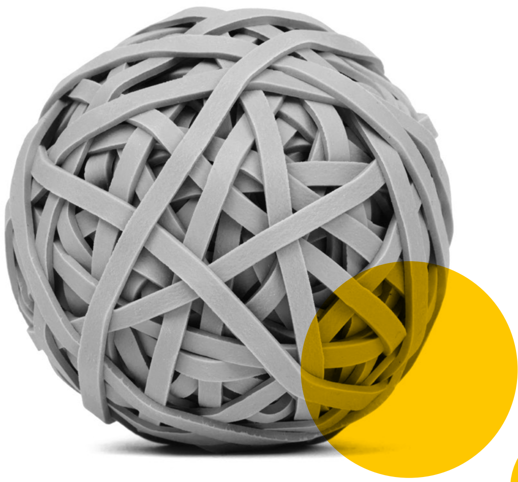


Thoughts for uncertain times

Global Pensions Agenda – COVID-19 special

This special edition of our Global Pensions Agenda is a snapshot of current responses to COVID-19 in an international pensions context.

We focus on government responses to the pandemic, in particular wage subsidy arrangements (most of which will reduce employees' salaries for pension calculation purposes) and specific actions being taken by pension plans and employers.

Germany

Wage subsidy arrangement

Germany has introduced a wage subsidy arrangement called "short-term work allowance". It offers up to 60% (or 67% for employees with one or more children) of the difference between normal and reduced net salary. The subsidies are subject to a staggered increase after the 4th and the 7th month to 70/77% and 80/87% respectively. Social security contributions are covered.

In order to avail of the arrangement, at least 10% of employees in a business or department must be affected by a loss of earnings of 10% or more. The arrangement is due to last from 1 March to 31 December 2020 but the allowance can be paid for up to 12 months.

Other headline pensions issues

Short-time work can affect pension entitlements where the underlying plan, including salary sacrifice arrangements, use the salary as a defining factor, as the short-time work allowance does not generally qualify as salary for the purpose of the pension plan.

On the financing side, relief measures may be available depending on the nature of the pension plan. A defined contribution (**DC**) plan implemented through an external pension vehicle (e.g. a pension fund or a support fund) may allow a reduction or suspension of contributions, but generally requires an according change of the pension plan which is admissible only under very strict conditions, and should therefore be considered carefully.

Generally more flexible is a temporary contributions payment freeze, as well the management of financial vehicles, such as re-insurances or contractual trust arrangements, subject to the vehicle's terms and conditions.

USA

Wage subsidy arrangement

The recently enacted CARES Act provides eligible employers with a tax credit equal to 50% of qualified wages, with a maximum credit of $5,000 per employee. For employers with more than 100 employees, the tax credit is available to the extent the employer continues to pay employees who have reduced or no working time; for employers with 100 or fewer employees, the tax credit is available with respect to all wages.

The subsidy arrangement generally applies to employers that completely or partially suspend operations due to orders from the government, or that have substantially reduced gross receipts. This arrangement is due to run from 12 March 2020 to 1 January 2021.

Because the tax credit is provided to the employer, it does not directly impact pension compensation or DC plan elective deferrals. However, to the extent an employer continues to compensate an employee as a result of this incentive, the employee will have compensation for retirement plan purposes.

Other headline pensions issues

The CARES Act allows DC plan participants to obtain early distributions from their retirement accounts that are taxed rateably over three years. Increased plan loan amounts also apply. Some employers are choosing to suspend employer contributions to DC plans. For single-employer defined benefit (**DB**) pension plans, required funding contributions due during 2020 may now be deferred until 1 January 2021.

France

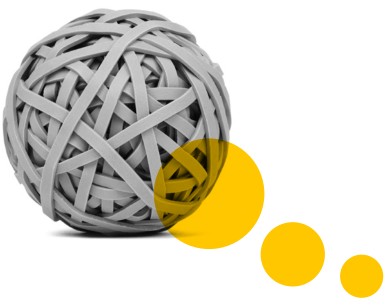
Wage subsidy arrangement

France's wage subsidy arrangement is called "temporary partial activity". Employers must pay at least 70% of salary for every hour not worked (minimum hourly wage €8.03 per unemployed hour). The government will reimburse up to 100% of the minimum wage, capped at 70% of 4.5 times the minimum wage for up to 1,607 hours per employee and per year. Employers may postpone social security contributions for up to three months.

Use of the arrangement is at the employer's discretion. However, employers must consult with their employee representatives.

Other headline pensions issues

In principle, employers should continue to pay contributions to complementary schemes (AGIRC-ARRCO). Nevertheless, companies facing economic difficulties can postpone payment for up to three months. Companies can also postpone payment of contributions to supplementary plans without any limit, but they are liable if the delay damages the employee's rights (this seems unlikely if the delay is for only a few months).



UK

Wage subsidy arrangement

The UK's wage subsidy arrangement is called the "Coronavirus Job Retention Scheme", commonly known as the "furlough" arrangement. It currently offers up to 80% of salary capped at £2,500 a month. Social security (national insurance) contributions are covered, based on the reduced salary. Employer pension contributions are also reimbursed by the government but only up to the minimum automatic enrolment level (3% of qualifying earnings).

