Technical update

RPMI trust quality service

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Hot topics

EU Referendum

It is still early days with regard to the full impact of the vote and the timing and terms of a withdrawal from the EU. The ramifications of the vote to leave in respect of UK pensions will become clearer over the coming months and possibly years.

In the short term, EU laws will retain their powers within the UK but, in due course, an exit from the EU may give the UK government the freedom to gradually amend legislation which has been influenced by Europe to date, depending on the exit terms agreed. However, a significant amount of EU pension-related legislation is also written into UK law and there would need to be a justifiable cause and appetite to amend this legislation as changes would cost time and money.

As well as those items of EU law written into UK law, there are also items which are not. Perhaps most significantly, there are developing items such as the new EU Directive on the activities and supervision of Institutions for Occupational Retirement Provision (IORP Directive) which might not need to be implemented into UK law. This would depend on the timing and terms of withdrawal from the EU. It is currently expected that the IORP Directive would otherwise need to be implemented within UK law by late 2018.

The result of the referendum led to a weakening in the value of the pound and continued volatility in financial markets. Further market volatility is possible as the market continues to digest the result.

The Pensions Regulator's new DC code and 'how to' guides

The Pension Regulator's (tPR's) revised code of practice on the Governance and administration of occupational trust-based schemes providing money purchase benefits (the code, available via the link) came into force on 28 July 2016.

The revised code is intentionally much shorter and clearer than the original and has been updated to reflect the legislation changes since the 2013 version was issued. In addition, tPR has published six 'how to' guides to cover the six key areas of the new code:

- The trustee board
- Scheme management skills
- Administration
- Investment governance
- Value for members
- Communicating and reporting

The guides have been designed to support the code and provide practical information and examples of how trustees can ensure that the requirements of the new code are met.

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BHS Inquiry and Parliament's Work and Pensions Committee review of DB pensions

On 25 July 2016, Parliament's Work and Pensions Committee published its inquiry report on the collapse of BHS, which included various pension aspects, such as scheme funding, the role of the Pensions Regulator (TPR) and the regulatory treatment of business sales and restructures.

Following the report, the Work and Pensions Committee invited submissions on various issues relating to pensions law and regulation governing defined benefit pension schemes. The scope of this includes:

1. The adequacy of defined benefit pension scheme regulation and regulatory powers, in general and specifically in relation to the pension schemes of complex and multi-national companies;

2. Use of these powers by TPR in recent cases, including BHS;

3. Resourcing and prioritisation of TPR supervisory work;

4. Implications of the regulatory approach for company behaviour, including whether it mitigates or incentivises moral hazard;

5. The sustainability of the Pension Protection Fund (PPF); and

6. The fairness of the PPF levy system and its impact on businesses and scheme members.

The deadline for responses is 23 September 2016 and the Trustee is submitting a response.

Government changes

Theresa May became Prime Minister on 13 July 2016, following the resignation of David Cameron.

Richard Harrington succeeded Shailesh Vara as Parliamentary under-secretary of State at the Department for Work and Pensions in Theresa May's first government reshuffle on 17 July 2016. The appointment follows Baroness Ros Altmann's departure from her role as Pensions Minister on 15 July.

Other changes in personnel which may affect pensions are the appointment of Philip Hammond as Chancellor of the Exchequer and the appointment of Damian Green as Secretary of State for Work and Pension.

We will have to wait and see what impact the new personnel will have on pensions. A key date may be this year's Autumn Statement, which will take place on 23 November 2016.

Pension Protection Fund (PPF) levies – 2016/17 and beyond

At the end of July, the PPF published an update on the areas it plans to review within the Third Levy Triennium.

The third triennium is the period from 2018/19 onwards (with the first invoices on this basis being issued in autumn 2018). The update precedes a formal consultation which is expected to be issued late this year or early next year.

Other developments

European pensions legislation

The expected final text of the new EU Directive on the activities and supervision of Institutions for Occupational Retirement Provision (IORP Directive) has been released by the European Commission.

The text is scheduled to be given final sign-off by the European Parliament in the autumn and become EU law by the end of the year.

Once the new IORP Directive becomes EU law, each EU member state will have two years in which to implement it into national law. Therefore, whether the requirements are implemented in UK law will depend on the timing and terms of the UK's withdrawal from the EU.

Budget 2016

The biggest headline news from the 2016 Budget earlier this year relating to long-term savings was the launch of a new Lifetime ISA, or 'LISA'.

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The intention was that these new saving vehicles would be available to those under 40 by April 2017. With time fast running out, the government published the draft Savings (Government Contributions) Bill 2016-17 in September to facilitate this. The Bill will now make its way through the Parliamentary process, so we expect to learn more about the framework for LISAs over the coming months.

