EVERSHEDS SUTHERLAND

Agenda for autumn
UK Pensions Agenda

October 2020

1. COVID-19

The Pensions Regulator continues to update its guidance on the pandemic and the majority of its original regulatory easements have now come to an end. In addition, the Coronavirus Job Retention Scheme is coming to an end on 31 October 2020 and will be replaced with the Job Support Scheme. The Job Support Scheme offers different levels of support where employees are working part-time or where a business has been forced to close as a result of coronavirus restrictions.

Action – Consider whether sponsors are intending to make use of the Job Support Scheme and what the pensions implications of that will be. In addition, consider whether the pandemic is likely to have any other ongoing implications for schemes.

2. CMA Order

Trustees of the majority of schemes will need to send a compliance statement to the CMA by 7 January 2021. This is a fairly short statement that sets out how they have complied with relevant obligations in the CMA Order to competitively tender fiduciary management agreements and set strategic objectives for investment consultants.

Action – Check whether the obligations under the Order apply to your scheme and ensure any necessary steps are taken to comply with them. Make sure a compliance statement is sent to the CMA on time. For more information, see our speedbrief.

3. DC Schemes

The Government has issued a consultation paper which puts forward proposals to require DC trustees to publish net investment returns for each default fund and each fund that members have chosen to invest in. In addition, where a DC scheme has less than £100m in assets, trustees will need to assess annually whether it provides value for members. These proposals are intended to come into force after the end of the first scheme year after 5 October 2021. The Government has also announced that it intends to consult on regulations which will require annual statements to be limited to two pages and follow a template.

Action – Where there is a DC scheme, consider what net investment return information is available and whether more needs to be obtained. Also give thought to processes which would need to be put in place for the value for members assessment. For more details, see our speedbrief.

4. DB Schemes

The Regulator is currently considering the responses to the consultation on the principles which should underpin a revised DB funding Code. It is due to start consulting later this year or early next year on the wording of the revised code and the detail of what the fast track valuation process will actually look like. The Regulator has also issued guidance for trustees and employers on what it expects when they are considering transferring to a superfund.

Action – If a valuation is due to start in 2021, monitor the situation closely as it might require changes to the valuation process. If considering a transfer to a superfund at some point, have a look at our speedbrief.

5. GMP equalisation

Judgment is still awaited in the last of the Lloyds Bank cases looking at the obligation to equalise for the effect of GMPs. This hearing considered whether a transferring scheme has an obligation to equalise past transfer values and, hopefully, the judgment on this will be issued later in the year (it has been delayed as the judge asked for additional information to be presented in late October). The industry also continues to press HMRC for additional guidance on the tax implications of GMP conversion.

Action – Watch out for the judgment and consider what implications it has for any past transfers out. If conversion is being considered, look carefully at any tax issues.

6. Climate change

The Government is consulting on new climate change reporting requirements for schemes with assets of £1bn or more, collective DC schemes and master trusts. These schemes will have to monitor investments against climate change targets and report on what they have done. These requirements implement the recommendations of the Taskforce on Climate-related Financial Disclosures and will be phased in starting from the first scheme year ending after 1 October 2021.

Action – Consider what requirements are likely to apply to your scheme and from when. Begin considering how to put appropriate governance mechanisms in place.

7. PPF levy consultation

The PPF is seeking views on its proposals for calculating the levy for the 2021/22 levy year. One key proposal is to cut the levy by 50% for small schemes with less than £20m in liabilities (and tapering this relief so only schemes with £50m+ in liabilities will pay the full levy). The other main proposal is to reduce the cap on the maximum amount of risk based levy paid by a scheme from 0.5% to 0.25% of liabilities.

Action – Consider whether your scheme is likely to be in scope for a levy reduction. For more details, see our speedbrief.

8. Governance

The Regulator has confirmed that the timing of the consultation on the new super code which will amalgamate all of the existing codes of practice is now intended to be "in late 2020 or early 2021". This is likely to include changes to the existing trustee knowledge and understanding regime and implement new governance and risk management requirements set out in the second European Pensions Directive.

Action – The super code is likely to mean a review of existing governance processes will be required and new ones may need to be put in place.

9. Brexit

Currently it would appear that even a no-deal Brexit is unlikely to have significant short-term implications for occupational pension schemes as pensions law will remain largely unchanged. The Regulator has published guidance for schemes which currently operate cross-border on the implications of a no-deal Brexit for them. Trustees will also need to ensure that they can continue to pay benefits without interruption where members are in the EU, particularly where payments are made into UK bank accounts, and keep their investment strategy under review.

Action – Consider what the implications of Brexit might be for your scheme and keep the position under review going in to the new year.

10. Pensions tax relief

The Government has issued a call for evidence about the potential for low-earning individuals to be affected by the method of pensions tax relief operated by their scheme. The main issue arises because where a scheme uses relief at source, a member receives a tax credit at basic rate whether or not they are a tax payer. The Government invites views on various options to deal with this issue including requiring all DC schemes to use relief at source.

Action – Keep an eye out for any consultation on this as it could require significant administrative changes by both trustees and sponsors if a scheme needs to change the basis of tax relief it uses.

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