

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.

Professional trustee standards published | PLSA publishes new Brexit materials | Update: EMIR clearing exemption | Auto-enrolment: qualifying earnings | Annual GMP uprating order | FCA consults on costs disclosure rules | FCA responds to CMA report | Latest HMRC newsletter

Professional trustee standards published

The Professional Trustee Standards Working Group has published [standards](#) and initial details of an [accreditation](#) framework for professional trustees, following a consultation at the end of 2017 (see [WNTW](#), 18 December 2017). The [consultation response](#) is also available.

The standards are divided into three parts: general standards; standards for chairing a trustee board (and for professional trustees assisting the chair); and standards for professional trustees acting as a sole trustee. The general standards cover areas including fitness and propriety (modelled on the requirements for master trusts), managing conflicts of interest, and appointments. For example, as part of the appointment process, professional trustees should seek a written statement from any outgoing professional trustee about the circumstances of their departure. The length of appointment should be reviewed periodically – a maximum aggregate term of ten years is suggested.

The standards and framework are supported by the Pensions Regulator (TPR), which expects professional trustees to comply. TPR has launched a dedicated [professional trustee standards page](#), and also updated its online [DC trustee board 'how to' guide](#) to state: 'If you are appointing a professional trustee to your board you should choose someone who meets the professional trustee standards. Once the accreditation framework is in place you should confirm that they are accredited.'

The accreditation process will be run by the Pensions Management Institute and is due to be operational by mid-2019 (information on costs is not yet available). Trustees will need to meet specific requirements on initial accreditation (including providing references and passing the Level 3 Award in Pension Trusteeship), and then complete a declaration and 25 hours of continuing professional development on an annual basis.

PLSA publishes new Brexit materials

The Pensions and Lifetime Savings Association has published a ten point [action plan](#) for trustees to prepare for Brexit (which includes actions in relation to the employer covenant and, for both DB and

DC schemes, investments), as well as a short [summary](#) of some of the issues Brexit presents. This follows a recent statement by TPR on preparing for Brexit (see [WNTW](#), 28 January 2019).

Update: EMIR clearing exemption

Pension schemes should continue to benefit from exemptions to clearing requirements for over-the-counter derivatives, according to a recent UK government [statement](#). Previously, pension schemes benefited from a temporary exemption from the clearing requirements under the European Market Infrastructure Regulation (EMIR), which has now expired. EMIR Refit is expected to be agreed shortly, and to include an extension of the exemption by at least two years.

The UK government has recently stated that, under the UK legislation onshoring EMIR (in the event of a 'no deal' Brexit), it intends to apply the exemption from clearing to both UK and EEA pension schemes. Trustees will also be reassured by a subsequent [statement](#) by the Financial Conduct Authority that it will not prioritise actions requiring parties to implement clearing where they are expected to benefit from the proposed exemption.

Auto-enrolment: qualifying earnings

A new [order](#) amends the qualifying earnings band for auto-enrolment from 6 April 2019; there are no changes from the draft version published previously. The earnings trigger for auto-enrolment remains unchanged at GBP10,000 for 2019/20, but the lower and upper limits of the qualifying earnings band are set at GBP6,136 (increased from GBP6,032) and GBP50,000 (increased from GBP46,350) respectively. The order also sets out rounded figures for pay reference periods of less than a year.

Annual GMP uprating order

The annual uprating [order](#) for guaranteed minimum pensions (GMPs) will come into force on 6 April 2019, following approval by Parliament. Under the order, the GMP element of an individual's occupational pension entitlement attributable to earnings factors for the tax years 1988/89-1996/97 must be increased by 2.4%.

FCA consults on costs disclosure rules

The Financial Conduct Authority (FCA) is [consulting](#) on the disclosure of costs and charges (a) to workplace schemes (ordinarily by asset managers) and (b) to members of FCA-regulated workplace money purchase schemes (such as group personal pension plans).

Disclosure to schemes: Under current FCA rules, asset managers have to provide information on costs to workplace pension schemes (see [WNTW](#), 25 September 2017). The FCA plans to clarify the reporting of costs related to 'anti-dilution' (where a fund passes on costs to an incoming/outgoing investor) and to over-the-counter transactions in bonds.

Disclosure to members: New regulations on the disclosure of costs and charges came into force for DC occupational pension schemes in April 2018 (see [WNTW](#), 5 March 2018). The FCA is consulting on rules requiring scheme governance bodies (such as Independent Governance Committees) to disclose information to members. The FCA intends to follow the approach in the 2018 regulations where appropriate, subject to differences in scheme structures and the two regulatory regimes.

The consultation closes on 28 May 2019; the rules are intended to come into force from April 2020.

FCA responds to CMA report

In December 2018, the Competition and Markets Authority (CMA) published its final report into the investment consultancy and fiduciary management sectors – we recently reported on a CMA consultation on the terms of an order implementing proposed remedies ([WNTW](#), 18 February 2019). The FCA has [published](#) an update on its response to the report, including the following points:

- After the CMA order comes into force, the FCA will consult on introducing into its Handbook the relevant rules for firms offering fiduciary management services.
- The FCA will work with the government and the CMA to take forward the recommendation to extend its regulatory perimeter to cover the full range of investment consultancy services.
- The FCA will reconsider disclosure to institutional investors if it considers the market is not operating effectively.

Latest HMRC newsletter

HMRC's latest [Pension Schemes Newsletter \(107\)](#) includes updates on the annual return for schemes operating relief at source and on reporting non-taxable death benefits, as well as guidance on how to register as a pension scheme administrator on the Managing Pension Schemes service. It also includes a further reminder about the deadline for applications for master trust authorisation.

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