

THE TIMES

Early-release 'loans' put pensions at risk



The Financial Services Authority is urging anyone thinking of using such schemes to tread carefully Simon Battensby/Getty Images

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Beware companies offering to free up cash as you could face a tax charge

The City watchdog is set to issue a warning to cash-strapped consumers to be wary of schemes that offer the chance to release up to 50 per cent of their pension funds before they are 55.

Under normal rules this is not allowed and would trigger an "unauthorised payment charge" from HM Revenue & Customs (HMRC) of 55 per cent of the amount released. However, some companies claim to have found a way around this legislation. Usually only those who are terminally ill or have to retire early because of health problems can access their pension fund early. The Financial Services Authority (FSA) is urging anyone thinking of using such schemes to tread carefully. It says: "These schemes can be an expensive way to free up extra cash and will affect

your income for the rest of your life. Anybody thinking about using one should consider seeking professional advice and carefully weigh up the long-term impact before signing on the dotted line."

Experts say that, despite the claims of some of the companies promoting the schemes, people could still be hit with a 55 per cent tax charge at a later date because, even when technical loopholes in legislation exist, HMRC can close these down in the future and seek to recoup the tax. Some of the schemes involve moving the remaining pension fund into risky investments, meaning that consumers could further deplete their retirement income.

The schemes have a range of different structures - some of which involve moving money into another pension scheme and then using a separate company to provide a cash lump sum to the client through what is called a "pension reciprocation plan". Other websites promote "pension loans", which involve transferring the client's funds to a self-invested personal pension in which half the money is invested in a company or group of companies specified by the scheme and a separate lending company is used to provide a loan to the client equivalent to half the fund's value. Some schemes claim that the remaining investment could recover its value over ten years.

A spokesman for HMRC says: "Any loan made by a registered pension scheme to a person who is a member of that scheme will result in an unauthorised payment equal to the amount of the loan.

"As such, any individual who obtains access to accrued pension rights through an arrangement that directly or indirectly provides a "loan" to the individual runs the risk of being taxed at a rate of 55 per cent. Adding this to the fees charged means that individuals stand to lose out considerably by entering into such arrangements."

Posing as an interested customer, *Times Money* submitted applications to a number of websites promoting these schemes to request a callback for a "pension review". One of these websites, Cashforpension.com, offers to allow people aged between 25 and 65 to cash in their pension to receive a pension loan to payoff debts, invest in property or for other purposes. It says that you would not have to pay any tax on a loan but that you could be liable for income tax on a release of cash from your pension. After submitting an inquiry to Cashforpension.com, *Times Money* received a call from Tom McGovern, who said that there were two options, the first of which he could offer himself, but for the second he would have to refer the client to another company.

Mr McGovern said the first option involved moving the money offshore and then moving it back onshore, but that the client would lose 50 per cent of the fund's value entirely and that it would not be reinvested. So with a £36,000 pension pot, £18,000 would be sacrificed. He said that the process would take about a year and that "it is the sort of thing that, if it is uncovered at a later date, there is the potential for a tax penalty as well". He conceded that it was a "stark option" but said that, despite the fact that it involves losing 50 per cent of the pension's value, "such are the times we

are in, we do have a full book of clients".

Mr McGovern said that the second option would involve putting the client in touch with another company that would offer a direct cash payment and place the remaining pension fund into a highyielding investment.

But, despite offering to put the client in direct contact with one of these companies, Mr McGovern said: "If I knew the true workings of that second method and the sort of figures involved, then the Financial Services Authority regulations would actually forbid me from imparting that knowledge to you. Because it is something, as I say, that others do."

Mr McGovern could not subsequently be reached for comment.

Times Money submitted another application to a website called PensionLending.co.uk - which has since been taken down and a message appears that the site is "under maintenance". The website said that using a pension loan it was possible to borrow "up to 50 per cent of your pension value" with no credit checks. After submitting the application, *Times* Money was called by a representative of the website, who said that clients could typically borrow "up to 33 per cent" of their pension value. He said the remainder would be put into a UK-based "eco Sipp" investing in sustainable energy. He said the charges would total £1,800 plus VAT over ten years, which could be taken out of the pension fund, as well as a £1 per year loan arrangement fee. However, he said "over a ten-year period you should see growth of between 90 and 110 per cent, so you should be back to where you were when you took the money out of it".

Documents sent by the representative said that: "You will default on the loan in year ten and it will be written off as a bad debt by the fund."

The representative said that Pension Lending was acting as an introducer on behalf of Protea Wealth Management, which he said was an FSA-registered independent financial adviser. However, Protea is not listed on the FSA's register and its website contains no contact details or authorisation number.

A spokesman for Pension Lending says that the website has been taken down to be reviewed for compliance. He says that after further research Pension Lending has concluded that "nobody can actually borrow this money against their pension".

Stuart Stein, director of Protea Wealth Management confirms that the company is not yet FSA authorised and says it is awaiting approval. He says that while the company had agreed to receive leads from Pension Lending it does not intend to follow them up until it has received FSA authorisation and it will now be reassessing its position in relation to Pension Lending in light of *Times* Money's findings.

Times Money submitted another form to a website called Pensionbackedloans.com, which has also since been taken offline for maintenance. A representative of the website, Gary Spicer, called following the web inquiry and offered another scheme through which he said "you can borrow up to 50 per cent of your pension fund". He

said the interest rate would be 5 per cent over the Bank of England base rate so clients would currently pay 5.5 per cent, and there would also be a charge of 5 per cent for setting up the structure. Mr Spicer said the remainder of the pension fund would be invested in shares in an unlisted bridging finance company via a Sipp. Investing in shares that are not listed on a stock exchange can be risky because they can be difficult to trade if you want to get your money out, and there are fewer controls over the governance of the companies and the information that they have to report, so it can be difficult to get an up-to-date valuation of your investment or find out how well the company is performing.

Mr Spicer said that the scheme would be set up by a separate company.

Pensionbackedloans.com says that it is a marketing company and merely acts as a lead generator for a number of companies that provide unsecured loans, which it is satisfied operate within UK pension regulations. It says that the loan is not provided from the pension itself.

Jennie Kreser is the head of pension law at the solicitors Silverman Sherliker and was formerly the legal director of the Occupational Pensions Regulatory Authority, the predecessor to the current Pensions Regulator. She says that HMRC could clamp down on the schemes and impose tax charges retrospectively.

She says: "I would not touch these type of schemes with a very long bargepole."

Pension advice

- The Government consulted on allowing early access to pensions as a means of encouraging more people to save for retirement because they would have the security of knowing that they could withdraw cash if they needed it in limited circumstances. However, the idea was rejected in April, as ministers concluded that it was unlikely to boost pension saving.
- The minimum age at which savers are allowed to access their company or personal pension funds was raised last year from 50 to 55.
- People with a small pension pot of £18,000 or less can choose to take their money as a one-off lump sum from the age of 60 under "trivial commutation" rules. Tom McPhail, of Hargreaves Lansdown, the adviser, says: "This may make sense for people with a small pension fund as it provides the opportunity to tidy up their finances and payoff debts."
- The Government has said it will look at making trivial commutation rules more flexible to allow more people with low levels of pension savings to benefit.
- Get more pension information from Times Money's reader guides.
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