The pension front-runner

From loanbacks to succession planning, the merits of a SSAS have never been stronger, making it the pre-eminent pension vehicle for many business owners, says Richard Eagling

Given that saving for retirement is more akin to a marathon than a sprint, a pension vehicle that maximises flexibility and control should naturally be an attractive proposition. These qualities are particularly sought after among many company directors and owners of small to medium-sized enterprises (SMEs), who are increasingly exploring the unrivalled flexibility offered by the oft-overlooked Small Self-Administered Scheme (SSAS).

A further boost

Already resurgent, the introduction of the new pension freedoms has further boosted demand for SSAS, as shown by the experience of Xafinity who recently reported that it had written a typical year's worth of SSAS business in just six months. "We have seen a significant increase in SSAS business, and it's great to see this long respected mainstay of SME pension planning back in vogue again," says *Andy Bowsher, Director of Self Invested Pensions at Xafinity.* "Over recent years the growing popularity of Self Invested Personal Pensions (SIPP) has drawn attention from SSAS but, more recently, and as a direct result of the surge in interest in pensions following the reforms, SSAS appears to be undergoing a renaissance."

Other SSAS providers have also noted the positive impact of the greater pension awareness brought about by the new pension freedoms. "We have seen an increase in the value of contributions since April 2015, largely due to the fact that clients feel more comfortable making bigger contributions to pensions due to their increased flexibility," says *Nigel Bennett, Sales & Marketing Director at InvestAcc Pension Administration Limited.* "Those able to make much larger contributions are often a typical SSAS client - business owners with significant profits, looking to extract them in a very tax efficient way, while retaining some access should the business need it in future."

Table 1 on page 15 provides a breakdown of the portfolio information of each SSAS provider, detailing the number of SSASs held, SSAS funds under administration and the proportion of SSAS assets held as property. The latest figures show a total of 20,563 SSASs held among the 32 providers surveyed who disclosed these details. This compares with 18,030 SSASs in our survey last year and 16,973 two years ago.

Although these figures provide an indication of the growth of the SSAS market, they should be treated with caution as there are differences in some of the SSAS providers surveyed over this time period. In terms of the number of SSASs held, the three biggest SSAS providers are currently Rowanmoor Group (3,600), Barnett Waddingham (2,334) and James Hay Partnership (1,547).

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New death benefit rules

While greater pension awareness generally has benefitted the SSAS market, it is the introduction of more relaxed rules surrounding the taxation of pension death benefits as part of the new pension freedoms that has created the most excitement. By abolishing the 55% tax charge when pension benefits pass to a non-dependent beneficiary upon death, the new rules have paved the way for SSAS to play an even greater role in succession planning, with many commentators agreeing that SSAS should become the intergenerational family tax planning vehicle of choice.

"The new flexibility of being able to retain monies within a pension fund on death, for future payments to dependants and beneficiaries, is certainly a selling point for SSASs for family businesses," argues *Ian Hammond, Managing Director at Rowanmoor Group plc*. "The new rules permit assets that are being held for the benefit of the company, for example the company's property, to be retained within the SSAS even after the death of the principal Director, if the next generation of the family are employees and members of the scheme. While this has probably not increased the number of SSASs being established, it has meant that funds have been retained within a scheme on the death of the principal member, giving the SSAS greater longevity."

This enthusiasm appears to be shared by advisers involved in retirement planning, with a recent survey by Xafinity revealing that 78% of those questioned believed that the death benefit changes would increase their opportunities to use SSASs. "The 2015 changes to death taxes have really placed SSAS as the central pillar of family tax planning," suggests Andy Bowsher. "We've also seen a new appetite from advisers, new and old, to learn about SSASs - the most popular adviser webinar our technical team delivered last year was on SSAS. Accountants continue to be more likely to suggest that their clients consider setting up a new SSAS. As the UK economy steadily recovers, and corporation tax bills increase, accountants will look at reducing tax liabilities through large one-off pension contributions. The unique flexibility of a SSAS makes it the best pension vehicle for many."

