EVERSHEDS SUTHERLAND

Thoughts for the spring
DC Agenda

April 2022

1. Stronger nudge

From 1 June 2022 **regulations** will require trustees to offer to book an appointment with Pensions Wise where an individual approaches the scheme to access their benefits or, where they are over age 50, to take a transfer. Unless the individual receives the guidance or opts-out of doing so in a permitted manner, trustees will not be able to proceed with their application. The Pensions Regulator has **updated its guidance** on communicating with DC members on retirement to reflect the new requirements.

Action – Trustees and administrators need to consider when to give the nudge to Pensions Wise guidance; how transfer and retirement processes need to be updated; and what information needs to be included in member communications. More details about the stronger nudge are set out in our **speedbrief** and accompanying **DC Practical Notes**.

2. Consolidation

The Government issued **a consultation paper** in June 2021 to explore how it could incentivise DC schemes with assets of between £100 million and £5 billion to consolidate. In its **response to consultation**, DWP acknowledges that the "*consensus was for government to slow down the process to ensure better member outcomes*" and "*wait to see the impact of the new value for member assessments undertaken by small schemes*". The Government says that, as a result, it will "*not be introducing any new regulatory requirements with the sole purpose of consolidating the market in 2022*".

Action – The Government believes that the **value for members framework** being drafted by the Pensions Regulator and the FCA will encourage more competition and lead to better value for members than additional consolidation measures. Trustees should watch out for the final version of the framework and consider what actions they will need to take.

3. Illiquid investment

The Government is **consulting on new proposals** to require trustees to explain their policies on illiquid investment in their statement of investment principles. It is also proposing to require DC schemes with over £100 million of assets to disclose and explain their default asset class allocation in the chair's statement. These proposals are seen as a way of encouraging diversification and investment in higher yield types of assets.

Action – Where trustees do not currently invest in illiquid assets, they should talk to their investment managers about whether such investments might be appropriate and what investment approach they might take towards them. There is no requirement for trustees to invest in illiquid assets but under the DWP's proposals, they need to show they have considered them as part of a diversified portfolio. For further commentary on these proposals, please see the accompanying **DC Practical Notes**.

4. Employer-related investment

Existing legislation restricts occupational pension schemes from investing more than a limited percentage of scheme assets in employer-related investments. The **Government is proposing** to introduce an exception to this restriction for authorised master trusts with 500 or more active employers. However, the restriction will still apply to investment in the scheme funder, the scheme strategist, or a person connected or associated with either.

Action – This change is intended to recognise that the original rationale for the employer-related investment restrictions is not relevant to commercial master trusts and it creates unnecessary costs for them. Data from the Pensions Regulator suggests that 13 master trusts will be in-scope of the new provisions.

5. Charge cap

From 6 April 2022, schemes operating a flat fee element to their charging structure cannot levy a flat fee on pots of £100 or less under **changes to legislation**. In addition, the Government **consulted** last year on removing performance fees from the charge cap. There was a mixed response to the proposal and the **Government says** that whilst it still intends to pursue the policy, it needs time to ensure that the issues identified on consultation are addressed. There will also be principles based guidance alongside any eventual regulations on performance fees.

Action – Trustees should be aware of the changes being made to the charge cap and, where combination charges and flat fees are used, consider whether any changes need to be made. Also, trustees should keep a watching brief over changes to the charge cap to incorporate performance fees. **Please see our autumn 2021 edition of DC Practical Notes** for a summary of the issues relating to DC investment in private markets.

6. Normal Minimum Pension Age

The **Finance Act 2022** will increase the minimum age at which most members can take pension benefits from 55 to 57 in April 2028. However, members who had an unqualified right to retire at 55 before 4 November 2021 may be able to retain a lower retirement age. The right will be protected on block and individual transfers, but in the case of an individual transfer, rights accrued in the receiving scheme will not benefit from the lower pension age.

Action – Trustees need to consider whether any members have a protected pension age, and if so, what information needs to be provided on a transfer-out. Where members do not have a protected pension age, trustees should think about when and how to communicate the change in normal minimum pension age. Trustees also need decide whether they are willing to provide protected pension ages where members transfer-in (this is not a statutory requirement) and whether to ring-fence transfer payments. For further commentary, please see our accompanying **DC Practical Notes**.

7. Getting ready for dashboards

The Government has **consulted** on some of the detail in relation to the pensions dashboards, including the information that schemes will be expected to provide and when schemes will need to connect to the dashboards (beginning in June 2023). The Pensions Dashboard Programme has issued **more information** on the detailed technical standards that schemes will need to comply with. In addition, **revisions** have been proposed to the standard methods and assumptions for calculating statutory money purchase illustrations (and which will form the basis of DC information on the pensions dashboards) to ensure greater consistency between providers.

Action – Trustees and administrators should identify their likely scheme staging date for the dashboards, consider what information they will need to provide and identify what other steps they need to take to be ready to connect to the dashboard eco-system. For more information on the dashboards, see our **speedbrief**.

8. Fraud compensation fund

In order to fund potential claims from pension liberation schemes, **new legislation** changed the maximum levy that the fraud compensation fund can collect from 1 April 2022 to 65 pence per member for authorised master trusts and £1.80 per member (up from 75 pence) for other occupational pension schemes. **The PLSA says** that this could cost larger schemes in excess of £5 million in increased levy costs.

Action – Trustees should consider now how much any increased levy would be likely to be and how they would be able to pay it.

9. Investment and natural capital

The Taskforce for Nature-Related Financial Disclosures has **launched a consultation** on a framework for governance and disclosure around nature-related risks and opportunities in investment. **In a recent article**, the Pensions Minister said "*pensions can play a crucial role in driving forward [the Government's] pledge to protect precious natural habitats and reduce emissions*" and welcomed the movement of the portfolios of a number of pension schemes "*away from activities that are driving deforestation*".

Action – Trustees and fund managers should be aware of the drive to incorporate the impact on nature into investment decision-making and consider the extent to which such issues constitute a financially material consideration that they should take into account. Please see our accompanying **DC Practical Notes** for further detail.

10. Collective money purchase (CDC) schemes

The DWP has issued **regulations** which set out the authorisation and supervisory regime for CDC schemes for connected employers coming into force on 1 August 2022. Further **regulations will amend** the existing pensions regime in a number of respects to accommodate CDC schemes, in particular to deal with new transfer and disclosure requirements. The Pensions Minister has **also said** that the Government intends to consult "*on a package of prospective design principles and approaches to accommodate new types of CDC schemes*" later this year.

Action – Sponsors and providers should keep an eye on the CDC space. The Government clearly considers that CDC schemes have the potential to deliver meaningful benefits to members. Please see our accompanying **DC Practical Notes** for commentary on the potential for master trusts to offer CDC in decumulation.

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