GODDARD PERRY
CONSULTING

Hot topics in Pensions

Summer 2017

1. Public launch date announced for Pensions Dashboard prototype

The Government announced plans as part of the March 2016 Budget to set up an online service that will allow individuals to see all their pension savings in one place by 2019.

The Pensions Dashboard prototype project, managed by the Association of British Insurers (ABI) on behalf of HM Treasury, has co-ordinated the efforts of around 80 people from 17 pension firms and 6 technology companies, with input from Government, Regulators and independent industry experts.

A prototype has now been delivered and was demonstrated to Government ministers in March, with roadshow events convened by the ABI in April and May showcasing the prototype to members of the long-term savings industry, financial advisers and a wide range of other stakeholders.

Following the roadshow events, the ABI announced the establishment of an interim phase of the project, scheduled to follow a pause for the General Election, which will have the following four main aims:

- To establish a cost benefits analysis for the wider industry;
- To research customer needs and establish what features people are likely to find most useful in a dashboard;
- To establish the requirements and costs for a secure end to end service between data providers and data consumers;
- To further develop the technical data standards for all firms and work with the Pensions Administration Standards Association on agreeing a Code of Conduct in line with requirements from the Pensions Regulator.

The ABI has also asked the Government to legislate so that every pension scheme in the UK will compulsorily enter member information into the pension dashboard and for the Financial Conduct Authority to act as its regulator, rather than the Pensions Regulator.

2. Finance Act 2017

The Finance Bill 2017, which was fast-tracked through the legislative process in light of the 8 June 2017 general election and was in revised form after significant amendments and deletions were tabled on 25 April 2017, due to lack of Parliamentary time, received Royal Assent on 27 April 2017 to become the Finance Act 2017.

The following pension related provisions are included in the Act:

Overseas pensions:

- Measures aligning the tax treatment of foreign pensions and lump sums paid to UK residents with that afforded to UK pensions and lump sums;
- Extension of the period over which UK tax charges arise on payments from funds that have received UK tax relief from 5 to 10 years;
- Section 615 scheme closure to new savings; and
- Alignment of the tax treatment of funds transferred between registered pension schemes and the inclusion of payments of foreign pensions and lump sums fully into tax for UK residents.

Overseas transfers:

The new 25% tax charge for transfers from UK registered pension schemes to Qualifying Recognised Overseas Pensions Schemes (QROPS) will apply to:

- Transfers from a registered pension scheme to a QROPS requested on or after 9 March 2017, unless certain conditions apply; and
- An onward transfer on or after 6 April 2017 from one QROPS to another with 5 years of the original transfer date, unless the transfer is excluded.

Amendments were agreed to clarify the operation of the overseas transfer charge and ensure that the tax rules relating to the charge do not extend further than intended.

The following pension measures are no longer included:

- The increase in the income tax exemption to £500 per member for employer-arranged pensions advice in any tax year*; and
- The reduction in the Money Purchase Annual Allowance (MPAA) from £10,000 to £4,000.

* The regulations under which members can use up to £500 per tax year on three occasions from their DC funds to pay for regulated financial advice are unaffected and came into force on 6 April 2017.

3. Pensions Schemes Bill 2016-17 receives Royal Assent

The Pension Schemes Bill 2016-17 received Royal Assent on 27 April 2017 to become the Pension Schemes Act 2017. Amongst other things, the Bill introduces a new regime for the authorisation of master trusts. Initial consultations on regulations made under the Act are expected to begin in Autumn 2017, with the detailed provisions scheduled for implementation from October 2018.

4. Government Green Paper 'Security and Sustainability in Defined Benefit Pension Schemes'

The Green Paper explores the current issues facing Defined Benefit (DB) pension schemes and sought views from members, trustees, employers and other pension professionals on the ways in which confidence might be restored in a system which, although serviceable for a number of years, has suffered in recent times.

The Government sought views in four broad areas:

- Funding and Investment
- Employer contributions and affordability
- Member protection
- Consolidation of Schemes

The Consultation came to a close on 14 May 2017 and the feedback is now being analysed.

5. General Data Protection Regulation (GDPR)

There are now less than 12 months until GDPR will replace the Data Protection Act as the legal framework that sets guidelines for the collection and processing of personal information of individuals within the United Kingdom.

The GDPR sets out the principles for data management and the rights of the individual, while also imposing fines that can be revenue based.

GDPR tightens the requirements which impact how pension schemes obtain member consent for the data they hold and process. Under GDPR, consent must be "freely given, specific and informed" and, once given, can be withdrawn at any time. Where consent is the legal basis for processing data, pension schemes, as holders of large amounts of member data, must check that the new requirements were not met and the data is still required to provide benefits.