Table 1: SSAS Provider Portfolio Information

Provider	Number of SSASs	Funds under administration	Property as % of assets under administration
A J Bell	727	£741.5 million	Not disclosed
Alltrust Services Ltd	120	£82 million	45%
Astute Pensions	45	Not disclosed	Not disclosed
Barnett Waddingham	2,334	£4.1 billion	35%
Berkeley Burke	240	£250 million	70%
Bespoke Pension Management	120	£60 million	30%
Brooklands Trustees Ltd	35	£21 million	39.6%
Carey Pensions UK LLP	22	£8 million	30%
Central Tax & Trustee Planning LLP	76	Not disclosed	Not disclosed
City Trustees	283	£243 million	Not disclosed
Cranfords	450	£19 million	20%
Curtis Banks	326	£240 million	60%
D A Phillips & Co Ltd	419	Not disclosed	Not disclosed
Dentons Pension Management Ltd	726	£0.89 billion	40%
Hornbuckle	500	Not disclosed	Not disclosed
InvestAcc Pension Administration Ltd	259	£170 million	51.78%
I.P.M Trustees Ltd	460	£230 million	50%
James Hay Partnership	1,547	£2 billion	Not disclosed
JLT Premier Pensions	842	£935.2 million	44.5%
Lindley Trustees Ltd	135	£200 million	40%
London & Colonial	1,528	£206.3 million	12.5%
Mattioli Woods	1,466	£1.365 billion	Not disclosed
MDP Administration Services LLP	120	£81.2 million	60%
Michael J Field Consulting Actuaries	650	Not disclosed	Not disclosed
Momentum Pensions Ltd	54	£50 million	60%
PensionAdmin Ltd	91	Not disclosed	Not disclosed
Redswan Pensions	Not disclosed	Not disclosed	Not disclosed
Rowanmoor Group plc	3,600	£2,883 million	37%
Scottish Widows	500	Not disclosed	Not disclosed
Talbot & Muir Ltd	688	£603 million	55%
Westerby Trustee Services Ltd	174	£84 million	62%
Whitehall Group (UK) Ltd	726	£349 million	39.7%
Xafinity Consulting	1,300	£1.2 billion	38.2%

Unrivalled flexibility

A SSAS is essentially an occupational pension scheme set up for the benefit of its controlling directors and senior management and is limited to a maximum of 11 members.

"Typically, a new SSAS will be set up to address the retirement needs of those senior and/or family members of SMEs," adds Andy Bowsher. "Sometimes there is a specific investment outcome desired, and often there is desire for a tax efficient vehicle that will facilitate inheritance planning. There is, of course, no automatic number one choice for any pension product. The choice of product will come about following a detailed review of the clients' needs but there is no question that for many SME type businesses the SSAS is a front-runner."

The new pension freedoms landscape is all about flexibility, and no pension product can match a SSAS in this respect. Indeed, one of the most attractive qualities of a SSAS is its unique structure. Since each SSAS has its own trust deed and rules, it can be designed to meet the specific needs of its members and can be written to allow as much flexibility as possible, subject to remaining within HMRC rules.

It is usually a case that each member of the SSAS is a trustee, a feature that allows members to have significant control over the investment strategy of their own scheme and its underlying assets. As trustees, scheme members can be more involved in the day-to-day administration of the pension scheme and have the power to change the scheme administrator relatively easily, if they so wish.

In terms of the underlying assets, all SSAS contributions and transfers are pooled together to fund any investments and to pay benefits. The collective nature of a SSAS can prove beneficial where a member transfers or retires as trustees should have a big enough fund from which to pay the benefits without needing to sell particular assets.

"SSASs tend to be attractive to family owned businesses in various sectors including manufacturing, industrial, haulage, agricultural and other sectors, such as care and nursing homes," says Andy Bowsher. "For family owned business, the feel of a SSAS is an attraction. It will run in much the same way as the company does, although each member does have an equal say because decisions must be unanimous. The 'all in it together' aspect, sharing of risk and cost and common goals will sit well with those who operate similarly in business and it perhaps feels more inclusive than a series of individual or even joint SIPPs."

Using loanbacks

Given that SSASs and SIPPs share a lot of the same genetic make-up, it is inevitable that they will be compared when it comes to selecting the most suitable pension vehicle for business owners. Although in the past there has been a tendency to opt for SIPP, advisers are beginning to appreciate some of the extra advantages offered by a SSAS.

