we proposed that there should be a scheme specific approach to the recovery plan. For example, immature schemes could have a longer recovery time than very mature ones.

Statutory duty of care on the actuary

The definition of the statutory duty of care on the actuary will need to be very carefully considered. Some SPC Members suggested that the duty will not make much practical difference to the role which their actuaries currently play, others have suggested the duty will require a much greater emphasis on risk control and member security.

It has been suggested that the duty might require the actuary to advise the trustees on meeting their duties to the members and to whistleblow if they do not do so.

There will need to be clarification that the duty of care is to the membership as a whole, rather than to each of the classes of member, or to individual members. We see anything else as unworkable, in view of the conflicts of interest it would cause for the actuary. Even so, the existence of this duty of care will inevitably increase the likelihood of litigation in those, thankfully rare, cases when things go wrong. Members will pursue the party with the deepest pockets and, in an insolvent winding up, this could well be the actuary. The consequence could be a tendency on the part of the actuarial profession towards increasing conservatism.

Voluntary wind-up

Where a pension scheme was being voluntarily wound up, the employer would have to ensure that the scheme had sufficient funds to pay benefits as they fell due. This could mean ensuring that the scheme can buy out benefits with annuities. We emphasised that this should not be the intention. The current cost of doing this would be so high (implying a funding level higher than under MFR) and uncertain (because the deferred annuity market is very thin) that many final salary schemes would need to consider winding-up before the proposal took effect. Even a large and well funded scheme would fail this test (if that is what it is), as there is insufficient capacity in the insurance market to provide annuities for all the members of a large scheme. Such a test would also introduce a significant distortion of schemes' investment policies, towards bonds.

An alternative approach would be to require that employers ensured that the fund was sufficient to buy out immediate annuities for pensioners and pay transfer values for active and deferred members. This could be supported by stronger disclosure requirements to members.

For some schemes running on as a closed fund might be an alternative to wind-up, but it is unlikely to be viable for smaller schemes.

Fraud compensation scheme

The proposal effectively means that the level of compensation would be governed by market rates for buy outs. This is a very thin market and would currently imply a significant increase in compensation levels, although if compensation claims remain at their current level, the effect on the compensation levy would be slight.

Wind-up on the insolvency of an employer

If an employer is subject to insolvency proceedings when the scheme's assets are less than the cost of accrued rights, it will need to be decided how the debt will be calculated and how it will be met. We assume that the intention is that at least the same rights will have to be met as on a voluntary wind-up of the scheme.

Priority for the debt will also need to be settled. It should not stand so high in the order of priorities as to reduce the sponsoring employer's ability to borrow. We suggest that the priority status should not extend beyond outstanding payments under the long-term funding standard.

Priorities on winding-up

A number of options merit consideration. One possibility would be to allow the trust deed and rules to govern the priorities. Another would be to move away from defined benefits when schemes go into wind-up. The aim would be to determine an equitable percentage share of the assets

between different classes of member, rather than to define absolute benefit levels for different classes of members, which might prove unachievable as the wind up proceeds. We strongly recommended further consideration of this approach, which ought to make winding up more straightforward, reduce expenses and thus leave more funds available to provide benefits.

Cash equivalent transfer values

In our response to "Security for Occupational Pension Schemes: A Consultation Document" we suggested that a statutory minimum should no longer apply. In practice individual transfers between defined benefit schemes have been rare for some time because of uncertainties arising from whether GMPs for men and women must be equalised and, if so, how. In addition, schemes are normally unwilling to accept transfer values, which might not reflect full equalisation, without an indemnity from the transferring scheme. Transferring schemes are usually unwilling to provide such indemnities. However, while transfers were still being made in significant numbers, we believe that disclosure of actuarial transfer value assumptions was already leading to their greater convergence. The link to MFR has effectively imposed uniformity with a lowest common denominator. We suggested that it would be possible to achieve an acceptable outcome on transfer values by relying on reasonably detailed actuarial guidance, coupled with regular surveys by the actuarial profession, which would highlight assumptions which significantly deviated from the norm.

MFR : SHORT TERM

The government announced proposals for changes to the current MFR in advance of its replacement.

We suggested that the proposed regulations should be implemented quickly, or at least at a fixed date stated in advance.

We welcomed the proposal to extend the deficit correction period to three years for seriously underfunded schemes to reach the 90% MFR funding level, and to 10 years for underfunded (including seriously underfunded) schemes to reach the 100% MFR funding level.

The proposals raised the possibility of removing the current requirement for automatic annual re-certification of schedules of contributions, where a scheme's last MFR valuation showed that it was fully funded on the MFR basis. They also referred to consideration being given to the addition of a requirement for an out of cycle valuation, where it appears that there has been a significant change in the funding position of the scheme, by bringing into force regulation 11 of the current MFR regulations. If the removal of the current requirement for automatic annual re-certification was dependent upon the bringing into force of regulation 11, we urged that the automatic annual re-certification requirement should remain in place and that regulation 11 was not brought into force. If regulation 11 came into force, it would in effect introduce a requirement for continuous solvency monitoring. This would represent a burden greater than that removed by the ending of the current requirement for automatic annual re-certification of schedules of contributions.

If regulation 11 was brought into force, we had some practical concerns regarding emergency valuations (which may become more frequent). At present the regulations require trustees to obtain a valuation within six months of a relevant failure certificate, but it is not always possible to complete a valuation within that time, as well as within twelve months of the MFR effective date (at which audited asset values must be available) as required. We would suggest that the timescale is extended to nine months.

Additionally, if the regulation 11 proposal was retained, it would be imperative to define more closely the events which cause the regulation to operate. In particular, it should not be triggered merely by investment performance unless the performance relates to a dramatic event such as the failure of a large shareholding.

DWP proposed stricter conditions on voluntary wind up. One of these was that the method of calculating the debt on the employer should be strengthened by including the actual costs of winding up the scheme. Since actual wind up costs will only be known with certainty at the end of the wind up, this implied that the debt itself could only be calculated at that point. The draft regulations themselves, however, referred to "likely" costs.

For pensioner members it was proposed that the debt calculation should include the actual costs of annuities. It would be more straightforward if the scheme could buy out all pensioners first and then calculate the debt, rather than have the debt calculated on an estimated figure. It might not in practice be possible to obtain actual annuity quotations (e.g. where trustees have power under scheme rules to defer a wind-up or where a voluntary wind-up is being delayed well past the "applicable time" for the debt) and one might need instead to calculate the theoretical cost of annuities. The regulations should allow for this. It would be helpful to have available at some central point life offices' current annuity calculation bases.

At the outset, a wind-up might be voluntary, but it might become involuntary as it proceeded because the employer became insolvent during the wind up. If this happens, there ought to be provision to revert to the "MFR" basis for calculating the debt on the employer.

POLARISATION

FSA issued a consultation paper proposing changes to the polarisation requirements. Under these requirements advisers have either to be independent, and advise on products from across the market, or to represent one company and sell only its products. FSA proposed a two-staged approach to changing the requirements. The first stage would be limited to the regime as it affects products conforming to minimum standards and direct offer financial promotions. The second stage would consider a range of options for the remainder of the polarisation regime.

FSA issued a consultation paper on changes in respect of stakeholder pension schemes, CAT standard ISAs and direct offer financial proposals.

