STEPHENSON HARWOOD

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Pensions in 2019 – our top six

2019 promises to be another busy year for the pensions sector. This briefing picks out six topics that will be of interest to employers and trustees in the coming months.

GMP equalisation

In the recent Lloyds judgements, the High Court has confirmed that pension schemes need to amend benefits in order to counter the effects of unequal guaranteed minimum pensions (**GMP**). A further hearing is expected in the coming year providing clarification on a number of points not covered in the judgement. For more information please see our briefing.

The pensions industry is starting to get to grips with what this means in practice. Some immediate areas for consideration include how transfers out and requests for trivial commutation should be handled in light of the decisions. Employers and trustees will also need to start to consider the appropriate methodology for achieving GMP equalisation and ensure appropriate communication with members.

The Stephenson Harwood Pensions Law Team will be publishing further material in due course on the team's approach to some of the key considerations arising from the Lloyds' decisions.

New DB Funding Code of Practice

In March 2018, the Department for Work and Pensions (**DWP**) published its white paper on "Protecting Defined Benefit Pension Schemes". That paper made clear that the Pensions Regulator will consult on a revised Defined Benefit Funding Code of Practice. Focus will be on clarifying funding standards and on ensuring that trustees take a long-term perspective when setting their Statutory Funding Objective. The government is also intending to legislate to require employers and trustees to comply with the funding standards set out in the revised code of practice, as well as to provide the Pensions Regulator with powers to take action for non-compliance.

Employers and trustees should be aware of the Pension Regulator's changing expectations in relation to funding.

Re-execute PPF contingent asset agreements

Pension schemes with previously PPF compliant "Type A" (guarantee) or "Type B" (security agreement) contingent asset agreements will not be able to recertify these agreements where the amounts guaranteed or secured by the agreement are subject to a fixed cap, unless the agreement is on the PPF's **current** standard form.

The deadline for submission is 31 March 2019 and employers should therefore be taking action now to ensure their documents are in the correct format. Please contact your usual Stephenson Harwood Pensions Law Team contact if you need further assistance.

Master trust authorisation requirements

Master trusts must apply to the Pensions Regulator for authorisation by 31 March 2019. Master trusts that have not done so by this date will have to exit the market, or else will be operating unlawfully.

In December 2018, the Pensions Regulator issued a warning to pension scheme trustees to check to see if their scheme inadvertently falls under the master trust definition. If the deadline for authorisation is missed due to trustees not realising their scheme was, in fact, a master trust, the scheme will be forced to wind up.

Any trustee of a defined contribution scheme that provides pensions for a number of unconnected employers should take a look at this closely.

With the onset of the authorisation and ongoing supervision regime, the Stephenson Harwood Pensions Law Team expects that there will continue to be an increase in bulk transfers of defined contribution schemes to master trusts. This may be an option that employers may be interested in. Please see our master trust brochure for further information on bulk transfers to master trusts.

Auto enrolment – increase of minimum contribution rates

The final phase of increasing the auto enrolment minimum contribution rate for defined contribution schemes is coming into force on and from 6 April 2019. Collective employer and employee contribution rates are increasing from 5% to 8% of qualifying earnings, with a minimum of 3% coming from the employer (an increase from the current minimum employer contribution of 2%).

Employers who operate a defined contribution pension scheme at the auto enrolment minimum contribution rates should be alive to this deadline and ensure that their contribution will be increased as required. In addition, scheme documents, member communications and employment contracts should be reviewed to ensure that they do not pose an obstacle to any proposed increase in the member contribution rate.

DB consolidation vehicles

The DWP has published a consultation setting out its key principles for a new legislative framework for authorising and regulating defined benefit consolidators. The consultation runs until 1 February 2019. The Pensions Regulator has published guidance making clear that it will be scrutinising consolidators entering the market and regulating them before a legislative framework is put in place.

It is likely that there will be strict parameters put in place in respect of schemes that will be able to qualify for a transfer into a consolidation vehicle. Nevertheless, the emergence of these vehicles offers an additional route for some employers who wish to divest themselves of legacy defined benefit liabilities.

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