



Department
for Work &
Pensions

Treatment of Additional Voluntary Contributions under the charge cap

Government response to the public consultation on
a technical change to the Occupational Pension
Schemes (Charges and Governance) Regulations
2015

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Technical change to the treatment of Additional Voluntary Contributions under the charge cap

Introduction

As announced in March 2014, the Government is introducing a charge cap that will apply to the default arrangements of pension schemes used for automatic enrolment. The charge cap will be set at 0.75% of funds under management, or an equivalent combination charge.

The final regulations (the Occupational Pension Schemes (Charges and Governance) Regulations 2015) for occupational pension schemes¹ were laid before Parliament on 4 February 2015 and made on 23 March 2015, following affirmative debates in Parliament. They come into effect on 6 April 2015².

The Department for Work and Pensions recently consulted on a technical change to these Regulations relating to the treatment of Additional Voluntary Contributions (AVCs) under the charge cap.

The consultation was published on 18 March 2015³ and ran until 24 March 2015. It sought views on a draft amendment to achieve the stated policy intention.

Issue – Additional Voluntary Contributions

1. As explained in our consultation document, *Treatment of Additional Voluntary Contributions under the charge cap: Public consultation on a technical change to the Occupational Pension Schemes (Charges and Governance) Regulations*, it has recently come to light that some AVCs may be subject to the default fund charge cap in a scenario which was not intended.
2. In our February command paper, *Government response to the consultation on Better workplace pensions: Putting savers' interests first*⁴, the Government

¹ The regulations apply to occupational pension schemes used to meet automatic enrolment duties (as defined in the Pensions Act 2008) which provide money purchase benefits, subject to a small number of exceptions, including for small self-administered schemes and executive pension schemes.

² With the exception of regulations 11 and 23, and the words “with the exception of regulation 11” in regulation 4(2), which come into force on 6 April 2016.

³ Treatment of Additional Voluntary Contributions under the charge cap: Public consultation on a technical change to the Occupational Pension Schemes (Charges and Governance) Regulations, March 2015,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414162/additional-voluntary-contributions-under-the-charge-cap.pdf

confirmed that an arrangement established for the purpose of receiving Additional Voluntary Contributions (AVCs) would not generally meet the criteria to be defined as a default arrangement subject to the charge cap.

3. We explained that the only circumstance in which AVCs could be subject to the charge cap was where a particular arrangement is, first, used by a qualifying scheme to fulfil an employer's automatic enrolment duties in respect of at least one employee, and second, meets one of the three tests in regulation 3(2). This would mean that no arrangement solely receiving AVCs could be subject to the charge cap.
4. However, it has since come to light that there is one additional scenario in which AVCs may be subject to the default fund charge cap. This could potentially affect schemes where the AVCs meet the following criteria:
 - They are money purchase AVCs, made within a qualifying scheme⁵ used for automatic enrolment
 - They are made to an arrangement which only receives AVCs
 - The members making AVCs were not required to make a choice as to the arrangement in which these contributions were invested
5. As this impact was not intended, the Government consulted on an amendment to achieve the previously stated policy intent.
6. The draft Regulations on which we consulted therefore amend the definition of a default arrangement to ensure that no arrangement solely receiving AVCs will be subject to the charge cap.

Summary of responses

The consultation sought views on whether the proposed amendment to the definition of a default arrangement in regulation 3 achieved the policy intention as regards the treatment of Additional Voluntary Contributions under the charge cap.

We received 6 formal written responses from pension providers, legal firms and industry bodies. We are grateful to everyone who replied. A list of organisations that responded to the consultation is at Annex A.

All respondents agreed that the amendment as drafted would achieve the stated policy intent as regards AVCs.

Those respondents who commented on our policy intent were supportive of excluding arrangements solely receiving AVCs from the charge cap, particularly in view of the fact that schemes will have been preparing for the introduction of the charge cap on the basis that such arrangements would not be in scope.

⁴ Department for Work and Pensions, February 2015, Government response to the consultation on Better workplace pensions: Putting savers' interests first, Cm 9000, TSO.

⁵ 'Qualifying scheme' has the meaning in the Pensions Act 2008.

Two respondents also explicitly agreed with our assessment that it would be unusual for an arrangement to meet the criteria outlined in paragraph 4 as, in most cases, members choose the arrangement in which their AVCs are invested.

Consultation outcome

As all consultation respondents supported the proposed changes and agreed that the draft amendment on which we consulted met the policy intent, no changes to the amending Regulations on which we consulted have been made.

The amending Regulations will therefore be laid before Parliament on 25 March 2015. An Explanatory Memorandum has been produced to accompany these amending Regulations and will be available on legislation.gov.uk.

To ensure that the charge cap provisions function as intended and in line with industry preparations, we intend to bring the amending Regulations into effect on 6 April 2015, when the original Regulations come into force.

Annex A – List of consultation respondents:

- Association of British Insurers
- Association of Pension Lawyers
- Friends Life
- Hymans Robertson
- National Association of Pension Funds
- Pensions Management Institute