Schemes will need to provide more information about data. Members will need to be told about the purpose of processing, the legal basis for processing and who receives data. They should also be given information about transfers of data outside of the EU, how long data will be retained and the rights the member has under GDPR.

As a minimum, Trustees, employers and providers should also be considering:

- The legal basis on which data is held, including an audit of existing data to check what is being held, why, how long for and whether it is still needed;

- Trustees should also look at the circumstances in which data may be disclosed to external parties and seek advice on the changes needed to existing and new contracts to ensure compliance and that terms relating to the allocation of risk and caps on risk are appropriate for data protection claims.

6. The Pensions Regulator (tPR) publishes its Corporate Plan 2017-2020

The Corporate Plan sets out the Regulator's goals for the next three years.

The Corporate Plan lists 8 priorities:

- Successfully complete the remaining stages of the roll-out of AE to small and micro employers.
- Deliver more interventions, more quickly, where defined benefit schemes are underfunded or avoidance is suspected.
- Protect customers through the effective regulation of master trusts.
- Drive up standards of record-keeping and data maintenance, including public service schemes.
- Be clearer in our codes, guidance and other interactions with schems and employers about what we expect them to do.
- Drive up standards of trusteeship across all schemes, with a particular focus on chairs and professional trustees.
- Develop and implement our enhanced approach to regulation.
- Create high performing teams of people across tPR with the skills and capabilities to deliver all of the above.

TPR Chief Executive Lesley Titcomb said: "These priorities show how we are evolving to become a bolder more effective regulator. Going forward we will be intervening more frequently and acting faster. Workplace pension schemes play a vital role in protecting their benefits. Effective regulation is essential to protect the benefits of members of occupational pension schemes and in recent months we have demonstrated we will use the powers available to us. Elsewhere, our Corporate Plan clearly sets out the importance we place on the quality of trusteeship and how we will work to simplify the guidance and codes we provide to the industry."

The Corporate Plan also identifies 5 risk areas influencing tPR's priorities to address risks facing the UK pensions landscape, these are:

- Poor outcomes for members and sponsors of smaller defined benefit and defined contribution schemes that cannot benefit from economies of scale.
- Standards of governance and administration not increasing at the pace required to meet expectations.
- Potential failure of master trusts and defined benefit schemes.
- The impact of poor record-keeping in both public and private sectors.
- Variable investment conditions arising from political and market uncertainty in the UK and overseas.

Lesley Titcomb said: "In order to meet our revised objectives we need to invest in our systems, as well as enhance the number and potential of our people – particularly our frontline regulatory teams and the specialist advisers who support them. As well as continuing to adapt where needed, we maintain our commitment to provide strong, agile and fair regulation and to promote the highest possible standards from the pensions industry."

7. TPR publishes its annual funding statement for DB scheme valuations

TPR has published its Annual Funding Statement, primarily aimed at schemes undertaking valuations with effective dates in the period 22 September 2016 to 21 September 2017 but is relevant to all trustees and sponsoring employers of DB schemes.
The Annual Funding Statement highlights some of the key issues facing schemes with 2017 valuations. Schemes will have been affected differently by market conditions and tPR's analysis identifies groups of schemes which have been impacted in particular ways.

http://www.thepensionsregulator.gov.uk/docs/db-annual-funding-statement-2017.pdf

8. TPR continues its campaign against pension scams

Earlier in the year, tPR refreshed the material used in the scorpion campaign to alert people to dangers of pension scams with a new video, online scam spotting tool and 5 step guide. The guide has been incorporated into the literature that is issued to members of Schemes where administration support is provided by the Goddard Perry group of companies.

TPR leads a taskforce of government, regulators, financial services bodies and criminal justice agencies to disrupt and prevent scams known as Project Bloom and in April issued further warnings to pension savers, trustees and administrators of the danger of rogue individuals using scamming techniques after taking action to prohibit the trustees of 5G Future Pension Scheme. At the time of the appointment of tPR, over £16 million had been invested, the majority of which was in unregulated investments overseas and the scheme's methods bore the hallmarks of a scam. The overall value of investments was significantly lower, at approximately £991,000, than their initial purchase price.

Nicola Parish, Executive Director of Frontline Regulation, said "We will take tough action on rogue trustees and are calling on all pension savers, trustees and administrators to be alert to the techniques they use. Beware of the dangers of transferring out of reputable pension schemes to access unrealistically high returns often associated with exotic sounding investment opportunities. If an offer seems too good to be true, it almost certainly is."

9. BHS, British Steel, Bernard Matthews and the Pensions Lifeboat

In February of this year TPR agreed a cash settlement worth £363 million with Sir Philip Green.