“The key unique selling point of a SSAS over a SIPP is the ability for the SSAS Trustees to loan funds back to the Principal and/or Associated Employer(s) to assist with the development of their business - subject to the fulfilment of prescriptive, but sensible, HMRC rules,” says *James Jones-Tinsley, Self-Invested Technical Specialist at Barnett Waddingham.*

The ability to make loans back to the sponsoring employer can effectively turn a SSAS into a vital source of capital for business expansion. As a result, loanbacks are a highly valued feature in the current economic environment as they can minimise the need to rely on bank funding at a time when banks are often unwilling to lend on favourable terms, if at all. “The loanback option is still very popular at the moment, with most of the SSAS arrangements we have citing this as a key reason to establish a new scheme,” comments Nigel Bennett. “Banks are still not lending at pre-financial crisis levels, despite many businesses being in much better shape. For the right business looking to expand, a SSAS loan can be an effective way to help them achieve their goals.”

The popularity of the SSAS loanback option in the current economic environment is demonstrated by Xafinity, who reported a 15% increase in loanbacks in 2015. This higher demand is not surprising in view of research published by Santander Corporate & Commercial in October 2015, which revealed that SMEs are increasingly turning to personal credit facilities for business finance. The research found that one in eight SMEs had used credit cards and personal loans to fund their business over the last 12 months, while 25% had relied on overdrafts. Furthermore, 43% of SMEs said they were concerned or very concerned about their cashflow over the next 12 months, with delayed payments from customers being experienced by a quarter of UK SMEs. “Given the issues around available credit, we believe the loanback can only become more popular in the future,” predicts Andy Bowsher. “However, advisers and their clients need better education on the loanback option.”

Indeed, in order to avoid triggering an unauthorised payment charge it is vital that advisers and business owners are aware of the five key rules governing how a SSAS can make loans to the sponsoring employer. The rules stipulate that the loan must not exceed 50% of the net value of the scheme’s assets and must be secured by a first charge on an asset of at least equal value. The maximum term of the loan is restricted to five years and HMRC rules insist that the interest rate payable on the loan must be at least 1% above the average high street bank base rate. Finally, the loan must be repaid in equal instalments of capital and interest over each complete year of its term.

“With the ability to borrow pension scheme monies at only 1% above base rate, the financial opportunity offered by the SSAS’s unique loanback facility is substantial, even though there is a requirement for a first charge on suitable security,” says Ian Hammond. “Around a third of our new SSASs request a loanback in the first year of operation. This is clearly a sensible way to borrow money when interest rates are so low, providing the employer can put up satisfactory security.”

Commercial property

While loanbacks are an undoubted star attraction, it is important to remember that a SSAS permits a truly diverse range of investment options, including stocks and shares, futures, unit trusts, investment trusts, hedge funds, commercial property and land as well as offering the ability to invest up to 5% of scheme assets in the shares of the sponsoring employer.

The ability to borrow up to 50% of the net scheme assets in order to acquire commercial property is a particularly appealing option, especially as any commercial rent paid by the tenants can provide a regular tax-free income. Often, the SSAS will be used to buy the sponsoring employer’s business premises which are then leased back to the employer.

Nigel Bennett argues that the loan facility and ability to invest in commercial property make for a very strong combination. He notes: “Many SME business owners come to think of their business as one pot and the SSAS as another with its own set of rules and tax advantages that runs alongside their business. The availability of the loan and commercial property investments mean that the two can be closely connected, subject to HMRC rules, allowing the business owners to fulfil two often competing priorities - to build a successful retirement fund and business.”

The extent to which commercial property is highly desired within a SSAS is reflected in the figures in **Table 1,** which show that commercial property on average makes up 44% of a SSAS provider’s assets under administration. “The purchase of commercial property for occupancy by the sponsoring employer has always been a major benefit of a SSAS and continues to be so today,” adds Ian Hammond.

