Life in the old dog yet

Already offering unrivalled flexibility and control, Richard Eagling reports on how the recent SSAS revival is set to continue in 2014

Few financial products have been written off as many times as Small Self-Administered Schemes (SSASs). Having enjoyed a status as the pension scheme of choice for controlling directors in the 1970s and 1980s, the spectacular rise of Self-Invested Personal Pensions (SIPPs) following A-Day, saw financial commentators queuing up to predict the imminent demise of the SSAS market. However, such forecasts now look increasingly wide of the mark with plenty of signs that there is life in the old dog yet.

"SSASs and SIPPs are two different types of pension that became very closely aligned with the 2006 pension rule upheaval," says *Andrew Roberts, a Partner at Barnett Waddingham*. "Since then, they have drifted apart due to the influence of the financial regulator on SIPP providers and they are now more polarised than they have ever been. The shift in focus of SIPP from a niche product to a mass market product has meant that SSAS is enjoying a revival as the most flexible pension product."

Although SSAS sales continue to be dwarfed by the popularity of the younger SIPP, demand for new SSASs has seen something of a resurgence in recent years as an increasing number of company directors seek to utilise its unrivalled flexibility.

"Last year we saw a 60%+ increase in SSAS new business over 2012 levels, which was made up of a mixture of brand new schemes, takeover of cases from other practitioners and "orphan" clients, those previously operating without a professional trustee but now appointing one," claims *Martin Tilley, Director of Technical Services at Dentons Pensions Management.* "New enquiries to us were actually even higher, but a number of potential new cases were turned down on the basis that we could not be sure the scheme wasn't being established for the purposes of liberating pensions. We believe that awareness of SSAS for various reasons has increased and therefore interest in the product has increased too. The SSAS still does have several advantages over SIPPs which have not been fully understood."

SSAS qualities

The SSAS was born out of the Finance Act 1973 which permitted controlling directors to join an occupational pension scheme, and is essentially a small self-invested occupational scheme usually set up by an employer for the benefit of its business owners, directors or key personnel. As a SSAS is restricted to having no more than 11 members it is best suited to family controlled or small to medium-sized businesses.

"A SSAS will typically be most suitable for the directors of small limited companies who wish to have the maximum control over their pension arrangements and recognise the tax planning opportunities that a SSAS can offer, both at a personal and corporate level," adds *Robert Graves, Head of Pensions Technical Services at Rowanmoor Group*. "It could well be argued that although a SSAS will not be right for all, the option should be considered in giving retirement planning advice to all directors."

Although the majority of SSAS clients tend to be directors of limited companies it has been possible since pension simplification for partnerships to establish a SSAS, whilst other family members not employed by the business can also be enrolled into the scheme. An employer can set up more than one SSAS and there is no contractual minimum contribution level so a company can vary contributions as it wishes, something that it will often do in line with its profitability. "SSASs don't often have 'minimum fund values' per member, so it can be attractive to some families where younger members may join with small contributions to get started on the pensions ladder," suggests *Jeff Steedman, Head of Business Development at SIPP Xafinity Services.*

Truly flexible

A key attraction of a SSAS is its structure, which can make it a truly bespoke product. A SSAS will normally be set up under trust by the employer and is a separate legal entity from the sponsoring company. Because each SSAS is written under its own individual trust, it can therefore be tailored 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.

Each scheme member will usually be a trustee of the SSAS, although there is typically a corporate trustee as well. Whilst in terms of eligibility there is no age limit for members, it should be noted that individuals under the age of 18 cannot act as a trustee, something that prohibits them from a SSAS in practice.

As trustees the members are more involved in the day-to-day running of the pension scheme, and are responsible for, and control, all aspects of the SSAS's investment strategy and the payment of benefits. Furthermore, SSAS schemes where all members are trustees also enjoy numerous exemptions from the Pension Act requirements.