The government has confirmed that a pensions dashboard, first announced in the Budget 2016, will be launched by March 2017. Eleven pension providers have agreed to work together, alongside the Association of British Insurers which will manage the project, to build the prototype. The Government hopes to have the final product in place for consumers by 2019.

Pensions Ombudsman Service: change of name

On 31 August 2016, the Pensions Ombudsman Service announced that it had changed its name to The Pensions Ombudsman (TPO).

The new name is designed to align with TPO's main partner organisations, TPR and TPAS, although the work and remit of the TPO will remain the same, to "provide clarity for the public when they look for advice, guidance and resolution of pension complaints".

Consultation on Pensions Advice Allowance

On 30 August, HM Treasury published a consultation seeking views on the Government's plans to allow people to use £500 tax free from their defined contribution pension pots to pay for regulated retirement advice.

In addition, the proposal is that tax exemption for employer-arranged advice (which would increase from £150 to £500) could be used in conjunction with the pensions advice allowance. This would give people access to up to £1,000 of tax advantaged financial advice.

These proposals are due to come into force from April 2017 and, importantly, are intended to be voluntary.

The consultation invites comments on its design, as well as on a number of outstanding policy questions. Amongst other things, it seeks views on details including the eligibility age, whether multiple uses of the allowance should be permitted, how best to promote awareness of the allowance and how to structure the proposed framework in a way that protects against fraud and misuse.

The consultation closes 25 October 2016.

Bank of England Base Rate

Following the Bank of England's (BOE) decision on 4 August 2016 to cut interest rates and restart its quantitative easing (QE) programme, concerns have been raised about the impact on UK pensions.

There is concern that whilst the move aims to protect the UK economy, the introduction of further quantitative easing will have a negative impact and put further pressure on the funding positions of DB pension schemes and on the rates available to savers looking to purchase an annuity.

Background information

Lifetime Allowance

HMRC has now launched its new online service for pension scheme members to apply to protect their pension savings from the Lifetime Allowance (LTA) charge.

From now on, members who want to apply for individual protection 2016 (IP16) or fixed protection 2016 (FP16) must do so online and the interim paper-based application process in force since 6 April 2016 is no longer available.

Further information regarding who can apply for protection and how can be found through the Gov.uk website.

The Lifetime Allowance is the total amount of pension savings that an individual can build up within registered pension schemes during their lifetime, and if it is exceeded tax is charged on any savings over the limit.

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There are two protection regimes relating to the 2016 reduction which mirror previous protections:

1. Fixed Protection 2016 will allow an individual to retain a Lifetime Allowance of £1.25 million. However, the individual must not accrue any benefits after 5 April 2016 to have this; and

2. Individual Protection 2016 can provide an individual with a bespoke level of Lifetime Allowance where that individual had pension savings of at least £1 million on 5 April 2016.

Applications for Fixed Protection 2016 and/or Individual Protection 2016 can now be made online with no deadline for applications to register. However, any member of schemes who wish to use Fixed Protection will need to have opted out of active membership so that accrual of benefits or payment of contributions ceased before 6 April 2016.

Reduction to the Annual Allowance

From 2016/17, those with ‘adjusted income’ over £150,000 now have their Annual Allowance reduced by £1 for every £2 of adjusted income over £150,000. The maximum reduction is £30,000. This is referred to as the tapered Annual Allowance.

As a consequence of the taper, individuals with adjusted income of £210,000 or over will have an Annual Allowance of £10,000.

For this purpose, ‘adjusted income’ is typically based on:

1. An individual’s taxable income; plus

2. The level of that individual’s pension savings, as measured by the pension input amount under Annual Allowance rules.

Typically, those with taxable income below £110,000 will not be subject to the new taper. The fact that many members of pension schemes will have elements of non-pensionable pay or income from non-employment sources (e.g. income from personal assets such as property) means that there will be some members with pensionable pay considerably lower than £150,000 who are impacted by the tapered Annual Allowance.

Consequently, it is difficult for either employers or trustees to quantify how many members of their schemes may be impacted by the tapered Annual Allowance. Furthermore, for those members who are impacted by the tapered Annual Allowance, it is also difficult to quantify what reduced level of Annual Allowance will apply.

Changes have been made to the legislation so that a pensions savings statement will only need to be provided if the full Annual Allowance is exceeded.

Pension liberation

The Pensions Regulator recently unveiled a refreshed scorpion campaign to warn of the dangers of pension scams. The campaign has been revamped to be clearer to savers and highlight the dangers imposed by pension scams.

The Pensions Regulator states that millions of people fall victim to scams every year. Some of the tactics used by pension scammers include offering free pension reviews, health checks and promises of better returns on their savings, pension loans, upfront cash or other promotions to tempt them.

The Pensions Regulator recognises that Trustees and business advisers play a crucial role in helping to stop scams because they can arm members with the information they need to protect themselves (and their pension savings) from the scammers.