In our response, we referred to the main benefit of polarisation to consumers, namely that it is the most straightforward means of facilitating understanding of the status of the advice which they are receiving. The consultation paper suggested that this was a weak argument because research evidence suggests that about 20% of consumers do not understand what type of adviser they are dealing with. This suggests to us that FSA should build on the basis of the 80% who do understand through its consumer education programme, rather than change the rules. We suggested that the structure which FSA was now proposing would make it more difficult for consumers to understand what type of adviser they were dealing with. This might not become apparent while the changes in the rules applied only to stakeholder pensions, CAT standard ISAs and direct offer advertising because, in these contexts, purchases often are, or will be, made without receiving specific advice.

The risk of misunderstanding would be much greater if the same changes were applied to products where advice is more frequently taken.

SPC had a meeting with FSA officials to explain its concerns on the ending of polarisation.

SPC BUDGET SUBMISSION 2001

SPC, as usual, made a submission to the Chancellor of the Exchequer in advance of the following year's Budget.

In our Budget Submission for 2000 we welcomed the government initiative on simplifying and harmonising the tax treatment of money purchase pension arrangements. We suggested that the next step should be to simplify Inland Revenue limits expressed in terms of defined benefits. We therefore strongly welcomed the announcement earlier in 2001 of an Inland Revenue Review in this area.

Other Issues

Stamp Duty

We supported representations from a number of quarters that pension fund transaction costs should be reduced by the removal of stamp duty and stamp duty reserve tax in respect of share transfers.

Annuity Review

We welcomed the announcement in the Pre-Budget Report of a forthcoming review of the rules on annuity purchase. We suggested that this should include a review of the current requirement to buy an annuity with money purchase additional voluntary contributions under a defined benefit occupational pension scheme.

Unapproved Group Life Schemes: Second deaths

Towards the end of 1996, Inland Revenue issued a consultation document on the reform of life insurance policy holder taxation. This included proposals on group life policies taken out by employers (or trustees) to provide unapproved death benefits for employees or directors.

Under current legislation these policies are caught in a way which has no practical significance on a first death, but which on second and subsequent deaths produce chargeable gains which snowball with each additional claim.

The chargeable gain problem does not arise where, instead of group arrangements, policies are arranged for individuals, subject to individual underwriting. Alternatively, some group policies have been effected on a "wait and see" footing, with the intention of abandoning them after a first death.

In our view, however, following either of these routes involves complication which should not be necessary. The consultation document contained proposals which would enable unapproved group schemes to operate without the prospect of chargeable gains on second and subsequent deaths. We urged that those proposals be acted upon in the next Budget.

Tax Deductibility of Debt on Employer Payments

S592 (6A) ICTA 1988 provides for debt payments made under s144, Pension Schemes Act 1993 to be treated for tax purposes as employer contributions and, where the employer's business has been discontinued at the time of payment, to be regarded as having been paid on the last day that the business was in existence.

There does not appear to be the same safeguard for debt payments made under s75, Pensions Act 1995. This looks like an oversight and could become very significant as more debt calculations fall to be treated under the new legislation.

We understand that the reason for s592 (6A) is that a debt payment cannot always be regarded as an employer contribution, so the corporation tax deductions contained within s592 (4) ICTA 1988 may not have effect.

Inland Revenue has indicated that it would not seek to withhold tax relief in these circumstances, but we are not sure that the Inland Revenue technically has a basis on which to grant corporation tax relief to payments made under the new legislation.

We therefore suggested that, for the avoidance of doubt, s592 (6A) ICTA 1988 be amended to include reference to s75 Pensions Act 1995.

Flexible Retirement

In 1998 Inland Revenue issued a consultation document, detailing three proposals to make occupational schemes more flexible. One of the proposals would have enabled main scheme retirement benefits to be paid between age 50 and 75, without involving actual retirement. Its introduction was deferred, due to problems in its interaction with social security legislation. Our understanding is that the social security problems have now been overcome and we therefore suggested that it would be timely to make progress with this proposal.

Statutory Limits

At present Inland Revenue approval requirements for pension schemes contains numerous different statutory limits expressed as a monetary amount. We suggested that it would be useful to explore the possibility of harmonising these limits around a single reference point, e.g. the earnings cap, and provide for them to move in line with each other. We recognise that a measure such as this might be a product of the simplification review, to which we also refer in this report.

Triviality Limit

The Inland Revenue triviality limit of £260 is too low, particularly in relation to current life office minimum annuity purchase amounts. Had it been increased at least in line with RPI, since its increase to this level in 1991, it would now be about £350. We suggested that this limit should be updated annually and perhaps re-expressed as a percentage (say 1%) of the earnings cap. Again, this might be a matter for the simplification review.

CONTRACTING-OUT

The government published final orders for the contracted-out rebates to apply for the quinquennium April 2002 - 2007. These were as originally drafted following the report of the Government Actuary's Department earlier in the year. The rebates put in place by the government mirror those recommended by the Government Actuary's Department, except that there is still a gap (slightly increased) for age related rebates.

SPC's concerns therefore remained as they were when the Government Actuary issued his proposals, namely that the rebates would often be too low to justify on financial grounds advice to employers or individuals to contract out and that existing contracted-out salary related schemes would need to review their position. We believe that a steady stream may contract back in because the financial cost of being contracted-out would outweigh the complications of contracting back in.

ACCOUNTING ISSUES

Following the publication of the Accounting Standards Board's Financial Reporting Standard 17, on accounting for retirement benefits, the actuarial profession issued an exposure draft (EXD 43) to apply to any actuary advising a client on FRS 17.

We suggested that it would be helpful to spell out that the assumptions relevant under FRS 17 are those of the directors of the sponsoring company and that the advice governed by EXD 43 is that of the actuary to the sponsoring employer on those assumptions. We also suggested that it would be helpful to have guidance on the action

to be taken by the actuary if the employer declined to follow the advice. Finally, we suggested that the actuarial profession could usefully encourage the development of a standard bond index to assist in the discounting of liabilities.

CHANGES TO TRANSFER OF UNDERTAKINGS LEGISLATION

The government issued proposals to change the Transfer of Undertakings legislation, also known as TUPE (designed to safeguard employees' rights on transfers of business between employers).

Currently the right to continuing active membership of an occupational pension scheme does not transfer, but accrued rights do. As a result of the wording of the existing TUPE legislation, there has been some confusion as to the difference between "continuing active membership" and "accrued rights".

The government has invited comment on proposed changes to the requirements for both public and private sector employers. In the case of the public sector, the government wants former public sector employees, who are moved to the private sector, to have pension provision made for them. Its current policy and guidance to the public sector is that the transferee employer must offer occupational pension provision "broadly similar" to that provided by the transferor, but the legal position has never been tested in court.

On private sector employees' occupational pension schemes rights on transfer, the Government sought views on either:

- amending the transfer legislation to confirm that occupational pension rights do not transfer, but separately, via other legislation or administrative measures, preserving the current public sector policy, or
- amending the transfer legislation to provide protection for occupational pension rights on transfer for public and private sector employees too.

It acknowledged that too onerous measures under the latter proposal could deter employers from offering schemes and that the test would have to be less stringent than the "broadly comparable" one. It proposes various options to meet requirements, depending on what type of scheme the employer already offers.

