Thoughts for the summer
UK Pensions Agenda

July 2017
Advisers: Eversheds Sutherland

1. **Money laundering** – new regulations will potentially require pension plan trustees to keep certain records and to register with HMRC in some circumstances. However, the application of the regulations to pension trustees is not yet entirely clear and further guidance is expected from HMRC.

   **Action:** Keep a watching brief on this issue in case any changes in record keeping practices and/or registration with HMRC are necessary. There is more information [here](#).

2. **Persons with significant control (PSC)** – the same regulations contain changes to the requirements about keeping information on PSCs that apply to the majority of companies including corporate trustees. Where there is a change to a company’s PSCs, updates must be made to the company’s PSC register within 14 days and a notification sent to Companies House within a further 14 days. In addition, Scottish Limited Partnerships (which are often used in asset backed funding arrangements) are now covered by the regime.

   **Action:** Check that someone is responsible for making the necessary updates and notifications. Where asset backed funding arrangements are in place, consider what implications the change has.

3. **Rights for same sex partners** – the Supreme Court has held in Walker v Innospec that it is unlawful to calculate benefits for same sex spouses and civil partners only by reference to benefits accrued on or after 5 December 2005 (as permitted under the Equality Act 2010). The court said that a pension paid to a same sex spouse or civil partner should properly be calculated by reference to all periods of a member’s pensionable service.

   **Action:** Check if your plan rules apply the 5 December 2005 cut-off and consider what action needs to be taken both going forward and in relation to benefits already paid. For more information, see [here](#).

4. **The 2017 annual funding statement** – this has been issued by the Pensions Regulator. The Regulator intends to take a tougher stance on late valuations and may take action where it considers plans are treated “unfairly” – e.g. where employers pay dividends which undermine their ability to support the plan. Where several valuations have shown a deteriorating funding position, the Regulator expects trustees to take decisive action.

   **Action:** Where valuations are currently being undertaken, consider the Regulator’s expectations, in particular whether other costs are being prioritised at the expense of the plan. For more information, see [here](#).
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5 **Transfers** – where a member takes a transfer of DB benefits or DC benefits that have a guaranteed element, they must take independent advice if the value of their benefits exceeds £30,000. Changes are being made to the way that benefits are valued for these purposes. There is also a new requirement to provide members that have guaranteed DC benefits with an individual statement explaining the guarantee and what it is worth. For the most part, these changes will come into force from 6 April 2018.

**Action:** Look at whether there are any DC benefits in your plan which have a guaranteed element that could be covered by the new requirements. Consider how you will communicate this to members from April next year.

6 **Charges** – further limits are being introduced to the charges that can be imposed on DC funds. There will be a ban on early exit charges for new members from 1 October 2017 and a cap of 1% for existing members. In addition, the existing ban on member borne commission will be extended to cover agreements entered into before 6 April 2016, although plans effectively have until 1 April 2018 to comply with this requirement.

**Action:** Consider what implications these new requirements will have for your plan and, where relevant, find out from providers the current level of charges and whether they will be able to comply with the new requirements.

7 **Money purchase annual allowance** – earlier in the year, legislation which would have reduced the money purchase annual allowance (which applies to members who have flexibly accessed any DC benefits) from £10,000 to £4,000 was withdrawn at the last minute. The secretary to the treasury has now said that the Government intends to introduce a Finance Bill reinstating this and other changes and the intention is that this provision will be effective from 6 April 2017 as originally announced.

**Action:** Consider what you need to tell members in relation to this change and whether “scheme pays” will be available to meet any tax charges arising as a result.

8 **Auto-enrolment transitional periods** – the transitional period for paying total contributions of 2% (with at least 1% from the employer) to an auto-enrolment arrangement no longer expires on 1 October 2017 but on 5 April 2018. The next transitional period (with total contributions of 5% and employer contributions of 2%) will expire on 5 April 2019. For DB schemes, the transitional period (which allowed auto-enrolment to be deferred for active members) expires on 30 September 2017.

**Action:** If a DC arrangement is being used for auto-enrolment, check what members were told in relation to minimum contributions and when they would increase. If the rules reflect previous phasing dates, members may need to be consulted if revised dates are to be used.

9 **PPF triennium consultation** – the PPF is consulting on changes to the levy calculation for the next three years. One of the proposals will require existing Type A guarantees to be re-documented and, where they are for £100 million or more, for trustees to obtain a third party report on how much the guarantor will realistically be able to pay.

**Action:** Where a Type A guarantee is in place, keep an eye out for the results of this consultation as it may mean that significantly more time is needed to prepare for the 2018 levy deadlines.

10 **Regulator penalties** – the Pensions Regulator has consulted on when and how it intends to use its powers to impose fines and how it will calculate the level of such fines. Among other things it will take into account the seriousness of any breach and what has been done to rectify it. The Regulator also stresses the need for early engagement with it.

**Action:** Where any breach of a legal requirement is identified which may carry a sanction, consider notifying the Regulator as soon as possible and what can be done to put the problem right.

For more details on these or any other issues, speak to your usual Eversheds Sutherland adviser or email Francois Barker, Head of Pensions, at francoisbarker@eversheds-sutherland.com