ALLEN & OVERY

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Pensions: what's new this week

Welcome to your weekly update from the Allen & Overy Pensions team, bringing you up to speed on all the latest legal and regulatory developments in the world of occupational pensions.

TPR: annual funding statement | New PASA data guidance | HMRC consults on 'off-payroll' working | Annual GMP revaluation order | Latest HMRC newsletters | New name for SFGB

TPR: annual funding statement

The Pensions Regulator (TPR) has published its 2019 annual funding statement – this is relevant for all DB schemes and sponsors, particularly those with an effective valuation date between 22 September 2018 and 21 September 2019, or where funding and risk strategies are being reviewed in connection with wider scheme changes. A 'key messages' summary document is also available.

Once again, the statement includes tables of key risks for trustees and employers to focus on (together with associated expectations from TPR), categorised by scheme characteristics including covenant strength. This year's tables include more categories, and more detailed expectations – these are divided into the areas of covenant, investment and funding. TPR expects scheme maturity issues to pay a greater role when setting funding and investment strategies in the future.

Key points include:

- TPR expects trustees to set a long-term funding target together with a 'journey plan' to achieve this, and to set an investment strategy consistent with these. It also expects trustees and employers to be prepared to evidence how shorter-term investment and funding strategies are aligned with the target and journey plan.
- TPR continues its emphasis on fair treatment for schemes, particularly in relation to dividends and deficit reduction contributions (DRCs), and the length of recovery plans – it will be contacting schemes in the coming months where it has concerns over equitable treatment and/or long recovery plans. Note:
    - For a relatively mature scheme with a strong employer, any recovery plan should be shorter than the median length for schemes in general (seven years).
    - Where dividends and other shareholder distributions exceed DRCs, TPR expects a strong funding target and a short recovery plan, particularly in cases where the employer covenant is weak or tending to weak.
    - Where the employer is weak and unable to support the scheme, TPR expects the payment of shareholder distributions to have ceased.

The statement also reveals that TPR intends to consult on options for a revised funding framework under a new funding code in summer 2019, and will consult on the new funding code shortly afterwards. It also signposts trustees and employers to TPR's recent Brexit statement (WNTW, 28 January 2019) but otherwise contains no discussion of Brexit.

New PASA data guidance

The Pensions Administration Standards Association (PASA) has released guidance to help trustees, administrators and employers review and, where necessary, improve the quality of their data.

The PASA guidance is divided into three sections:

- assessing data quality dimensions (covering compliance, member engagement, usability, governance and strategic importance);
- managing risk and meeting compliance (covering data items and, for each, why these are important; common problems (and how to identify these); possible data cleansing solutions, and suggestions for ongoing 'maintenance' or improvements); and
- an impact assessment template (to be completed by the scheme administrator as a first step).

The Pensions Regulator (TPR) has recently published a quick guide to measuring data – TPR expects trustees to review their data at least once a year (WNTW, 28 January 2019).

HMRC consults on 'off-payroll' working

HMRC is consulting on changes to 'off-payroll' working rules (also known as IR35) for the private sector from April 2020 – broadly, this is where an individual provides services to a client via an intermediary (such as a personal service company (PSC)). HMRC proposes that clients will be required to determine and communicate the individual's employment status; the consultation also considers the future arrangements for deductions for income tax, national insurance contributions and pensions. Smaller corporates will be exempt from the changes; HMRC is seeking feedback on how to define small non-corporate entities (for example, based on employees or turnover) for an equivalent exemption.

In relation to pension contributions, HMRC is considering legislative options that would allow fee-payers to make contributions free of tax and NICs to the worker's personal pension, and is gathering information on the ways in which off-payroll workers might make pension contributions, and any administrative burdens which would reduce the likelihood of a fee-payer (generally the organisation paying the PSC) making contributions to an off-payroll worker's pension.

The consultation closes on 28 May 2019 – it will be used to develop the draft Finance Bill legislation, which is due to be published in the summer.

Annual GMP revaluation order

The government has published the annual revaluation order for guaranteed minimum pensions (GMPs) that are not yet in payment – this follows the recent publication of the annual uprating order for GMPs (WNTW, 4 March 2018).

The latest order sets out the revaluation rates for the tax years 1978/79 to 2018/19 to be applied to a deferred member's earnings factors for each year in which the member accrued GMP rights. It is also relevant to schemes that use fixed-rate GMP revaluation (these annual orders govern revaluation for periods before fixed rate revaluation is triggered).

Latest HMRC newsletters

HMRC has published two new issues of its Countdown bulletin for administrators dealing with reconciliation processes after the end of DB contracting-out.

Issue 43 includes guidance on how to submit queries about the Scheme Reconciliation Service (SRS), information on SRS process changes, and a reminder that the deadline for submitting Contracted-out Contribution Service requests has passed. GMP statements will no longer be sent from April 2019; schemes may check member GMP amounts via the GMP Checker facility.

Issue 44 contains an update on changes to the dates for scheme financial reconciliation. Schemes in deficit can now expect to receive letters from HMRC earlier (in the week beginning 1 April 2019); the scheme financial reconciliation run date and debt write-off date have also been moved to two weeks earlier than previously stated, but HMRC expects the impact of the change to be negligible.

New name for SFGB

The Single Financial Guidance Body is to be known as the Money and Pensions Service; new regulations make changes to various pieces of legislation to reflect the change. The Money and Pensions Service will provide money and pension guidance and debt advice to the public; it replaces the Money Advice Service, Pension Wise and the Pensions Advisory Service.

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