Other proposed changes include:

- adopting for the first time an explicit definition of a transfer of undertaking (taken from the revised EC Acquired Rights Directive)
- introducing new measures in areas where there has been confusion and disputes - such as in the area of reorganisation or transfers within the public sector, to ensure that public sector employees are treated no less favourably than those in the private sector when they are part of an "organised grouping of resources."
- possibly preventing avoidance of the legislation on changes of service provision (broadly "outsourcing")
- clarifying the basis of certain of the exceptions from the legislation
- confirming that changes to employee terms and conditions are not precluded by the legislation, but must comply with general employment law
- requiring the transferor employer to give the transferee written notification of all the employee rights and obligations to be transferred.

The proposals were under consideration at the year end.

IMPLEMENTATION OF EU DIRECTIVE ON AGE AND SEXUAL ORIENTATION DISCRIMINATION

The government published a consultation paper "Towards Equality and Diversity- Implementing the Employment and Race Directives." It covered the Directive on Race Discrimination as well as the above directive. The government aims to achieve greater coherence between the different strands of discrimination law, including using the same or similar concepts and wording in the legislation to make it easier to understand.

In respect of sexual orientation, legislation to comply with the directive must be in force by the end of 2003. Draft regulations should be available for consultation in the second half of 2002, with the final version to go before Parliament in the first half of 2003.

In the meantime, the paper sought views on the implications of the Directive for death benefits available to partners under occupational pension schemes. The Directive would not apply if scheme rules make benefit payable to a surviving spouse. This is because the Directive cannot affect national laws regarding benefits dependent on marital status. However if benefits are referred to as being payable only to opposite sex partners (whether married or not) that could be potentially discriminatory.

With regard to age discrimination, the paper stated that new legislation would not affect occupational pension schemes in respect of different age admission and entitlement rules and age criteria in actuarial calculations. So it seems that the government intends to invoke the exemption permitted by the Directive, which will allow such treatment as long as it does not result in sex discrimination.

There is a longer implementation timetable for age discrimination legislation, which need not be in force until 2006. The government intends to have a detailed consultation exercise on the subject in the second half of 2002. In the context of occupational pensions the paper invited comment on whether employers should be able to require employees to retire at a certain age or whether there should be any restrictions on that right and generally on what are the advantages and disadvantages of no fixed retirement age.

Our response to the consultation paper was under consideration at the end of the year.

PENSION SHARING ON DIVORCE

We sought clarification from Inland Revenue on when a Chapter I Scheme would need to provide a nil certificate (as mentioned in paragraph 32 of PSO Update 64) to a personal pension (Chapter IV) scheme on a transfer of pension credit rights arising on a pension share on divorce. Inland Revenue clarified that a Chapter I Scheme would need to provide a nil certificate if:-

- the member had already taken a tax-free lump sum under the Chapter I Scheme before pension sharing took place
- the transferring scheme is a free standing additional voluntary contribution scheme
- the transferring scheme is funded solely by employer's voluntary contributions, where the contract began after 7 April 1987
- the transferring scheme is one with a normal retirement age of 45 or earlier, where benefits are wholly in non-commutable pension form because a lump sum retirement benefit is provided from another source.

In addition to the above, if the transferring scheme is one to which Section 608, ICTA 1988 applies, it would also be necessary to provide a nil certificate in relation to pension credit rights transferred to the personal pension.

Background

Following the general election the Department of Social Security was effectively replaced by the Department for Work and Pensions, the role of which combines those previously carried out by DSS and some of those carried out by the former Department for Education and Employment

Member-Nominated Trustees/Directors

SPC continued to participate in occasional meetings of the DWP consultation panel assisting with the fleshing out of the details of the policy intention, that all schemes should have at least one third member-nominated trustees. At the year end the new requirements had not yet been published.

Employer Payments to Personal Pensions

New rules for ensuring that employers' payments to personal pensions (including stakeholder pensions) are made on time came into force. Early experience suggested that administering the new requirements could prove onerous for both personal pension providers and OPRA.

Statutory Illustrations of Money Purchase Benefits

Consultations continued on requirements to providing statutory illustrations of money purchase benefits.

We welcomed:-

- The intention to delay the coming into force of the regulations to April 6 2003.
- The specification that projections will be in real terms
- The flexibility for members to specify retirement age and marital status. It will be important to bring this flexibility clearly to the attention of members.

It was a matter of concern that the FSA requirements on projections accompanying marketing material are not consistent with the current proposals. This would be bound to cause widespread confusion among those who will, at various times, probably receive figures reflecting both sets of requirements. We understand that the FSA requirements are currently under review and we hope that this review will lead to the desired consistency by the time these regulations come into force. If not, we suggest that it would be better to further defer the introduction of the current proposals until the FSA's review, has been completed, if this would mean that two consistent sets of requirements could run side by side.

In our response to the initial consultation document on illustrations of money purchase benefits, in 2000, we suggested that schemes which wish to adopt what they judge to be a more informative approach than envisaged under the current proposals should not be discouraged from doing so by legislation drawn up in too prescriptive a fashion. As things stand, illustrations on an alternative basis would be permitted, but only as an addition to those prepared on the statutory basis. Our view remains that, if any actuary holding a practising certificate is willing to certify that an alternative projection complies with the principles underlying the statutory proposals, the alternative should be allowed as a replacement for the statutory basis, rather than as an addition to it.

Status of Information Sent by E-mail or Fax

The SPC Legislation Committee reviewed the extent to which the provision of information sent electronically meets the requirement in social security legislation to provide it in writing. The Committee's understanding was that, where information was to be sent to individuals, if it was sent by e-mail (or fax) to a specific individual, that counted as in writing.

We suggested to DWP that, if this was correct, it would be helpful to have added to legislation a provision that the disclosure requirements are met if information is sent to the intended recipient's last-known e-mail address (or fax number), in the same way as if it is sent to the last-known postal address. We asked DWP for its views on these questions, and for clarification of the position where information is posted on an intranet.

DWP replied that, where the law requires information to be sent to individuals in writing, the requirement is satisfied regardless of whether post, e-mail or fax is used. However, communication by e-mail or fax would not, DWP suggests, satisfy those instances where regulations expressly require that information be provided by post.

DWP indicated that it currently had no plans to actively work on legislation to change the status of e-mail and fax, but that it would keep it in mind for inclusion in its work programme.

Concerning information posted on an intranet, DWP suggested that an intranet should be considered analogous to a notice board and that, if legislation provided for information to be disclosed to an individual, use of an intranet would not comply. The question of compliance through posting on an intranet would depend on the particular information requirement in issue. For example, an obligation to make information available in writing on request could be satisfied by this means; but an obligation to send a person certain information in writing might not.

Alternative Anti-Franking Rules

At the end of 2000, DWP carried out consultation on the alternative anti-franking rules introduced by the Child Support, Pensions and Social Security Act 2000. It is intended that these new provisions will over time replace the existing anti-franking legislation for most occupational pension schemes paying guaranteed minimum pensions.

In 2001 DWP consulted on the secondary legislation and accompanying technical guidance and SPC submitted detailed comments. One of our main comments was that the proposed implementation date of 1 June 2001 was too short, because IT and project management resources within the pensions industry were already stretched. We suggested an implementation date of December 2001 to allow for resources to be available to implement the changes properly. DWP agreed that the rules would not take effect before 3 December. This date was later moved back to 6 April 2002, but at the time of writing, a further delay appeared possible on account of the DWP Simplification Review led by Alan Pickering.

Changes to the Contracting-out Requirements

DWP consulted on draft regulations amending a number of aspects of the contracting-out regulations, many of the changes were simplifications requested by practitioners and we therefore generally welcomed the draft regulations.

