EVERSHEDS SUTHERLAND

Future of pensions

Changes on the horizon

DC Agenda – January 2022

1.

Transfer conditions – **Regulations** set out new conditions that trustees need to ensure are satsified before making a transfer in order to reduce the risk of a transfer to a scam vehicle. Where a transfer is to an authorised master trust, the additional conditions will not apply. In addition, trustees may be able to reduce their due diligence where transfers are to personal pension schemes. The Regulator has **issued guidance** on these new conditions. The new regime will not apply to DC transfers requested before 30 November 2021.

Action: The regulations were changed considerably from the draft and there are some issues with them. Trustees should discuss with their administrators how transfer processes should be updated and what additional due diligence processes are required. For more information, see our **speedbrief** and for further insight, see our latest **DC Practical Notes.**

2.

Minimum Pension Age – **Draft legislation** has been issued which will increase the minimum age at which most members can take pension benefits from age 55 to age 57 in April 2028. The legislation includes provisions which will allow members who had a right to retire at age 55 before 4 November 2021 to retain it in certain circumstances. The right will also be protected on block and individual transfers, but in the case of an individual transfer, new rights accrued in the receiving scheme will not benefit from the lower pension age so the transfer value will need to be ring-fenced.

Action: Trustees need to consider whether any members will have a protected pension age and, if so, what information needs to be provided when they transfer-out. They will also need to consider the position of members transferring-in and if transfer payments need to be ring-fenced.
For more information, see our **speedbrief**.

3.

Charge cap – There are a number of proposed changes to the auto-enrolment charge cap. The Government has **consulted** on the removal of well-designed performance fees from the charge cap (replacing the new 5 year smoothing provisions) to promote DC investment in private markets and these provisions are intended to come into force in October 2022. From April 2022, the Government **intends to** prevent trustees who use a combination charging structure from applying a flat fee to pots of £100 or less. The Government has also consulted on adopting a single, uniform charge structure of 0.75% of members' funds.

Action: Trustees should discuss with their manager the impact of excluding performance fees from the charge cap (particularly if investing via unit-linked pooled funds). Where trustees charge a flat fee, they should consider whether to make any administration changes before the proposed implementation date in April 2022.

4.

Climate change – The Government has **proposed changes** to the climate change governance and reporting requirements which will require "in-scope" trustees to calculate and disclose an additional metric from 1 October 2022 describing how investments are aligned with limiting the increase in the global average temperature to 1.5 degrees Celsius above pre-industrial levels. To supplement the DWP's **statutory guidance**, the Pensions Regulator has published its **own guidance** on the climate change requirements. Trustees should also be aware that the FCA has published **new rules** requiring FCA-regulated asset managers and asset owners (including life insurers and pension providers) to make disclosures consistent with the TCFD's recommendations.

Action: Where trustees are in-scope for the climate change reporting requirements, they should consider how to address the new metric in conjunction with their investment managers. For more details, see our **speedbrief**. Trustees investing through unit-linked contracts of insurance should also discuss with investment managers how their TCFD obligations align with, and reflect, trustees' obligations. For more detail on the Regulator's climate governance guidance, see our **speedbrief**.

5.

Stewardship reporting – The Government is seeking views on **draft guidance** setting out its expectations in relation to SIPs and implementation statements, particularly around disclosing voting and engagement activities and outcomes. Trustees are expected to make fairly detailed disclosures in these areas and to explain why their policies are in the best interests of their membership.

Action: Trustees should compare the disclosures that they currently make and consider how to improve their engagement and voting policies. For more information, see our **speedbrief** and for further insight, see our latest **DC Practical Notes**.

6.

Communicating with members – From 1 October 2022, **regulations** will require DC only schemes used for auto-enrolment to provide a simpler two page annual statement to members. **Statutory guidance** sets out additional requirements that schemes will need to comply with and contains a template statement. In addition, **legislation will require** trustees and personal pension providers to "nudge" members towards advice which will mean that they will need to offer to book appointments for them with Pension Wise.

Action: Trustees need to review their existing communications and consider what changes they will need to make to existing statements. They should also keep an eye out for the final stronger nudge requirements. More details on the annual statement are set out in our **speedbrief**.

7.

Value for members and net investment reporting – Trustees **will need to** report net investment returns in their chair's statement for the first scheme year ending after 1 October 2021. More detail is set out in **statutory guidance**. In addition, **regulations** require trustees of DC schemes with assets of less than £100 million, that are at least 3 years old, to carry out a new value for members assessment and report the outcome in the chair's statement from 31 December 2021. The FCA and TPR have also published a **joint paper** on developing a common framework for measuring value for money in DC schemes.

Action: Trustees of small DC schemes will need to consider what data they need in order to comply with the new requirements and trustees of large DC schemes (in particular master trusts) will need to consider the new requirements from a comparator scheme perspective. For more information, see our **autumn edition of DC Practical Notes** and for further insight on the proposed value for money framework, see our latest **DC Practical Notes**.

8.

Dormant assets – The Government has invited **public input** on the **Dormant Assets Bill**. The Dormant Assets Scheme allows financial institutions that cannot reunite assets with customers to transfer them to the Scheme to be used for various environmental and social purposes. The Bill will allow certain benefits in personal pension schemes which are unclaimed to be transferred to the Scheme, subject to exceptions for auto-enrolment schemes and those invested in with-profit funds.

Action: Where assets are transferred to the Dormant Assets Scheme, members and beneficiaries will no longer have any entitlement from the original personal pension scheme but will be able to claim their benefits directly from the Scheme.

9.

Fraud compensation fund – The FCF provides compensation where scheme assets are reduced as a result of an offence involving dishonesty and the employer is insolvent. As a result of a **court case**, some liberation schemes will be eligible for FCF compensation, hugely increasing its liabilities. The Government has **proposed** that the maximum levy raised from occupational pension schemes to fund the FCF will rise from 75p per member to £1.80 and for master trusts from 30p to 65p.

Action: This will affect DC schemes as well as DB schemes and trustees should consider how much any increased levy would be likely to be and how they would be able to fund it.

10.

Other issues – A year ago, a working group **reported on** ways to tackle the number of deferred members with small pots, recommending automatic large-scale low-cost transfers and consolidation as a solution. The PLSA has **identified** data as one of the key barriers to automatic consolidation and that the dashboard eco-system should be prioritised as a way of dealing with this. The PLSA has also **published a guide** setting out areas that trustees and regulators will need to consider to implement the **dashboard requirements**. Finally, a private member's bill has been introduced to extend auto-enrolment following a **report from the think tank, Onward**. Onward proposes the abolition of the auto-enrolment earnings trigger (£10,000) and age limit (age 22) in 2023 so that every employee over the age of 18 becomes eligible. The qualifying earnings limit for pension contributions (£6,240) would be removed from 2026.

Action: Trustees and administrators should consider whether automated systems and scheme data are dashboard ready and where changes are required, a timeline should be considered and kept under review. For further insight, please see our **DC Practical Notes**. It will be interesting to see the outcome of proposals to extend auto-enrolment to include younger workers, part-time workers and those on low pay. The Government has already signalled support for these measures by committing to review the earnings trigger, lower earnings limit and auto-enrolment age and trustees and providers should be alive to potential changes. We will continue to track developments in this area.

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