Integral to the appeal of a SSAS is the fact that unlike a SIPP it is not tied to a particular provider, a feature that not only gives it much greater control over its investments, but also allows it to change the provider of each service it receives with relative ease. "With a SIPP, the client will have to abide by any provider rules or barriers whereas with a SSAS, the trustees have more control," explains Martin Tilley. "Obviously it is wise to have a professional trustee whose opinion can be sought, but overall freedom of investment and appointment of advisers is controlled by the member trustees."

The greater control inherent in a SSAS also extends to its banking arrangements. "SSAS often offers the members more responsibility for the banking transactions of the SSAS current account," comments Jeff Steedman. "Some traditional businessmen still like to write out cheques and like full control of the SSAS cheque book - this is not catered for much these days in SIPPs as the provider typically takes 100% control of all banking."

Operating as a pooled fund can also offer a SSAS an advantage where a member transfers or retires. In these situations, providing the fund is large enough, trustees may have flexibility in terms of where to pay the benefits from, avoiding the need for particular assets to be sold.

A professional scheme administrator

Prior to April 2006 a SSAS was required to appoint an independent Pensioneer Trustee, a professional trustee who was not connected or associated with the scheme members, trustees or employer. The Pensioneer Trustee had to be approved by the Inland Revenue and was responsible for certain administrative duties, and ensuring rules were not broken.

However, this requirement was removed with the advent of pension simplification. This has left SSAS in the curious position that although it is a HMRC requirement for each SSAS to have a registered scheme administrator, this role does not need to be filled by a professional. This is potentially alarming given the important duties of the scheme administrator which includes registering the pension scheme with HMRC, paying certain tax charges and providing information to HMRC, scheme members and other pension schemes. The trustees often carry out this role, but putting a professional scheme administrator in place can be advisable.

"Clients are directors of their own business but do not realise the problems they can generate if they do not have a professional scheme administrator, for example, borrowing too much as a percentage of fund on property purchase, not meeting a loan-back repayment schedule or over-paying pensions," stresses *Eddy Woore, Senior Consultant at Mattioli Woods*. "With no one reminding them, bad practice can creep in. All of these have tax consequences and the scheme administrator has liability."

The loanback facility

The ability of a SSAS to offer a truly diverse range of investment options, including some not available via other pension arrangements, also sets it apart. In particular, the unique feature of a SSAS to loanback pension money to finance future business expansion or improve cash flow has provided a lifeline for many SMEs in the absence of adequate bank funding or acceptable loan conditions, in recent years.

"A SSAS uniquely offers SME directors the chance to extract profits from their company tax efficiently, and at the same time the business can borrow back up to 50% of the net asset value of the SSAS on commercial terms, for any business purpose," says *Nigel Bennett, Business Development Manager at InvestAcc Pension Administration Limited*. "This means that employer pension contributions are no longer locked away and inaccessible, because of the loan facility."

This loanback facility has been instrumental in helping to drive demand for SSAS as a SIPP cannot lend to connected parties. "The SSAS loanback has certainly made a comeback in the last few years," points out Jeff Steedman. "It can provide funds for the employer at a very low interest rate, currently just 1.5% p.a. for up to a five year term. However, the main challenge for clients is often finding an asset that can be used as first charge security - we get enquiries that are stopped in their tracks when advisers/clients fully understand how strictly this rule must be applied."

Indeed, it is vital that advisers and their clients understand the criteria that must be met to be classified as an Authorised Employer Loan, and in particular the five key tests that must be satisfied relating to the loan amount, term, interest rate, security and repayments.

"I would estimate that 10-15% of SSASs use this loanback functionality," adds Andrew Roberts. "We have conducted several surveys over the years and the key barrier is in providing a first charge as security. The loanback facility would be more used if different levels of security could be used, matched with different minimum interest rate requirements to reflect the added risk or to the percentage of the fund being lent back."