Preservation in Unfunded Schemes

In the Royal Masonic Hospital case, the High Court held that an unfunded scheme (which is not specifically legislated for) is not subject to the preservation requirements. Our understanding was that government policy has always been that the preservation legislation was intended, and in practice does, apply to unfunded schemes. We therefore enquired whether DWP intended to amend the legislation to clearly reflect the policy intention. We were surprised at the response of DWP, that it was unaware of any plans to amend the legislation in relation to unfunded schemes, in the light of the case.

OPRA

The SPC Actuarial Committee had one of its periodical meetings with OPRA officials. The subjects on the meeting agenda included whistle blowing, delays in emergency valuations, the proposed interim changes to MFR, extensions of MFR time limits, the conditions applying where a minimum funding valuation was not supplied when a scheme was in the process of wind-up, the status of schedules of contributions if contributions greater than those required under the schedule of contributions were paid and OPRA's policy on fining.

INLAND REVENUE

Revised Practice Notes and Personal Pension Scheme Guidance Notes

SPC corresponded with Inland Revenue on a number of detailed points arising from use of the new Inland Revenue practice notes and guidance notes.

Personal Pension Scheme Integrated Model Rules

Following the publication of revised transfer regulations, we had assumed that revised integrated model rules, reflecting the relaxations introduced by the regulations would follow. After the failure of Inland Revenue after some time to publish revised integrated model rules, we asked when they were expected to be published and for confirmation that in the meantime schemes operating under the integrated model rules were at liberty to take on board the relaxations set out in the revised transfer regulations.

Inland Revenue indicated that because of work on further development of the model rules, it would not require schemes approved before 6 April 2001 to immediately adopt the current model in order to keep tax approval status. Inland Revenue confirmed that schemes should in the meantime operate on the basis of the provisions of the transfer regulations.

Transfers on or After Normal Retirement Date

In May 1998, Inland Revenue wrote to the pension representative bodies, indicating that the then paragraph 10.22(a) of the Practice Notes was being removed forthwith, so as to allow transfers after normal retirement date in certain circumstances.

We pointed out to Inland Revenue that the latest Practice Notes were not consistent with the 1998 letter and asked it to confirm the position. Inland Revenue acknowledged that action was required on its part and undertook to cover the position in an Update.

Pensions Update 102

We are concerned that Update 102 appears to mark an implicitly retrospective change in Inland Revenue policy.

Although the thrust of the Update is to remind trustees of small self-administered schemes of existing Inland Revenue practice, the Update actually goes beyond these schemes to cover all approved schemes. It states that all transactions (a much wider category than transfers) between approved and unapproved schemes are prohibited. The Update does not recognise that there has previously been no such prohibition of transactions between non-SSAS approved schemes (or even, indeed, SSASs) and unapproved schemes, nor does it consider the situation when such transactions might be unavoidable.

We are concerned that the Update could be seen as providing a basis for retrospective Inland Revenue investigation of past asset transfers from non-SSAS approved schemes to unapproved schemes, (e.g. as a consequence of the self-investment regulations) when there had at the time been no requirement for Inland Revenue involvement.

We would not have been surprised to see wording in the Update, to the effect that Inland Revenue is suspicious of transactions between SSASs and unapproved schemes, because they might lead to indirect transactions between a SSAS and a member, so that with effect from July 2, such transactions are prohibited. Furthermore, as a precaution, the same type of prohibition had been extended to all approved schemes with effect from the same date.

However, the Update presents the extended prohibitions as if they had always existed. This potentially exposes schemes to review of past transactions even when they complied with Inland Revenue practice at the time.

We asked Inland Revenue for confirmation that this is not intended. The question remained open at the year end.

Interim Authorisation

Inland Revenue confirmed, through Update 103, the ending of the interim authorisation procedure, on which it had consulted in 2000.

Simplified Defined Contribution Schemes

With the introduction of new tax free rules for money purchase schemes, Inland Revenue reviewed some features of existing tax practice relating to occupational pension schemes. It concluded that the new integrated money purchase approval structure would provide a much more flexible option for new schemes than the present simplified defined contribution structure.

Inland Revenue therefore consulted on plans to abolish, from April 2001, the facility for approving simplified defined contribution pension schemes, while maintaining the tax approval status of the relatively small number of existing such schemes.

SPC raised no objection to the proposal.

FINANCIAL SERVICES REGULATION

As N2 drew near, marking the coming into force of the Financial Services and Markets Act, and the unitary regulatory regime, the volume of FSA consultation papers remained high and SPC's Financial Services Regulation Sub-Committee again carried the main burden of responding to those relevant to SPC.

Some specific issues considered (not all relating to N2) are outlined below :-

Treasury Proposals for Standards for Retail Financial Products

The Treasury issued a consultation paper entitled, "Standards for Retail Financial Products". In response to the report by Don Cruickshank, "Competition in UK Banking", the government proposed to consult further on one of his recommendations, i.e. that there be consultation on the case for basic quality standards for retail financial products. The Treasury consultation paper therefore covered a far wider area then pensions.

We did, however, submit a brief response on aspects which were relevant to pensions.

The consultation paper gives considerable prominence to CAT standards for various financial products. We view CAT standards as a helpful innovation, but we do have concerns that they could be oversold. Therefore it is important to avoid creating the perception among consumers that a product which meets the CAT standards is automatically the best of its kind for them in all situations.

One of the Treasury's questions for feedback was whether there is a role for generic advice standards, and for pension advice in particular. We believe that this would be an area worth exploring. There could be value in focusing more closely on advice which does not go as far as detailed recommendations rel-

evant to a particular individual, but which is not simply information imparting no guidance at all. At the moment this is a grey area.

Transitional Provisions for Conduct of Business Sourcebook

FSA consulted on a number of transitional issues relating to its conduct of business sourcebook. One of the aspects for consultation was the amount of time to be allowed under "extra time" provisions. The effect of these provisions was to shift the mandatory compliance date from N2 to N2 plus x months for some rules, i.e. those rules, compliance with which, would require some changes to a firm's documentation e.g. general business stationery, disclosures, agreements, advertisements and all systems (e.g. new record keeping requirements, calculations, production of client information). FSA proposed that, since it had published the virtually final version of the sourcebook, and the precise date for N2 had at the time of consultation not been fixed, it might set a specific date for the end of extra time, not dependent on the timing of N2. It proposed that this date should be March 31 2002.

SPC pointed out that this could cause difficulty for firms which had made plans on the basis of the original proposals, in which it had been proposed that the extra time available for implementation should be twelve months after N2. This would have been approximately July 2002 (November 2002 following the final announcement on the timing of N2). March 31 represented a significant cutback in the implementation time in a process already underway on the assumption that it would end in July 2002. We therefore suggested that the extra time provisions should end on July 31.

European Consultation on Harmonisation of Core Conduct of Business Rules for Investor Protection

The Forum of European Securities Commissions (FESCO) issued a consultative paper entitled "Standards and Rules for Harmonising Core Conduct of Business Rules for Investor Protection". The Forum comprises seventeen statutory securities commissions in the European Economic Area.

Under FESCO procedures it is left to each member to consult domestically as it sees appropriate. The UK member of FESCO is FSA and it sought the views of SPC on the consultation paper.

