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December 2019

The Pensions Brief

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Issues affecting all schemes

Parliamentary pension promises

Following the general election on 12 December 2019, the Conservatives have been voted into Parliament. In the Conservatives' manifesto, which was followed by the Queen's Speech on 19 December, the Conservatives made the following promises in respect of pensions:

- to maintain the state pension "triple lock";
- to conduct a comprehensive review of the tax loophole that adversely affects those in net pay arrangements;
- to conduct an urgent review of the tapered annual allowance issue affecting the NHS Pension Scheme;
- to "unlock" long-term capital in pension schemes to invest in and commercialise the UK's scientific discoveries; and
- to reintroduce the Pension Schemes Bill 2019/20 which covers areas such as the framework for the pensions dashboard, introducing a new style of pension scheme (the collective defined contribution scheme) and new Pensions Regulator powers.

Action

No action. We will report on developments as and when relevant.

Issues affecting DB schemes

PPF not required to guarantee full pension scheme benefits

On 19 December 2019, the European Court of Justice ("**ECJ**") ruled that the Pension Protection Fund ("**PPF**") does not have to guarantee full pension scheme benefits on an employer's insolvency.

In the case of *PSV v Gunther Bauer*, a member of a work pension scheme sued the German equivalent of the PPF. This case considered whether the equivalent PPF body was required to guarantee an employee's full pension benefits following an employer's insolvency. In its judgment, the ECJ held that:

- a member state is not required to guarantee an employee's pension benefits in full on an employer's insolvency; BUT
- a member state is required to guarantee ***at least 50%*** of an employee's pension benefits on an employer's insolvency. In addition, no reduction applied may be manifestly disproportionate. This effectively means that no reduction can result in an employee being below the "at risk of poverty" threshold in the member state.

The PPF has announced that it will be working through this judgment with the Department for Work and Pensions.

Action

No action.

Final PPF Levy Determination 2020/21 published

On 16 December 2019, following the PPF's consultation, which was launched in September, the PPF announced that it has issued its final rules and guidance for the 2020/21 levy year.

Key points to note are:

- the total levy the PPF intends to collect is £620m;
- the 2020/21 levy year is the last year in the current three year period so there are very limited changes to the levy rules this year and the rules are broadly the same as set out in the PPF's consultation;
- if a scheme's levy is significantly impacted by the guaranteed minimum pension ("**GMP**") equalisation adjustment, employers can apply to the PPF to request an adjustment if certain conditions are met. For example, if the GMP equalisation adjustment causes the employer to report a pre-tax loss rather than profit in its accounts.

The PPF has also published updated guidance on Type A contingent assets, including on guarantor strength reports.

Action

Trustees should familiarise themselves with the PPF levy rules and guidance.

Issues affecting DC schemes

FCA publishes policy statement on making transfers simpler

On 16 December 2019, the Financial Conduct Authority ("**FCA**") published a policy statement on making transfers simpler, which includes the final rules implementing changes.

A key change is that platform providers will be required to allow in-specie transfers to new investment platforms (i.e. allow consumers to transfer their units in funds from one investment platform to another) or provide a share class conversion to facilitate such a transfer. The reason for this change is to make it easier for consumers to transfer their investments and avoid the risk of temporary disinvestment by allowing consumers to remain invested during the transfer process.

The new rules will come into force on 31 July 2020.

The FCA has also said that it will review exit fees in the first quarter of 2020.

Action

The possible impact of the new rules should be discussed with platform providers.

FCA publishes policy statement on final rules to extend the remit of IGCs

On 17 December 2019, the FCA published a policy statement on extending the remit of independent governance committees ("**IGCS**"), which includes rules implementing changes.

The final rules widen the remit of IGCs to include:

- considering and reporting on pension providers' approach to environmental, social and governance investments, concerns of pension members and stewardship responsibility; and
- overseeing the value for money of investment pathway solutions for pension drawdown.

The policy statement also provides guidance for providers of pension products and investment-based life insurance products.

The new rules and guidance are to come into force on 6 April 2020. Any reports on relevant policies and/or on the value for money of investment pathway solutions should be included in the first IGC annual report covering the period including or after 6 April 2020.

Action

FCA-regulated firms with an IGC need to be aware of the new requirements.

Mayer Brown news

Upcoming events

All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

- **Trustee Foundation Course**

  25 February 2020
  12 May 2020
  15 September 2020
  8 December 2020

- **Trustee Building Blocks Classes**

  16 June 2020 – Trustee discretions and decision-making
  17 November 2020 – DB funding and investment

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Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

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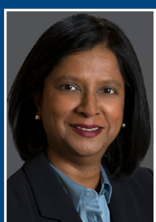

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Dates to note over the next 12 months

31 January 2020

Date of Brexit if the withdrawal agreement has not been ratified and a further extension has not been agreed

14 February 2020

Annual allowance deadline for schemes to pay tax due under "scheme pays" (2017/18 tax year)

6 April 2020

Regulations transposing the CMA requirements on investment consultancy and fiduciary management services into pensions law come into force

6 July 2020

Annual allowance deadline for employers to provide schemes with information to calculate pension input amounts incurred by members in pension input periods ending in the 2019/20 tax year

31 July 2020

Annual allowance deadline for member requests for "scheme pays" (2018/19 tax year)

1 October 2020

Further requirements on the content of the SIP and the annual report and on website disclosure come into force

6 October 2020

Annual allowance deadline for schemes to provide members with pension savings statements for the 2019/20 tax year

31 December 2020

Annual allowance deadline for schemes to include details of tax due under "scheme pays" in scheme's AFT return (2018/19 tax year)

Key:

Important dates to note

For information