EVERSHEDS SUTHERLAND

Looking ahead

Revision of the Dutch pension system by the 'Dutch Future of Pensions Act' (Wet toekomst pensioenen)

Main considerations for employers

Defined benefit plans no longer allowed
Approximately 70% of all employees in the Netherlands participate in a defined benefit plan. Once the Wet Toekomst Pensioenen (hereafter: Act) enters into force, accumulation of pension rights in a defined benefit plan will no longer be allowed. Accumulated pension rights remain intact, until they are converted into a defined contribution plan.

Converting accumulated pension rights
The Act stipulates that accumulated pension rights of defined benefit plans will be converted into the capital of a defined contribution plan by default, unless employers and works councils or labour unions have sufficient reasons to act differently. Accumulated pension rights that are not converted, remain intact. Individual employees or individual retirees cannot object to a conversion of accumulated pension rights.

Various types of defined contribution plans
The Act introduces two new types of defined contribution plans. The main differences between those types are: (1) the (lack of) investment choices by participants and, (2) that a part of the pension contributions is (not) paid into a separate account which is used to mitigate low returns on investment. In addition to the new types, existing defined contribution plans remain allowed during a transition period.

Employee and works council approval and compensation
Switching to another pension plan requires approval from the employees and the works council (if any), unless labour unions are involved. The Act stipulates that the employer has to draft a detailed transition plan regarding the switch to another pension plan. This transition plan among others has to include if and how employees will be compensated as a result of the switch to another pension plan.

Pension contributions
Existing defined contribution plans have age related pension contributions. The two new types of defined contribution plans do not have age related pension contributions, but a flat-rate. This flat-rate pension contribution is capped at 30% of the pensionable base. The pensionable base equals the pensionable salary minus a fixed amount.

Timing and actions
The goal of the Dutch government is that the Act will enter into force as of 1 January 2023. As from that moment, there will be a legal obligation for employers to adjust their pension plan within four years. The same timeframe applies to converting accumulated pension rights. During this four year period, an employer needs to: (1) obtain employee and works council approval, (2) draft a transition plan with a compensation clause and (3) adjust the applicable contracts with pension providers.

Questions?
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DTUK004131_04/22