We considered it important that FESCO recognises the concept of execution only business as we understand it in the UK. We expect there to be a greater emphasis on selling of retail products via the internet, or in other manners that are not face-to-face, and the introduction of any element of "know your customer" into the concept of execution only would stifle this. The relevant wording in the FESCO document is at best ambiguous as to its compatibility with the UK understanding of execution only.

We also considered the FESCO paper as it relates to categories of investors who are considered to be professionals. We note that this includes without qualification pension funds, which, the wording of the FESCO document also suggests, would invariably be authorised. In the UK pension funds and their sponsors need not be regarded as professionals and need not be authorised. We consider it important that the categorisation of trustees and sponsors of occupational pension schemes provided for in the Financial Services and Markets Act should not be undermined by the eventual FESCO criteria.

In the UK it is permissible for terms of business to specify that advice is being provided on a one-off basis and that there is no continuing responsibility to the client. Advice is frequently provided on this basis. References in the FESCO document to the customer informing the investment firm of major changes, to investment firms keeping information under regular review and to firms having policies and procedures to keep and update documents suggest that the concept of one off advice is not recognised by FESCO.

GAD SURVEY OF OCCUPATIONAL PENSION SCHEMES

The Government Actuary's Department consulted SPC on the content of the questionnaire for its next survey of occupational pension schemes.

We made numerous suggestions on the draft survey questionnaire. We also made the general comment that, to be of maximum value, the survey results needed to be published as soon as possible in 2002.

EUROPEAN UNION

Draft Directive on Occupational Pensions Schemes

The European Parliament approved the draft Directive on occupational pension schemes, subject to numerous amendments. The next stage for the draft Directive was its consideration in the European Council of Ministers. It appeared that a number of the amendments agreed by the European Parliament might be resisted in the Council.

The draft Directive refers to occupational pension schemes as Institutions for Occupational Retirement Provision (IORPs).

The intention is to introduce common standards of governance across the EU for funded occupational pension schemes. This will be based on recognised prudential standards aimed at protecting members' and pensioners' interests. At the same time, it will aid IORPs in operating efficiently, particularly with respect to financial investments and cross-border transactions. The Directive would apply equally to domestic UK arrangements and pan-European vehicles. Certain arrangements are specifically proposed for exclusion, the main ones being:

- State Social Security systems.
- Pay-as-you-go and book reserve arrangements.
- UCITS, credit institutions and, with some exceptions, life companies.
- At the discretion of individual Member States, schemes with less then 50 members/beneficiaries.

The draft Directive offers three sets of rules to achieve its goals as stated above:

- Strict prudential rules to protect beneficiaries. Members and beneficiaries would be properly informed of the terms of the scheme, the IORP's financial situation and their rights. In addition, supervisory bodies must have the right to monitor IORPs.
- Investment rules tailored to the characteristics of IORPs and geared towards effective savings management. The policy aims to ensure that IORPs are allowed a certain amount of freedom in determining the investment policy that bests suits their commitments. This includes investment in shares, risk capital and currencies other than the currency of their future pension liabilities. Lastly, the draft Directive gives IORPs the right to appoint any asset manager or custodian duly authorised in a Member State.
- Rules enabling cross-border management of occupational pension schemes. An IORP must be able to manage the schemes of firms located in other Member States while applying the prudential rules of

the State in which it is established (home-country control). The provisions relating to governance would not appear to add any significant additional regulatory burden for UK schemes, as pensions law here already requires most of the provisions. These include:

- Legal separation between the sponsoring undertaking (the employer) and the IORP.
- Actuarial certification of funding.
- Appointments of auditors, disclosure of accounts and annual reports.
- Disclosure of investment policy principle to a recognised domestic authority.

However, there appears to be a requirement for IORPs to undertake an actuarially certified calculation of technical provisions, matching assets with liabilities, annually. This could prove to be more onerous then the current Minimum Funding Requirement for defined benefit schemes although it is as yet unclear as to what exactly is required.

A key priority in drawing up the Directive was to loosen controls on pension fund investment while requiring IORPS to operate in accordance with the "prudent person" principle.

The "prudent person" principle gives the body which has overall responsibility for the conduct of an IORP the right to decide the investment strategy of the fund without being subject to any legal requirements as regards the minimum or maximum proportion of the fund which may be invested in specific asset classes or outside the home country. This right is subject only to the duty to act prudently.

Subject to the prudent person principle, pension funds must be permitted to invest up to 70% of their assets in equities and up to 30% in currencies other then that of their home country. Schemes would also be allowed to invest in risk capital markets. The only other specific quantitative limit imposed is a limitation of 5% of assets in the sponsoring undertaking.

Additionally, domestic restrictions imposed by member States, limiting selection to domestic investment managers would be removed.

However it is possible that the proposals for removing restrictions on fund investment might be diluted. The draft Directive contains an "escape clause" and Member States can apply more stringent investment rules than those proposed. These would need to be justified however on grounds of prudence.

The proposals are intended to provide a suitable basis for cross-border recognition of regulators. Furthermore, they will permit cross-border sponsorship of pension funds. Member States will have to allow undertakings and employing individuals located in their jurisdiction to sponsor IORPs in other countries and vice versa.

In cross-border instances the IORP concerned will need prior authorisation from the home country regulator. However, such cross-border activity will require full funding of the IORP at all times to allow mutual recognition of the different supervisory regimes of Member States.

Communication on Tax

The European Commission launched a Communication entitled the Elimination of Tax Obstacles to the Cross-border Provision of Occupational Pensions. It aims to supplement the proposed pension fund Directive also covered in this report, by dealing with the tax aspects of cross-border occupational pension provision.

The Commission stated that it had published a Communication, which has no legal force, rather than a draft Directive, because it considered that the most effective and immediate method of tackling tax obstacles to cross-border pension provision is to apply the rules which already exist in the EC Treaty on free movement of capital, free movement of labour and the freedom to provide services. The EC Treaty itself obliges Member States to eliminate discrimination against pension institutions established in other Member States

The Commission approach was therefore to clarify the Treaty rules in this area. The Commission in its initiative aimed to explain where, in its view, a balance has to be struck between the obligation imposed on Member States by the Treaty to allow persons, services and capital to operate freely within the Internal Market and the legitimate social policy aims which Member States pursue through their tax rules.

The Commission observed that discussions with Member States over the last few years have suggested that many of them only wish to proceed on a "step-by-step" basis in eliminating the tax obstacles to cross-border pension provision. Because of the unanimity rule, it is therefore unlikely that the EU Council of Ministers would agree a Directive with anything more than a very limited scope, eliminating discrimination only for workers posted to another Member State for a limited period. A Directive limited to posted workers would go much less far than the requirements of the Treaty itself. Other migrant workers would not be covered, nor would such a Directive deal, as the present Commission strategy does, with the problems of employers who wish to centralise their arrangements for pension provision.

The Communication proposes that a system of automatic information exchange could be put in place to meet Member States' concerns that they may be unable to enforce their tax rules if they allow their residents to participate in foreign pension schemes. The existing Directive on Mutual Assistance in Tax Matters Directive (77/799) provides for automatic information exchange.