In terms of commercial property investment, the 2016 Budget contained some positive news, with the Chancellor announcing changes to the stamp duty rates for commercial property, which should make this option cheaper for those looking to include it in their SSAS. Previously, these rates applied to the whole transaction value but the new rates will apply to the value of the property over each tax band. The new rates and tax bands will be 0% for the portion of the transaction value up to £150,000; 2% between £150,001 and £250,000, and 5% above £250,000. As a result, buyers of commercial property worth up to £1.05 million will pay far less stamp duty. For example, a £275,000 commercial property investment will now incur a tax charge of £3,250 instead of £8,250 pre-Budget 2016.

Taking benefits

The flexibility inherent in a SSAS is also evident when it comes to drawing retirement benefits, with the new pension freedoms further widening the choices. Although most SSAS providers offer the full range of decumulation options enabled by the new freedoms, the extent to which some of these are being utilised by SSAS members differs to the trends seen in the wider pension market.

The FCA recently reported that more than half of retirement pots accessed by consumers since the introduction of pension freedom in April last year have been fully withdrawn, but this has not been the typical experience of the SSAS market. “SSAS funds tend to be at the larger end of the pension spectrum and consequently there is very little desire by members to take out large amounts of money under the new pension freedoms legislation, as significant tax bills would be incurred,” explains Ian Hammond. “While this legislation may offer more flexibility on a year-to-year basis, it has not resulted in a significant withdrawal of SSAS funds.”

It was predicted that income drawdown would remain the most favoured decumulation option among SSAS members and this appears to be the case so far. “In our experience, drawdown has continued to be the crystallisation option of choice, as opposed to witnessing a ‘rush to UFPLS’, although a notable number of SSAS members have voluntarily elected to move from capped drawdown into flexi-access drawdown (despite the Money Purchase Annual Allowance implications), in order to give them increased flexibility over both the timing and amount of income withdrawals,” points out James Jones-Tinsley.

Orphan SSASs

The SSAS market may be flourishing but there are still some significant issues that need to be addressed and challenges to overcome. One of the biggest concerns within the SSAS market is the high number of orphan SSASs, which lack the guidance of a professional administrator, leaving them potentially vulnerable to HMRC fines. “Pensions are really very complex and I suspect only a handful of the thousands of ‘orphan SSAS’ clients have the time and knowledge to undertake this role,” says Andy Bowsher. “The others are taking a huge risk with their retirement assets.”

The problem of orphan SSASs stems from the removal of the requirement to appoint a Pensioneer Trustee post A-Day, a decision that encouraged many SSASs to go it alone in terms of their administration and scheme governance, despite the significant risks this brings.

"The abolition of the requirement for a SSAS to have a Pensioneer Trustee from A-Day was perhaps the most depressing aspect of that new legislation," argues Ian Hammond. "The reason given by the Government was to enable cross-border pension schemes within the European Union to be set up with standard rules. It was not possible therefore to require a particular type of trustee in the UK. It also immediately removed the fundamental professionalism that was required for a scheme's ongoing administration and meant that HMRC did not necessarily have the comfort of knowing that someone with great experience of SSASs was involved in the day-to-day management or trusteeship. This opened up the possibility of abuse by unscrupulous company directors who did not see the differential between their responsibilities as employer, trustee and member."

The lack of a legislative requirement for a Pensioneer Trustee is even more worrying in light of the threat posed by pension liberation fraud post-pension freedoms. As a result, most SSAS experts agree that changes are needed to ensure better governance of SSAS schemes, with many supporting the return of the Pensioneer Trustee role.

"Fears of pensions liberation again point to the benefits of professionalism within the administration of SSASs and we hope the Government reintroduces some form of requirement for a professional trustee," says Ian Hammond. "If Britain does withdraw from the European Union later this year, it will be interesting to see if the Government takes the opportunity to reintroduce a restriction that cannot apply across the whole of Europe."

Fit and proper person test

In recent years HMRC has introduced a number of measures to combat pension liberation activity. In addition to risk assessing all new SSAS applications to determine whether a scheme should be registered, HMRC introduced its "fit and proper person" test in September 2014 to ensure pension schemes are only registered and run by appropriate individuals. This legislation was further tightened in April 2015, with the requirement for scheme administrators themselves to provide HMRC with additional information and declarations online and, where necessary, further documentation.