It had been hoped that the Government's Funding for Lending Scheme would help provide much needed finance for small firms to meet their growth aspirations, but its impact has been disappointing. The latest Bank of England credit data has shown that lending to businesses fell £600 million in January 2014, with loans to small and medium-sized firms down by £300 million. With business confidence rising, many small businesses may have no alternative but to look beyond traditional bank finance. "The SSAS market should remain very buoyant as businesses continue to become increasingly confident in the post recession era," predicts Nigel Bennett. "Credit markets have not loosened to anywhere near normal levels, meaning that many businesses still struggle to get access to the funds they need in order to expand, and this is where a SSAS can work very effectively."

Commercial property

In addition to loanbacks a SSAS enjoys access to the full range of investment options that are available through a SIPP. Particularly popular is the ability to use funds held within the scheme to acquire commercial property and land or to acquire minority shareholdings in the company. Often the SSAS will purchase its own business premises and then lease it back to the business at an open market rent. Purchasing a property within a SSAS can be advantageous for a number of reasons, not least the fact that the property is effectively being purchased with funds that have benefited from tax relief.

It is also possible for the SSAS to hold shares in the sponsoring employer, subject to a maximum of 5% of the scheme assets. An additional 5% can also be invested in related employer companies up to an overall maximum of 20%. "The suggestion that up to 5% of the SSAS scheme assets can be invested in the shares of the sponsoring employer is often misunderstood," warns Martin Tilley. "The scheme must still comply with the taxable property rules and if the scheme membership consists of major shareholders in the business, such an investment is often not possible."