The differences between Member States' tax arrangements for pensions may lead to problems of double taxation or non-taxation for migrant workers or persons retiring to another Member State. For example, an employee may work in a Member State which gives only limited relief for pension contributions, but retire to a Member State which provides for comparatively full taxation of benefits. Conversely, such differences can lead to non-taxation. For example, an employee may work in a Member State giving generous relief for contributions and then retire to a Member State which has generous tax arrangements for pension benefits. The Commission suggested that, in the long-run, alignment of Member States' pension taxation systems on the basis of the EET principle, which eleven Member States (including the UK) already operate, would be desirable so as to reduce the mismatches which lead to double taxation and non-taxation. In the short-term, the Commission suggests that Member States should resolve mismatches through unilateral or bilateral solutions.

The Commission now intends to commence a detailed examination of Member States' national rules in the field of pensions taxation. Where it considers that Member States have in this area failed to fulfil an obligation imposed on them by Community law it will contact the Member States concerned. Where issues cannot be resolved, the Commission will be prepared to bring cases before the Court of Justice on the basis of the Treaty.

Communication on Safe and Sustainable Pensions

While the EU Draft Directive on Institutions for Occupational Retirement Provision has attracted significant attention, the EU's communication on safe and sustainable pensions has had a much lower profile. Its full title is "The Future

Evolution of Social Protection from a Long-Term Point of View: Safe and Sustainable Pensions". The communication was issued in response to an agreement at a European Council Meeting in June 2000, that particular attention should be given to the sustainability of pension schemes, with actions aimed at improving forecasting of future trends and at obtaining in-depth knowledge of recent actual or expected national pension reform strategies. The communication contained little by way of specific proposals, but was intended to inform the work of the high-level working party on social protection formed by the European Council, also in June.

SPC DECEMBER CONFERENCE

SPC held a special one day high-level strategic conference, entitled "Employer Sponsored Pensions: New Dawn or Nightfall?" The aim was to assess current trends and discuss the way forward against the background of deepening public concern about pensions.

Leading figures from the pensions world addressed the conference, including OPRA Chairman Harriet Maunsell, NAPF Chairman Peter Thompson, HBOS Asset Management's Chief Executive Douglas Ferrans and CBI senior policy adviser Mark Thomas. SPC President Jane Samsworth and Council Member Donald Duval also spoke. The conclusions of the conference, along with pointers for the way ahead, were drawn by Tom Ross, Chairman of the Pensions Policy Group and the Pensions Policy Institute.

An innovative feature of the conference was continuous audience reaction to speakers' presentations through electronic feedback. Conference participants were asked a range of questions relating to the themes under discussion as they arose. Some of the Conference's main conclusions are referred to below.

Pensioners' income

Only 26% of those attending thought that in twenty years time, even allowing for likely policy developments, more of the average pensioner's income upon retirement than now would come from an employer sponsored pension. 67% thought less would.

Funding gap

An overwhelming 98% of those present agreed that there is currently a gap between individuals' expectations of, and contributions to, their pension. 46% thought that the most important means of filling the gap was through adjusting the age at which productive workers effectively became pensioners, rather than through increasing contributions to private sector pensions (38%) or increasing contributions to state pensions (9%).

The Role of the State and the age of retirement

70% thought that the long term role of the State should be to provide a basic pension for all, with tax incentives for private sector topping up through private saving or employer-sponsored pensions, as against 34% who thought the Government should replace the state pension with MIG benefits for the needy and steer others to the private sector (with tax incentives and regulation).

Donald Duval pointed out that the balance between state and private retirement provision was a political choice and not driven by economic or demographic necessity.

93% of those attending thought that changes in the rules governing retirement were needed.

Regulation

Harriet Maunsell asked whether there should be less, or more, regulation. 78% called for less, 10% for more. 43% would like OPRA to be more pro-active.

Public Confidence in saving for pensions/Compulsory contribution to Private sector pensions

An overwhelming majority thought that some action/ measures were needed to increase or restore public confidence in saving for pensions. 41% thought that the public had lost confidence in saving for pensions, but that it could be restored. 51% thought that confidence had not been lost but measures were needed to increase it. 93% thought that the Government's aim of transferring the 60/40 burden of retirement provision from the public to the private sector would not be met without radical fresh policy initiatives. 67% expected compulsion in some form within 5 years, but only 27% preferred re-introducing compulsory scheme membership over other measures.

Investment

82% of the participants thought that there would be a gradual shift in pension fund investment from equities to bonds next year (only 2% expected a "stampede").

Future trends

Donald Duval said that sombre predictions about the future of funded pensions should be balanced by a clear view of the less gloomy elements in the picture. The population was living longer. Pensions provision in the UK was, fundamentally, a success story. For the future, our productive capacity had increased hugely. We had more choice than ever before. Leisure could be spaced throughout a lifetime, not crowded into the retirement phase. The old were not unproductive - but a huge source, for instance, of child-care. It was no good regarding retirement as "The departure lounge of life". Such attitudes must, and would, change.

Jane Samsworth called for FSA rules to be changed to make it easier for employers to offer employees workplace advice on pensions.

SPC HALF-DAY WORKSHOP

SPC held a half-day high-level strategic workshop for its members. It was entitled "The Trend from Defined Benefit to Money Purchase - Are the Floodgates Still Ajar or Have They Been Fully Opened?". The facilitators at the meeting were Jane Samsworth (Lovells and SPC President), Alan Pickering (Watson Wyatt and immediate Past Chairman, NAPF) and Alison Hamilton (Manager, Public Sector Practice, Hymans Robertson).

SPC DINNER

The SPC Dinner took place at the Savoy Hotel, London WC2. Once again, bookings were in excess of 400. The principal guest and speaker was Paul Myners, who proposed the toast to the SPC. SPC's President, Jane Samsworth, responded and proposed a toast to the guests, for whom Robin Ellison (National Head of Pensions, Eversheds) responded.

SPC COMPLIANCE FORUM

The SPC Compliance Forum provides a focal point for staff of SPC members directly involved in the Members' compliance under the Financial Services Legislation. It offers a probably unique opportunity for compliance specialists in the pensions field to meet for informal discussion. The attendance reflects the multi-disciplinary makeup of SPC's Members, the participants coming from IFA, life office, legal, accountancy and investment backgrounds.

The forum met twice in 2001.

Each meeting had at least one guest for informal discussion. The guests were Keith Matthews and Norman Digance (FSA) and Steve Barrow (Head of Monitoring at the General Insurance Standards Council).

SPC HEALTH AND RISK BENEFIT FORUM

The SPC Health and Risk Benefit Forum provides a focal point for informal discussion among specialists in health and risk benefits. The majority of those attending are health and risk benefits specialists within SPC's membership but the forum also attracts a number of key health and risk insurers, which are not involved in the pensions field, and are therefore not SPC Members. The forum met twice in 2001.

Each meeting had at least one guest for informal discussion. These were Conor Gearty, Professor of Human Rights Law at King's College, London, Jonathan Evens (Department for Education and Employment) and Alan Tyler (Swiss Re Life and Health).

SPC EVENING MEETINGS

A programme of evening meetings was provided throughout the winter, spring and autumn, with meetings taking place in Edinburgh, Glasgow, London and Manchester. The programme of meetings was as follows.

Month	Subject	Speaker(s)
January	MFR : an investment perspective	Bob Collie (Frank Russell)
February	A global perspective on pensions	Chris Daykin (Government Actuary)
March	The future of benefits in the UK from a North American perspective	Terry Faulkner (Nortel Networks)
May	An update on pension sharing on divorce	Maggie Rae (Clintons)
September	FRS 17 : what it means for investment decision making	Stephen Cooper (UBS Warburg)
October	Investment strategy and the Myners Report : a bluffer's guide	Robbie Bowker (Punter Southall)
November	Alternatives to final salary : beyond money purchase ?	Jane Samsworth (SPC President, Lovells)
December	Life after MFR	Peter Tompkins (Pricewaterhouse Coopers)

We are grateful to all the speakers for giving their time to address SPC.