"Scammers always endeavour to stay one step ahead of the regulatory authorities, however, and so the test in itself is not a perfect panacea, although it is a step in the right direction," argues James Jones-Tinsley. "The downside to its introduction has been an increase in uncertainty as to how long it will take for a new SSAS to receive approval from HMRC, which can currently range from a couple of days to several weeks."

The success of the fit and proper person test remains difficult to assess given the lack of data published by HMRC on the number of individuals or organisations deemed not to be fit and proper for the administration of SSASs. "I don't think I've seen anything about HMRC using the powers it gives them, and it would be interesting to understand the rejection rate," adds Andy Bowsher. "We certainly hope it's not a toothless tiger because we're still seeing scam SSASs being set up."

Adviser reluctance

While it is encouraging that many advisers are beginning to grasp SSAS opportunities, there is still a sense that some advisers are reluctant to play an active part in the market, perhaps lacking the experience or confidence to get involved.

"Advisers tend to fall into two distinct groups: those who are familiar and comfortable with SSASs and those who aren't," insists James Jones-Tinsley. "There doesn't seem to be much middle ground. The former group have always considered them as a viable option, where suitable; the latter group has found reasons to use other solutions, such as a Group SIPP or a collection of SIPPs. Non-SSAS supporters seem a little surprised at how their SIPP knowledge could just as easily apply for a SSAS; for instance, in buying commercial property, which they may have done on a number of previous occasions."

Unfortunately, the increasing number of advisers moving towards restricted status could curtail efforts to encourage more advisers to consider the merits of SSAS. "We don't believe that those going restricted are generally SSAS supporters," says James Jones-Tinsley. "There also seems to be a shift towards advisers offering their own wealth management propositions. These could, of course, operate within a SSAS just as much as for a SIPP, though administrative efficiencies can also come into play. There is, however, an opportunity for those advisers who aren't afraid of SSASs and recognise when to recommend them."

Overall, it has been a good few years for the SSAS market and if advisers and SMEs are willing to explore their full range of pension options, then SSAS will continue to emerge from the shadow of its SIPP sibling.

"SSAS is a hugely underused vehicle that has a historically proven and unique position in the pensions landscape," concludes Andy Bowsher. "Pension freedoms, and particularly the death benefit changes of 2015, will continue to drive growth. This resurgence of SSAS will continue to gain momentum if advisers gain access to the right support, and providers continue to find the right balance of personal service and sensible pricing."

Key talking points in the SSAS market

Ian Hammond
Managing Director at Rowanmoor Group plc

Regrettably, and for reasons that are difficult to understand, there are certain voices in the pensions industry who seem convinced that SSASs and pensions liberation go together. As a result, a number of life offices have made it very difficult for transfer values to be paid out to SSASs, quoting potential liberation as the main reason for refusing to act in accordance with their members' wishes, despite no evidence of any intention to liberate the pension arrangement. The Court's decision on the statutory rights to a transfer value will hopefully alleviate the position but at the moment it is too early to say if there will be a change in attitude.

James Jones-Tinsley
Self-Invested Technical Specialist at Barnett Waddingham

The withdrawal of several well-known pension providers from acting as scheme administrator and professional trustee for SSASs since A-Day has created a significant number of orphaned SSASs within the marketplace, leaving member trustees exposed to HMRC penalties and fines for not fulfilling their regulatory duties... While we are neutral as a provider as to whether there is a professional trustee involved with a SSAS, the reintroduction of a mandatory Pensioneer Trustee for every SSAS would further serve to precipitate improvements in both governance and practice.

Andy Bowsher
Director of Self Invested Pensions at Xafinity

Unfortunately SSAS has taken the headlines for the wrong reasons of late, and there is a danger it is being tarnished by the activities of a few who may look to use it for 'liberation' or investment scams. It will be a real shame if that drives demand from the wrong kind of person, be it unregulated 'adviser' or client. The 'fit and proper' tests for key roles is helping suppress this kind of attraction, and we hope further action, perhaps by mandating a professional scheme administrator, would see SSAS assets properly safeguarded by professionals in the field.