Figure 1: Average SSAS Basic Fees

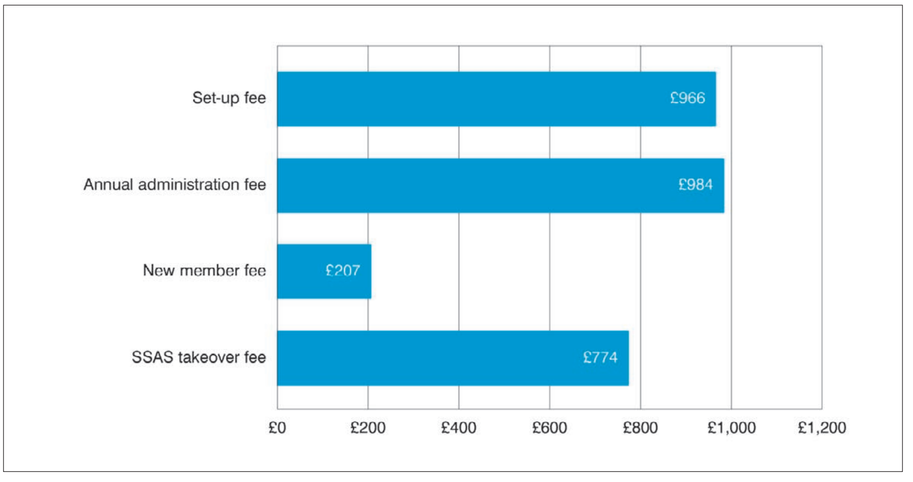


Figure 2: Average SSAS Property Investment Fees

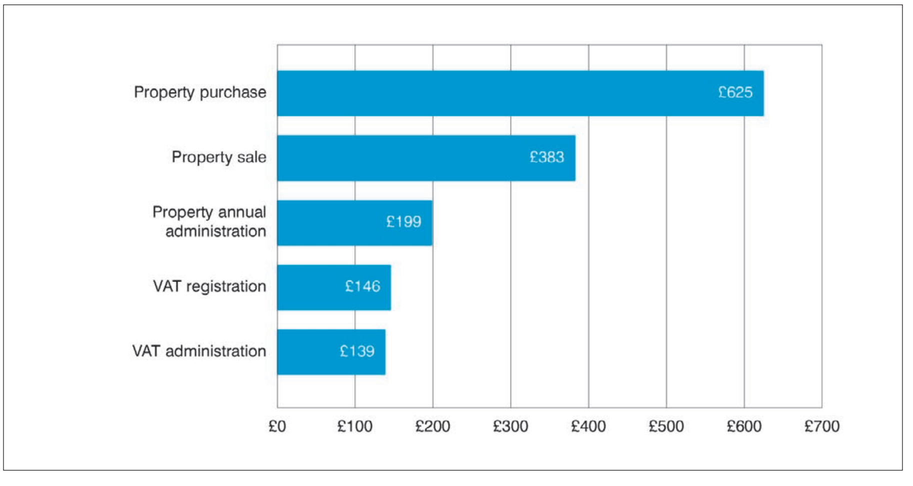
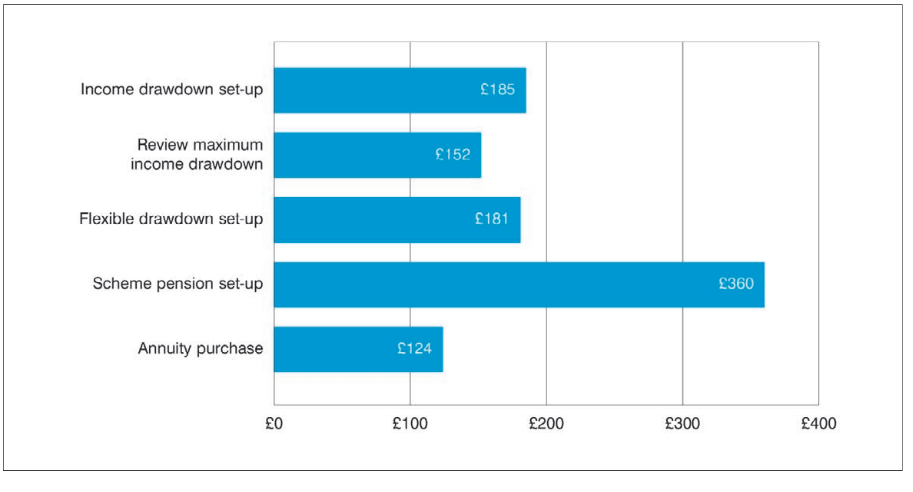


Figure 3: Average SSAS Retirement Benefit Fees



Assessing charges

It is often perceived that the charges involved in setting up and running a SSAS could be prohibitively expensive for some businesses, but the reality is that in certain cases a SSAS can actually prove cheaper than establishing a group SIPP arrangement. "SSASs can be lower cost than SIPPs in some circumstances, often when there are 3-4 members or more," confirms Jeff Steedman.

However, the bespoke nature of a SSAS does inevitably mean that there can be a myriad of different charges to consider. As with the SIPP market, providers will often take a different approach as to how their charges are packaged and whether a fixed amount or a time-cost fee will be payable, making it difficult to compare SSAS providers on a like-for-like basis. Many SSAS providers combine an element of fixed fees alongside charging on a time-cost basis, as certain types of work can be more complex and time consuming.

Figure 1 shows the average basic fees currently being charged by SSAS providers, covering the initial set-up fees, annual administration charges, new member fees and takeover charges. The vast majority of SSAS providers impose a one-off set-up fee, with the average fee here £966.

All of the SSAS providers surveyed have an annual administration charge, with the average fee £984. However, what is included in the annual administration fee differs between SSAS providers with some companies making additional time costed charges. Similarly, the annual administration fee incurred can depend on the number of SSAS members. There is also usually a charge for adding new members into the SSAS as they join, currently £207 on average.

As well as setting up new schemes, most SSAS providers offer a takeover service for existing schemes unhappy with the cost or service that they are receiving from their current professional trustee or administrator. Amongst the SSASs surveyed the average takeover charge was £774. "It is easier to transfer a SSAS than a SIPP and there is more activity than in the past," says Eddy Woore. "Sometimes clients have no copy of or the original deeds and an administrator is slow to provide access, although most are professional about take-overs."

