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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.

Coronavirus: contingency planning; scam risk | 2020 Budget: pensions issues | Climate-related risk assessment and disclosure

Coronavirus: contingency planning; scam risk

Trustees and employers should be taking steps to prepare for the potential impact of coronavirus (COVID-19) on members and on their pension schemes, including administration, governance, funding and investment.

The Pensions Regulator (TPR) has published a short statement outlining its expectations of trustees, including reviewing their own business continuity plan and understanding service providers' arrangements. For example, trustees should understand what measures scheme administrators have in place to mitigate the effects of any increased workload or staff unavailability, and which scheme activities would be prioritised in the event of under-resourcing.

Trustees should also monitor investment risk (especially in light of recent market volatility and disruption to supply chains) and (for DB schemes) the impact on employer covenant and scheme funding. TPR is expected to comment on issues for schemes with March and April valuations in its next Annual Funding statement, due shortly.

The Financial Conduct Authority (FCA) has also published a statement warning about scams related to COVID-19 (including in relation to pensions transfers), as well as commenting on other issues.

2020 Budget: pensions issues

The Budget included two key pensions tax announcements:

- **Tapered Annual Allowance**: The tapered Annual Allowance applies to high earners and is based on threshold income and adjusted annual income. From 6 April 2020, the threshold income will be increased from £110,000 to £200,000 and for every £2 of adjusted income over £240,000 (current figure: £150,000), a member's annual allowance will be reduced by £1. The minimum tapered annual allowance is also being reduced to £4,000 (currently this is £10,000). Although this change was triggered by NHS staffing issues, it applies across the board. Administrators will need to update systems and communications in due course; where cash alternative arrangements are structured around the current thresholds, employers may wish to consider reviewing these. The HMRC policy paper is available here.

- **Lifetime Allowance**: This will increase in line with CPI for 2020/21, to £1,073,100.

The government is also consulting on the following issues:

- **Low-income earners and pensions tax relief**: The government will shortly publish a call for evidence on pensions tax relief administration (addressing the issue of how low income earners are affected depending on whether a scheme operates 'net pay' or 'relief at source').
- **RPI reform**: In conjunction with the Budget, the government has launched its expected consultation on reforming RPI. The consultation closes on 22 April; the government intends to publish the response before the Parliamentary summer recess (which begins on 21 July).

Finally, the government announced when changes to **priority of debts on insolvency** will take effect. The government had previously announced proposals to make HMRC a secondary preferential creditor in respect of certain tax debts on insolvency, which would have the effect of (potentially) reducing the funds available for distribution to unsecured creditors, including where pension liabilities rank as unsecured debts. The government has now announced that the measure will take effect from 1 December 2020, and will apply in respect of VAT, PAYE Income Tax, employee National Insurance contributions and certain other liabilities. The HMRC policy paper is available here.

Climate-related risk assessment and disclosure

The government is consulting on guidance for trustees of occupational pension schemes on assessing, managing and reporting climate-related risks in line with the recommendations of the Taskforce on Climate-Related Financial Disclosures (TCFD). TPR has issued a press release encouraging trustees to take part in the consultation.

A proposed legal framework for mandatory risk assessment and disclosure is contained in the Pension Schemes Bill which is progressing through Parliament (see WNTW, 24 February 2020) – a consultation on implementing those requirements is expected this summer. The current (non-statutory) guidance is intended to 'lay the groundwork and develop good practice' for disclosure; it will also be updated once TPR publishes its governance Code of Practice, which is expected to include guidance on climate-related issues (a consultation on the draft Code is expected this year).

The draft guidance document runs to over 100 pages and covers issues including:

- integrating and disclosing climate-related risk in governance and decision-making – for example, setting investment beliefs and strategy, selecting and monitoring investment managers, investment stewardship, assessing covenant issues and funding (for DB schemes), and reporting and member communications;
- assessing scheme resilience to different climate scenarios; and
- setting metrics and targets to measure and manage climate-related risk exposure.

The draft guidance acknowledges that trustees may need to adopt robust governance procedures as a first step, before considering the disclosure elements. As well as the draft guidance, the government has also published a draft 'quick start guide' for trustees to integrating climate risk and the TCFD recommendations. The consultation closes on 7 May 2020 (the page for submitting online responses is available here).

Separately, the FCA is also consulting on enhanced climate-related disclosures by listed companies – this would improve transparency for investors (including pension schemes). You can read more about the FCA's proposals in our briefing here. The consultation closes on 5 June 2020.

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