CO-OPERATION

SPC maintained a close liaison with the Association of British Insurers, the Association of Consulting Actuaries, the Association of Pension Lawyers. the National Association of Pension Funds and the Association of Unit Trusts and Investment Funds through the Occupational Pension Schemes Joint Working Group. The last named joined the Group during the year.

The membership of the Group was also expanded to include, as associate members, DWP, Inland Revenue and the Treasury. Major areas of liaison in 2001 were the replacement of the minimum funding requirement, the Myners review of institutional investment and the DWP review of private pension legislation. SPC continued to participate in the group's two standing sub-committees, the Actuarial Sub-Committee and the Inland Revenue Savings, Pensions and Share Schemes Liaison Sub-Committee.

SPC continued to be represented on the PMI Qualification in Pension Administration committee and continued to be represented on a PMI working party drawing up a model pension administration agreement. SPC also maintained liaison with Ministers (DWP and Treasury), MPs, senior government officials, the Pensions Ombudsman, OPRA, FSA, DWP, the Government Actuary's Department, the Treasury, the Institute and Faculty of Actuaries and the European Commission.

EXTERNAL AND INTERNAL RELATIONS

SPC continued its regular contributions to the Association Forum of Pensions World magazine and a panel of contributors from the Legislation Committee continued to write Pension World Tax and Benefit Notes. SPC also had regular features in the Actuary magazine and Financial Regulatory Briefing.

SPC provided media spokesmen and contributed articles and comment to a wide range of publications.

SPC maintained its sponsorship of the prize for the best performance in the scheme design paper of the PMI associateship examination.

SPC News was produced on a two monthly basis and was again supplemented by the issue of frequent general circulars on matters of immediate importance. The Document Service again operated successfully as did the Pensions Ombudsman's Determination Service.

SPC continued to invite members to supply details of their offices in the UK for inclusion in lists by geographical area of members providing independent individual advice. There were supplied in response to a regular stream of requests from the public, received by the Secretariat.

COUNCIL AND COMMITTEES

During the year the following Council and committee meetings took place :-

Council	6
Actuarial	7
Administration	9
European	3
Financial Services	6
Investment	2
Legislation	10
Personal Pension	5
Public Relations	3
Myners Working Party	1
Fiscal	1

We are very grateful for the time devoted to the work of SPC by all the bodies listed above, both in meetings and outside them. Their commitment makes possible the broad range of activities summarised elsewhere in this Report.

The membership of SPC's Council, committees and working parties at December 31 forms Annex 1 to this report.

MEMBERSHIP

At December 31 SPC had 138 Members. The Members are listed in Annex 2 to this report.

ANNEX ONE : COMMITTEES AND WORKING PARTIES AS AT 31.12.01

ACTUARIAL

Name	Organisation
Mike Carson	Jardine Lloyd Thompson Benefit Solutions
Martin Collins	Watson Wyatt Partners
David Everett	PricewaterhouseCoopers
Mike Hammer	Towers Perrin
Orlando Harvey Wood	Arthur Andersen & Co
Chris Long (Chairman)	William M Mercer Limited
Simon Martin	Aon Consulting
Alastair McLeish	KPMG Pensions
Alison Murray	Hymans Robertson
Gail Robinson	Robert Fleming Benefit Consultants Limited
Anne Stoye (Deputy Chairman)	Friends Provident Corporate Pensions Limited
Iain Tait	HSBC Actuaries and Consultants Limited

ADMINISTRATION

Name	Organisation
Sue Applegarth	MNPA Ltd
David Barnes	SBJ Benefit Consultants Ltd
Jennifer Batty	Capita Hartshead
Robert Branagh	PAYMASTER
Gail Chorley	Punter Southall & Co
Tony Dibben	William M Mercer Limited
Ken Edis (Chairman)	Edis Partnerships Limited
Jacci Gridley	Prudential
Carol Lynn Hartridge	Jardine Lloyd Thompson Benefit Solutions
Griff Jones (Deputy Chairman)	Gissings Ltd
Gareth Kitchener	Norwich Union
Richard Mielcarek	Clerical Medical Investment Group Ltd
David Parker	HSBC Actuaries and Consultants Limited
James White	Aon Consulting

COUNCIL

Name	Organisation
Andrew Benke	Capital Cranfield Trustees Limited
John Betts	William M Mercer Limited
Robert Birmingham	Entegria Ltd
Jim Buchan	PricewaterhouseCoopers
Peter Crutchett	KPMG Pensions
Stephen Dry	Scottish Widows Investment Partnership Limited
Donald Duval	Aon Consulting
Ken Edis	Edis Partnerships Limited
Ian Gault	Herbert Smith
Mark Greenlees	Sacker & Partners
Liz Hinchliffe	Scottish Amicable Life plc
Maureen Howe	Legal & General Life & Pensions Group
Duncan Howorth	Jardine Lloyd Thompson Benefit Solutions
Stephen Ingamells	Capita Hartshead
Rodney Jagelman	Gissings Ltd
Kevin LeGrand	Buck Consultants Limited
Roger Mattingly	HSBC Actuaries and Consultants Limited
David Miers KBE CMG (Chairman)	
Gail Paterson	Hymans Robertson
Cathy Robertson	Standard Life
Jane Samsworth (President)	Lovells
Eric Shepley	Watson Wyatt Partners
Nigel Stammers	Clerical Medical Investment Group
Kenn Taylor	Prudential

EUROPEAN

Name	Organisation
Paul Burt	Entegria
Rosemary Bustin (Chairman)	PricewaterhouseCoopers
David Callund	Callund Consulting Limited
Tom Collinge (Deputy Chairman)	Hammond Suddards Edge
Edmund Downes	Norwich Union Life & Pensions
Peter Hancock	Heath Lambert Consulting Limited
Paul Kelly	William M Mercer Limited
David Pollard	Freshfields Bruckhaus Deringer
Robert Sperl	Watson Wyatt Partners
Ian Walker	Buck Consultants Limited
David West	Aon Consulting
Michael Wyman	Simmons & Simmons

FINANCIAL SERVICES REGULATION

Name	Organisation
Roy Brimblecombe	Aon Consulting
Mike Young (Chairman)	Buck Consultants Limited
Stephen Elkins	Gartmore Investment Management PLC
Martin Odell	Gissings Ltd
Allan Dampier	Hymans Robertson
Rachel Kent	Lovells
Malcolm Paterson	Paterson Lloyd Limited
Joan Wood	Prudential
Philip Orange	Simmons & Simmons
Donald Campbell	William M Mercer Limited