Property fees

As well as basic set-up and administration fees there are often specific event fees, many of which relate to purchasing commercial property. Here a property purchase fee is usually the highest single charge, with an average fee of £625 (see **Figure 2**). In some cases the purchase charge is higher if the client decides to use their own solicitor rather than the provider's preferred solicitor. Although some SSAS providers charge the same amount for both the purchase and sale of a property, the latter is commonly a lower fee, and currently stands at £383 on average.

Drawing benefits

SSASs are also very flexible when it comes to taking a retirement income with the full range of options usually open to the trustees including annuities, capped drawdown, flexible drawdown and scheme pension. "In future, based on the Budget proposals, SSAS will be able to offer unparalleled income flexibility on retirement," comments Nigel Bennett. "This makes for a very potent retirement planning vehicle."

Looking at SSAS fees for taking retirement benefits (**Figure 3**) the average cost for setting up capped income drawdown is £185, with the average fee for a review of the maximum income drawdown running at £152, whilst setting up flexible drawdown entails an average charge of £181. The cost for an annuity purchase is lower at £124, whilst at the other end of the spectrum the greater complexity involved in setting up a scheme pension means an average charge of £360.

Service and expertise

Assessing charges to ensure that they are competitive will form part of the selection process for a SSAS provider, but it should not be the only consideration. An adviser should also assess the relevant expertise and service levels of the different providers, something that is perhaps even more important with a SSAS than other pension propositions given its highly bespoke nature.

"A SSAS is more of a service proposition than a product, with each client often having a unique and ever-changing set of circumstances," adds Robert Graves. "An adviser should therefore look for a SSAS provider that has high service levels at the core of its philosophy and can evidence this through published service standards. Experienced and knowledgeable staff should be accessible to the adviser to help determine the options open to the SSAS members as their circumstances and pensions legislation invariably change."

Since A-Day there have been three elements to operating a SSAS - the scheme administrator, the scheme practitioner and trustee, and each provider will be willing to undertake one or more of these responsibilities, with some also offering a consultancy service. "Given the niche nature of a SSAS it's important to have a provider that understands the intricacies," says Andrew Roberts. "It's very easy to set up as a SSAS provider company and very easy to offer competitive rates. It's less easy to make sure transactions are conducted correctly and that administration tasks are completed as required by HMRC. An adviser should also be clear whether the client needs a professional trustee or is happy simply to be counselled by a pension provider. Both models are valid and have their plusses and minuses."

Figure 4: SSAS Provider Portfolio Information

Provider	Number of SSASs	Funds under administration	Property as % of assets under administration
A J Bell	689	£676.5 million	Not disclosed
Alltrust Services Ltd	113	£80 million	41%
Astute Trustee Services Ltd	45	Not disclosed	Not disclosed
Barnett Waddingham	1,886	£3.19 billion	35%
Berkeley Burke	240	£250 million	70%
Bespoke Pension Management	100	£40 million	20%
Brooklands Trustees Ltd	35	£21 million	39.6%
Calderwood Pensions Ltd	30	£30 million	60%
Carey Pensions UK LLP	22	£8 million	30%
Central Tax & Trustee Planning LLP	76	Not disclosed	Not disclosed
Chase de Vere Ind Fin Advisers Ltd	275	£412 million	29%
City Trustees	263	£200 million	Not disclosed
D A Phillips & Co Ltd	400	Not disclosed	Not disclosed
Dentons Pension Management Ltd	705	£0.829 billion	72%
Harsant Services Ltd	75	Not disclosed	Not disclosed
Hazell Carr Pension Services	1,056	£872.5 million	41%
Hornbuckle Mitchell	780	Not disclosed	Not disclosed
InvestAcc Pension Administration Ltd	206	£139 million	51.78%
I.P.M Trustees Ltd	460	£230 million	Not disclosed
James Hay Partnership	1,556	£2 billion	Not disclosed
JLT Premier Pensions	877	£889.4 million	44.5%
Lindley Trustees Ltd	135	£200 million	40%
Mattioli Woods	1,300	£1.09 billion	Not disclosed
MDP Administration Services LLP	96	Not disclosed	60%
Michael J Field Consulting Actuaries	700	Not disclosed	Not disclosed
Oval Financial Services Ltd	300	Not disclosed	70%
PensionAdmin Ltd	91	Not disclosed	Not disclosed
Redswan Pensions	Not disclosed	Not disclosed	Not disclosed
Rowanmoor Group plc	3,087	£2,686.8 million	41%
Scottish Widows	500	Not disclosed	Not disclosed
Talbot & Muir Ltd	482	£484 million	49.5%
Westerby Trustee Services Ltd	96	£52.5 million	54%
Whitehall Group (UK) Ltd	297	£106.4 million	39.7%