The arrangement, which has the support of the trustees of the two BHS pension schemes will see Sir Philip provide funding for a new independent pension scheme to give the pensioner the option of the same starting position as they were originally promised by BHS and higher benefits than they would get with the Pension Protection Fund (PPF).

Nicola Parish said "We are confident that the agreement we have reached with Sir Philip represents a good outcome for current and future BHS pensioners and as such our regulatory action will now cease. In reaching such a decision, we have to balance the outcome of any settlement against what we might achieve by pursuing anti-avoidance action, the risk of a prolonged period of legal challenge in the courts and the delay and uncertainty that would bring to members".

With regard to the British Steel Pension Scheme (BSPS), in May of this year Tata Steel published its accounts for the year to 31 March 2017 advising that after 'prolonged and intense' negotiations with the BSPS Trustee, TPR and the PPF a deal in principal had been reached between Tata Steel UK and the BSPS Trustee in which Tata Steel will pay £550 million into BSPS as well as provide it with a 33% stake in Tata Steel UK before then sponsoring a new scheme before then sponsoring a new scheme which members of the BSPS Scheme can transfer their benefits into.

TPR announced that: "Good progress is being made in our discussions with Tata Steel UK (TSUK) and the trustees about the future of the BSPS. The key commercial terms of a regulated apportionment arrangement (RAA) have been agreed in principle between the company and the BSPS trustee. These appear in line with our published principles. However, there are still important details to be finalised before we are in a position to approve the RAA and we are considering these carefully in light of their impact upon the 130,000 pension scheme members and PPF levy payers.

Pension restructurings which involve RAA are rare and we will only approve an RAA where stringent tests are met, so that they are not abused by employers seeking to inappropriately offload their pension liabilities. We also continue to work with TSUK and the trustee in respect of the proposal to offer members an option to transfer to a new scheme sponsored by TSUK, which may occur should the approval to the RAA be granted, or stay in the BSPS and receive PPF compensation. The successor scheme would be subject to qualifying conditions."

The work undertaken by tPR in the BHS and British Steel cases should be considered in the context of UK turkey producer Bernard Matthews. The company was pushed into insolvency by private equity firm Rutland Partners by way of a 'pre-pack' administration arrangement, which allowed it to continue trading whilst offloading its liabilities, including its pension scheme, before its assets were sold to Ranjit Boparan, the food magnate known as the 'Chicken King', for £87.5 million, earning Rutland a £14 million return on its investment in the faltering company.

A spokesman for Mr Boparan has made clear that: "We would welcome any review of this transaction, Boparan offered the seller a deal which would have included all assets and liabilities, including the pension liability. Unfortunately, this offer was rejected."

TPR is now investigating the funding of the Bernard Matthews scheme, which is currently in the two year assessment period for entry into the PPF.

Frank Field, who chairs the work and pensions committee, commented "I have confidence that the PPF, working with the scheme trustees, will act in the best interest of the pensioners but it's clear that the former owners passed up a better deal for pension scheme members in favour of lining their pockets."

According to a recent investigation by the Financial Times, roughly 17% of the 868 schemes managed by the PPF have been taken on by the 'pensions lifeboat' as a result of such pre-pack administration deals, with two in three pre-pack schemes entering the PPF involving sales to existing owners or directors.
Successive governments have tried to deal with the 'pre-pack' problem and a review in 2013 led to the creation of a body of independent professionals who could be consulted on proposed sales to 'connected parties', such as existing management.

TPR position on this is that "Whilst pre-pack administrations can be a useful tool for realising best value from failing businesses, we are alive to the risk of misuse, particularly when they involve sales of businesses to connected parties. Where we suspect that they have been misused, to the detriment of the pension scheme, we have strong anti-avoidance powers which we can and will use", as seen in the case of BHS and on the table in the negotiations with TSUK.

10. PPF confirms plans to raise Fraud Compensation Levy in 2017/18

The PPF is raising a Fraud Compensation Levy in 2017/18, for the first time in 5 years.

The PPF, which runs the Fraud Compensation Fund (FCF), has been notified of a number of possible claims which may come to the FCF in the next few years. Therefore, with forward planning in mind and to smooth the impact to schemes over time, the PPF is raising a levy of 25p per member, the same as that in 2012/13. The levy is expected to raise around £5 million in total.

The FCF pays compensation to eligible work-based pension schemes, including defined contribution, where the employer is insolvent and the scheme has lost out due to offences involving dishonesty.

The levy is collected by tPR alongside its general levy, with the collection process starting on 1 April.

Where can I get further information?

Please contact your Goddard Perry consultant if you would like to discuss the issues raised by this update in more detail. Alternatively contact us via the following:

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