INVESTMENT

Name	Organisation
Paul Black	Buck Consultants Limited
Nicola Hayes	INVESCO Asset Management Limited
Derek Huish	Aon Consulting
Terry Mellish (Chairman)	Schroder Investment Management Ltd
Julie Pine	Henderson Global Investors
Tim Rees	Clerical Medical Investment Group
Gordon Sharp (Deputy Chairman)	KPMG Pensions
Clifford Sims	Baker & McKenzie
Nigel Taylor	Phillips & Drew
Peter Warrington	The WM Company
Peter Whitehead	P D Whitehead & Company
Alan Wilcock	Combined Actuarial Performance Services Ltd
Natalie Winter	PricewaterhouseCoopers
Iain Woods	Watson Wyatt Partners
Greg Wright	William M Mercer Limited
To be Confirmed	J P Morgan Fleming Asset Management Legislation
Nigel Armstrong	Fidelity Pensions Management
Michael Cowley	Stephenson Harwood
Chris Dallard	Bacon & Woodrow
Ian Fisher	Scottish Amicable Life plc
Ian Long (Deputy Chairman)	Norwich Union Life & Pensions
Declan McKeown	Berry Birch & Noble Financial Services Ltd
Mervyn Parry	Allen & Overy
Terry Ritchie	Aon Consulting
David Roberts (Chairman)	Watson Wyatt Partners

Ron Thom	Lawrence Graham
John Wilson	HSBC Actuaries and Consultants Limited
Graham Withers	William M Mercer Limited

MYNERS REVIEW

Peter Crutchett	KPMG Pensions
Stephen Dry	Scottish Widows Investment Partnership Limited
Donald Duval	Aon Consulting
Jane Samsworth (Chairman)	Lovells

NORTHWEST

Mike Higgins	Friends Provident Life Office
Graham Ratcliffe	Aon Consulting
Steve Robinson (Chairman)	PricewaterhouseCoopers
Marie Wilkinson	William M. Mercer Ltd

PERSONAL PENSION

Clive Briggs	Towers Perrin
Neil Davidson	Norwich Union
Maxine Dennahy	Edinburgh Portfolio Limited
Peter Gray	SBJ Benefit Consultants Ltd
Ian Greenstreet	Hammond Suddards Edge
Liz Hinchliffe (Chairman)	Scottish Amicable Life plc
Mike Kelly	INVESCO Pensions Limited
Paul Marks	Gissings Ltd
Mike Morrison	Winterthur Life UK Ltd
Ian Neale	Aries Pension & Insurance Systems Ltd
Chris Oakland	PIFC Benefit Consultants PLC
Graham Ogden	Heath Lambert Consulting Limited
Robert Smith	Lawrence Graham

PUBLIC RELATIONS

Sian Barr	Punter Southall & Co
Richard Clarke	Henderson Global Investors
Lindsay Davies	Hymans Robertson
Duncan Howorth	Jardine Lloyd Thompson Benefit Solutions
Stephen Ingamells	Capita Hartshead
Roger Mattingly (Chairman)	HSBC Actuaries and Consultants Limited
David Metcalfe	Schroder Pensions Limited

SCOTLAND

Ian Drysdale	William M Mercer Limited
Graham Hanna	William M Mercer Limited
Liz Hinchliffe (Chairman)	Scottish Amicable Life plc
Robert Stephenson	Buck Consultants Limited

YORKSHIRE

J Richard Archer	Wrigleys
Stephen Ingamells	Capita Hartshead
Darren Jefferson	Aon Consulting
Terri Saeedi	Hammond Suddards Edge
Kevin Sowerby	YiG Consulting Limited
Richard Sweetman (Chairman)	William M Mercer Limited

ANNEX TWO : MEMBERS AS AT 31.12.01

Addleshaw Booth & Co
Aegis Financial Services Ltd
AEGON Asset Management UK plc
Alexander Forbes Financial Services Limited
Allen & Overy
Aon Consulting
Arbuthnot Pensions & Investments Limited
Argentia Pension Consultants Limited
Argyle Consulting Ltd
Aries Pension & Insurance Systems Ltd
Arthur Andersen & Co
Ashurst Morris Crisp
Aspen (Actuaries and Pension Consultants) Plc
AXA Rosenberg Investment Management Ltd
Baker & McKenzie
Barnett Waddingham
BBS Consultants & Actuaries
Berry Birch & Noble Financial Services Ltd
Blake Lapthorn
British Taxpayers
Buck Consultants Limited
Burges Salmon
Callund Consulting Limited
Capita Hartshead
Capital Cranfield Trustees Limited
Capital Plans Limited
Cartlidge Morland
Cartwright Consulting Limited
Charles Russell
Clerical Medical Investment Group
Combined Actuarial Performance Services Ltd
Compliant Solutions Ltd
Cuthbert Service (Life & Pensions) Ltd
Danamere Financial Services Limited
DLA
Dundas & Wilson CS
E B Consultants Limited
Edinburgh Portfolio Limited
Edis Partnerships Limited
Entegria Ltd
Entelechy Financial Management Ltd
Eversheds
Excalibur Actuaries
Fairmount Trustee Services Ltd
FarrSight Solutions
Fidelity Pensions Management
FPS Group Limited
Freshfields Bruckhaus Deringer
Friends Provident Corporate Pensions Limited
Garretts
Gartmore Investment Management PLC
Gissings Ltd
Grant Thornton
Griffiths & Armour Financial Services
halliwell landau
Hammond Suddards Edge
Harvey & Pauer
Hay Group
Hazell Carr PLC
HCM International
Heath Lambert Consulting Limited
Henderson Global Investors
Herbert Smith
Hewitt Associates
HighamNobbs Consulting Limited
HSBC Actuaries and Consultants Limited
Hymans Robertson
INVESCO Asset Management Limited
INVESCO Pensions Limited
Jardine Lloyd Thompson Benefit Solutions
John Scott & Partners Ltd
JP Morgan Fleming Asset Management
Kerr & Company
KPMG Pensions
Lawrence Graham
Legal & General Investment Management Ltd
Legal & General Life & Pensions Group
Linklaters
Lovells
Maclay Murray & Spens
Mark Lloyd & Co
Marshall Williams & Co Ltd
MHA Pensions Limited
Mitchell Consulting
MNPA Ltd
Needler Financial Services Limited
New Bridge Street Consultants
Norfolk and Suffolk Pension Consultants
Norwich Union Life & Pensions
NPI
P D Whitehead & Company
Paterson Lloyd Limited
Phillips & Drew
Pi Consulting (UK) Ltd
PIFC Benefit Consultants PLC
Pinsent Curtis Biddle
Plumptree Kilby
PricewaterhouseCoopers
Professional Financial Advisers Limited
Prudential
Punter Southall & Co
Regent Pensions Management Ltd
Robert Fleming Benefit Consultants Limited
Rodney Maryan Green Limited
Sacker & Partners
SBJ Benefit Consultants Ltd
Schroder Investment Management Ltd
Schroder Pensions Limited
Scott Lang & Co Limited
Scottish Amicable Life plc
Scottish Equitable Employee Benefits
Scottish Equitable plc
Scottish Widows Investment Partnership Limited
Shoosmiths
Simmons & Simmons
Smith & Williamson Pension Consultancy Ltd
Solomon Hare
St James's Place Management Services Limited
Stamford Associates Limited
Standard Life
Stephenson Harwood
Sterling Hamilton Wright Limited
Stuart Alexander Financial Services Ltd
Sydney Packett (Life & Pensions) Ltd
T J Green (Pension Consultants) Ltd
The Law Debenture Pension Trust Corporation plc
The Opus Consulting Group Limited
The WM Company
Towers Perrin
Travers Smith Braithwaite
Watson Wyatt Partners
Wedlake Bell
William M Mercer Limited
Winterbourne Trustee Services Ltd
Winterthur Life UK Ltd
Wragge & Co
Wrigleys
YiG Consulting Limited

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