In terms of SSAS choice, **Figure 4** shows the portfolio information of the 33 different SSAS providers that completed our survey, detailing the number of SSASs held, SSAS funds under administration and the proportion of SSAS assets held as property. Most SSAS providers disclosed this information, something that offers a useful indication as to the size, and experience of each provider.

SSAS orphans

Despite a generally positive outlook for the SSAS market, it still faces its fair share of challenges. The high number of so-called SSAS orphans, those schemes without a professional administrator in place, remains of huge concern to many within the SSAS sector although it could also be a significant source of business for some providers in the next few years.

The removal of the requirement to appoint an independent Pensioneer Trustee post A-Day encouraged thousands of SSASs to go it alone in terms of their administration and scheme governance. However, the complexity of pensions and taxation legislation, combined with the fact that a trustee can take up the role of scheme administrator without any professional expertise or accreditation, means those SSASs that have gone it alone are extremely vulnerable to unwittingly falling foul of HMRC rules and incurring costly penalties.

"We regularly hear about an existing SSAS with poor administration or lack of awareness of the rules by the scheme administrator," comments Jeff Steedman. "It is worth noting that some of these scheme administrators are hairdressers, farmers, vets or haulage firm owners and it is unlikely that they have ever read the HMRC manual or indeed the

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scheme rules, and the risks of this frankly odd situation are obvious. There will be many schemes where HMRC rules are being broken, inadvertently or otherwise, such as rent arrears, loan interest arrears and loans being agreed without appropriate security."

Perhaps realising the extent to which some trustees lack the necessary expertise to run their own SSAS, there is a sense that HMRC is sharpening its focus on this area. Consequently, some providers argue that it could be time to make the appointment of a professional administrator compulsory or re-introduce the role of Pensioneer Trustee. "We would suggest that HMRC introduces the compulsory appointment of a professional administrator to bring appropriate governance to all SSAS," says Jeff Steedman. "This is of growing importance with the advent of the UCIS salesman and growing concerns over pensions liberation."

Whilst most experts agree that improving the governance of SSAS schemes is important, some feel that it is worth exploring other avenues before moving to the compulsory appointment of a professional scheme administrator. "We do not believe more regulation is necessary for SSAS in general, however it would be prudent that all schemes without a Professional Trustee are aware of their trustee roles and responsibilities and the implications of making poor decisions," argues Martin Tilley. "There is a definite knowledge gap and if HMRC rules are breached, severe tax implications. If it is still felt that too many schemes are exposing themselves to potential tax charges then perhaps the compulsory appointment of an approved Professional Trustee or administrator should again be considered."

Combatting pension liberation

The threat posed by pension liberation fraud is also a major talking point within the SSAS sector. "It has been unfortunate that pension legislation has allowed essentially anyone to be able to set up and run an occupational pension scheme, including a SSAS," points out Robert Graves. "This has given cause for concern to the wider pensions industry when dealing with requests to transfer members into a newly formed SSAS. Due to some of those concerns being founded, there has been a danger that all transfers to SSASs will be regarded as highly suspicious and thereby causing undue delays in transfers to legitimately run SSASs."

The good news is that active steps are being taken to combat the threat posed by the rise in pension liberation activity. Last October saw HMRC strengthen the pension scheme registration process by moving away from the so called 'process now, check later' approach, whereby scheme registration is no longer confirmed on successful submission of the online form. The new registration process will enable HMRC to conduct detailed risk assessment activity before making a decision on whether or not to register a scheme.

