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 consults on approach to DB funding | Preparing for new disclosure obligations | TPR update on climate change action | Government to increase industry levy | Annual GMP revaluation order | Auto-enrolment: qualifying earnings | Latest HMRC newsletter | Illiquid investments: FCA update

TPR consults on approach to DB funding

The Pensions Regulator (TPR) is consulting on proposals for a new DB funding framework, which will help inform the drafting of its future DB funding Code (there will be a consultation on the draft Code in due course). TPR is seeking input on a number of key elements including core principles underpinning all valuations, how it should design its new 'objective' funding standard (known as the 'fast track' approach), and a 'bespoke' route for alternative approaches or for schemes where there is additional risk. You can read more about the consultation in our briefing 'DB funding framework: all change?'.

The consultation is an opportunity to influence TPR's approach, and we recommend that trustees and sponsors review the implications of the proposals for their scheme(s), and consider responding to the consultation. This is especially important as the approach adopted by TPR could potentially have a significant impact on many schemes.

Preparing for new disclosure obligations

Trustee disclosure requirements on investment governance issues, stewardship and engagement continue to evolve rapidly; the new disclosure requirements that apply from 1 October 2020 will affect some pension scheme trustees within just a few months.

As a reminder, trustees of most schemes with 100 or more members must include an implementation statement when they publish the scheme's annual report in the 12-month period starting on 1 October 2020. Trustees must also publish the implementation statement online and tell members about its availability.

Our new guide 'The implementation statement: how to prepare for it' sets out a list of questions to consider as you develop your first statement. This should also help you identify where there may be gaps in the information you receive (for example on voting and engagement activities) and discuss with your investment consultants and managers what you need them to provide.

TPR update on climate change action

TPR has provided an update on its work on climate change-related risks following a recent ‘nudge’ to TPR by the government (see WNTW, 24 February 2020). TPR’s response includes how climate change is being dealt with as part of its enforcement and supervision activities, as well as its plans for a strategy on dealing with financial risks arising from climate change, and guidance for trustees on their scheme’s exposure to climate risk. You can read more about the government’s plans to introduce further climate change risk management and reporting requirements for trustees in WNTW, 17 February 2020. Guidance for schemes on using the framework set out by the Taskforce on Climate-related Financial Disclosures is to be launched for consultation this month.

Government to increase industry levy

New regulations amend the levy rates payable by schemes from 1 April 2020. The levy is used to fund the Pensions Regulator, the Pensions Ombudsman and pensions aspects of the Money and Pensions Service, and the increase is to address an increasing deficit. The government has decided to apply a ‘holding’ increase for the coming year, but intends to conduct a structural review of the levy by summer 2020 and a further consultation in autumn, to inform decisions about the levy in future years. The government had consulted on various proposals for increasing the levy (see WNTW, 28 October 2019), and further details are available in the consultation response.

Annual GMP revaluation order

The government has published the annual revaluation order for guaranteed minimum pensions (GMPs) that are not yet in payment. The latest order sets out the revaluation rates for the tax years 1978/79 to 2019/20 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).

Auto-enrolment: qualifying earnings

The government has laid a draft order before Parliament to amend the qualifying earnings band for auto-enrolment from 6 April 2020.

This follows a recent announcement that the earnings trigger for auto-enrolment would remain at £10,000 for 2020/21, the lower limit of the qualifying earnings band would be set at £6,240 (increased from £6,136) and the upper limit would remain at £50,000 (see WNTW, 24 February 2020). The draft order also sets out rounded figures for pay reference periods of less than a year.

Latest HMRC newsletter

HMRC’s latest Pension Schemes Newsletter (no. 117) contains a reminder about: guidance from TPR on pension scams (and where to find HMRC guidance on pension tax rules on transfers); and recent guidance from HMRC on GMP equalisation (for more information, see our briefing). It also includes information for schemes operating relief at source, including on Scottish and Welsh income tax rates and residency status reports and guidance for submitting annual returns of information.

Illiquid investments: FCA update

The Financial Conduct Authority (FCA) has made changes to its rules to address ‘unjustified’ barriers to investment by retail investors in a wider range of long-term assets in unit-linked funds, whilst maintaining appropriate investor protection – the changes came into force on 4 March 2020. The FCA previously consulted on the changes (see WNTW, 17 December 2018) – this follows earlier work on pension schemes and social investment (by the Law Commission), and on patient capital.

The FCA has also published a feedback statement on patient capital and authorised funds – the FCA had been seeking views on whether there were any unnecessary barriers to investing in patient capital using authorised funds. The FCA said that it found no inappropriate barriers to investing in long-term assets within its authorised funds regime; it recognised that there are some barriers for broad retail distribution funds, but it was unclear whether these were inappropriate.

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