Use of the arrangement is at the employer's discretion, assuming operations have been "severely affected" by the pandemic (this term is not specifically defined). However, employees using the arrangement may not do any work, even part-time, for the employer during furlough. The arrangement is due to last from 1 March to 31 October 2020. Changes are proposed from 1 August 2020, including to allow some part-time working – details of the changes are expected at the end of May.

Other headline pensions issues

Some employers (around 5-10%) have asked to defer contributions to their DB pension plans, typically for three months initially. Many employers are also seeking to reduce employer contributions to DC plans during the furlough period but they are not permitted to reduce these below the 3% automatic enrolment minimum. The UK Pensions Regulator has provided some limited regulatory easements.

For more details, read our pensions speedbrief or view our webinars.

Netherlands

Wage subsidy arrangement

The Dutch wage subsidy scheme is called the "Temporary Emergency Measure for Job Retention (**NOW**)". Employers are entitled to a subsidy of up to 90% of the employee's salary (capped at €9,538 gross per month) if they meet certain conditions and depending on how much the turnover of the employer has fallen. For example, if turnover has fallen 50%, 45% of salary will be covered.

The NOW provides for continued payment of pension contributions by means of a flat-rate surcharge of 30% for "social security contributions" on the salary amount of the employer. This surcharge is deemed to be sufficient for the accrual of holiday pay and the payment of pension premiums (employer and employee contributions).

To avail of the scheme, employers must have at least a 20% drop in turnover during three consecutive months between 1 March and 31 July 2020.

Other headline pensions issues

Postponing payment of pension premiums will generally not be permitted, since all the government's measures are focused on continuation of both employment and pension accrual. Separately, there is a debate ongoing as to whether the government will exercise its powers under the law to permit accrued and paid pensions in pension funds to be reduced due to "exceptional economic circumstances".

For more details, see our employment and pensions briefings here and here.

UAE

Wage subsidy arrangement
Currently, no government wage subsidy arrangement has been put in place in the UAE.

Other headline pensions issues
The Dubai International Finance Centre introduced new legislation (in force from 1 February 2020) requiring employers to enrol employees (and make mandatory contributions to) a qualifying DC plan. The deadline for enrolling employees into a plan was postponed to the end of April 2020.

For more details, see our briefing.

Poland

Wage subsidy arrangement
The Polish government has put in place a wage subsidy arrangement, applicable to employers whose turnover decreased as a result of COVID-19. The system is complex and applies differently in different circumstances. Broadly, the employers may either introduce a shutdown or reduce employees' working time and receive a subsidy of either 50% of minimum wage (in the case of shutdown) or 50% of decreased remuneration, capped at 40% of average wage in Poland (in the case of a working time reduction). In addition, some employers can benefit from an exemption for social security contributions (either in full or in part) for up to three months.

To benefit from the subsidies, employers must show a decline in revenue of at least 15% compared to the same two months last year or 25% compared to the previous month. The scheme is currently in place for three months.

Other headline pensions issues
Due to the pandemic, the further roll-out of Employee Capital Plans (a new type of automatic enrolment occupational pension scheme) for employers employing from 50 to 249 persons has been delayed until October 2020.

Ireland

Wage subsidy arrangement
Ireland has introduced a "Temporary Wage Subsidy". The compensation is tiered depending on how much the employee earns. For example, the arrangement currently offers 85% for those on a salary of less than €24,400, up to 70% for those earning between €31,000 and €38,000 (capped at €410 a week) and up to €350 per week for those earning between €38,000 and €76,000. Currently, no subsidy applies to those on a salary of over €76,000. There is no allowance or payment towards pensions and pension contributions cannot be deducted from any subsidy paid.

To avail of the arrangement, employers must be able to demonstrate a significant negative economic disruption with a drop of 25% in turnover. If that condition is satisfied, the subsidy can be claimed whether employees are continuing to work normal hours, have been put on reduced hours or have been laid-off temporarily.

Other headline pensions issues
Some employers have been seeking contribution suspensions or deferrals. There have also been issues in relation to the management of transfer payment requests and queries on the ability to vary and not guarantee transfer payment amounts. In common with other jurisdictions, questions are commonly arising around the ability for trustees to hold virtual meetings under their governing documents, to execute trust deeds and trust documentation remotely (including via e-signatures) and to issue scheme communications in electronic rather than paper form.

For more information, see our briefing here.

Belgium

Wage subsidy arrangement
If the employer can no longer provide work to a worker in the context of COVID-19 (for instance because it receives an order to close), temporary unemployment for force majeure is possible. Temporary unemployment means that the employment contract is suspended (total suspension or reduced working time) and the salary is not paid by the employer. The workers receive an unemployment allowance from the government. Due to COVID-19, this has been increased to 70% of up to €2,754.76 gross salary a month, plus an additional subsidy of €5.63 net a day. This increase is due to last until 30 June 2020.

In order for the worker to be able to receive these benefits, the company must make a simplified electronic declaration on the social security website.

Other headline pensions issues
Pension plan rules will normally specify whether contributions continue during a period of inactivity. Some employers are considering amending plan rules to stop contributions during this time – depending on the type of pension plan, this may require employee/insurance company consent or employer consultation.

This Global Pensions Agenda is a very broad overview of complex arrangements, many of which are changing frequently. You should not rely on this summary when making decisions - always check up to date details in each country.

If you would like to know more, we plan to hold a webinar in May 2020 on COVID-19 and pensions featuring colleagues from our global pensions team. You can register by clicking here.

For more information on how we can help you please contact:

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