The drawback of the new process is that the time taken to establish new schemes will increase, something that could prove problematic for the large number of companies that set up a SSAS just prior to their trading year end.

"HMRC's new scheme registration process is adding roughly two weeks to the time it now takes to establish a SSAS," claims Nigel Bennett. "This can be frustrating when setting up new schemes, and we're careful to manage expectations for advisers and their customers. Pension liberation inevitably leads to poor customer outcomes, and so the October 2013 changes along with the Budget proposals for increased HMRC powers, are to be welcomed if they protect individuals from fraudsters."

> "SSASs are still a relatively well kept secret despite having been around for over 40 years."

Some experts have also long advocated the need for some form of control over who can operate as the registered administrator for a SSAS. This suggestion appears to have been heeded in the Budget, with HMRC introducing a fit and proper person test. Under new measures that will take effect from September 2014, HMRC will have wider power to refuse to register or deregister a pension scheme where it believes that the scheme administrator is not a fit and proper person to fulfil that role and that the scheme has been established for purposes other than of providing pension benefits.

Unregulated investments

Finally, as with SIPPs there is also a fear that the SSAS market is being targeted by UCIS salesman. "We are receiving a number of enquiries direct from 'UCIS promoters' and sometimes members of the public asking if we can set up a new SSAS for esoteric investments offering 'great returns'," comments Jeff Steedman. "SSAS and UCIS don't mix in our view and we predict that HMRC will start to focus some energy into the many new SSASs set up recently to try and get around the FCA rules that stopped these investments being accepted by SIPP providers."

One solution which could help to clear up any confusion surrounding the suitability of the wide range of investments available for a SSAS would be for HMRC to reinstate a permitted investment list. "This list would assist the industry in determining whether investments are likely to incur tax charges, and would give a level playing field when compared to the current system that means different interpretations across the market," agrees Nigel Bennett.

Good times ahead

The fate of the SSAS market is often portrayed as resting on the opposing fortunes of the SIPP market, but in truth there is no reason why both SIPP and SSAS cannot flourish alongside each other. They share some similar attributes but there are enough variations to ensure that each product has its own invaluable role to play in the retirement needs of the right client.

Key to sustaining the SSAS revival will be raising its profile amongst businesses. "SSASs are still a relatively well kept secret despite having been around for over 40 years," points out Nigel Bennett. "We often hear new customers say to us 'why doesn't every business owner have a SSAS?', which is undoubtedly when they have a lightbulb moment and realise that SSAS can do far more than they ever thought."

It is also fair to say that more needs to be done to improve understanding of SSAS and its potential benefits amongst advisers, with the knowledge gap that currently exists preventing some from recommending them. "Newer advisers entering the market in the last five years or so may never have recommended a SSAS before, so there is a definite need for providers to give support," argues Jeff Steedman. "Even experienced advisers may find themselves coming into contact with SSAS infrequently and, let's face it, the rules regarding loans, property and borrowing are not entirely straightforward."

Fortunately, there are signs that attitudes are changing with an increasing number of advisers beginning to show an appetite to learn more about SSAS and become more active in the market. "It may be the case that post-RDR advisers have re-engaged with SSASs in recognition of the advice opportunities they represent in a fee paying environment," suggests Robert Graves.

However, arguably the biggest opportunity for SSAS to build on its mini revival has come in the wake of the radical pension changes announced in the Budget. Most commentators are optimistic that the SSAS market could be a major beneficiary of the Government's desire to encourage greater pension flexibility. "It is clear that the current Government supports the ideals of giving individuals the opportunity to manage their own financial affairs through giving them options and flexibility within the pension tax framework," states Robert Graves. "As SSASs are one of the most flexible pension products and empower individuals to manage their pension savings, we see a promising future for SSASs under the current Government's pension policy."