

## Winding up the European way!

Designed to implement the European Pensions Directive, draft regulations have been published to set out the procedure to be followed by trustees winding up a defined benefit (DB) scheme which has a “recovery plan” in place. We expect that many schemes in this position will be eligible for the Pension Protection Fund (PPF) and will therefore be in close contact with the PPF Board. However, these provisions will also apply to schemes which are not eligible for the PPF.

### Recovery Plans

A quick recap

- The statutory funding objective (SFO) requires a DB scheme to have “sufficient and appropriate assets to cover its technical provisions”.
- Where there is a funding shortfall the trustees must prepare a “recovery plan” setting out the steps they will take to meet the SFO and the intended timescale for so doing.
- As the SFO targeted by schemes is likely to be broadly at PPF levels of solvency, we expect that having a recovery plan will equate to having a deficit on a PPF basis but this is not necessarily the case.

### Priority orders

For schemes in deficit

- Where there are insufficient assets to satisfy the liabilities of the scheme in full, a priority order for distribution will apply. Changes were made to the priority order on a wind up in April 2005.
- These changes mean that the old distinction between pensioners and deferreds has largely disappeared.
- For wind ups commencing after 6 April 2005, the main priority will be providing the PPF level of benefits, followed (as a lower priority) by all other (non-PPF) benefits.

### Winding up regulations

Action to be taken

- Where a scheme with a recovery plan in place begins to wind up the trustees must, as soon as practicable, prepare a winding up procedure or review and revise any current one.
- The procedure must contain the steps to be taken to complete the winding up process.

## Winding up regulations

### The procedure

These steps must include:

- (a) The action to be taken to establish the scheme's liabilities and to recover any assets;
- (b) An estimate of how long it will take to do this;
- (c) Where the trustees have sufficient information, an indication of the extent to which benefits are likely to be subject to a reduction;
- (d) The manner in which liabilities will be discharged and an estimate of the time this will take.

## Winding up regulations

### Disclosure requirements

- The Pensions Regulator must receive a copy of the winding up procedure as soon as practicable after its preparation or revision.
- To comply with current disclosure requirements, scheme members must already be provided with the information set out at (a), (b) and (c) above within a month of the commencement of winding up.
- Under the draft regulations, trustees must also disclose an outline of the winding up procedure to members or their representatives on request.
- Finally, the regulations also require the date on which winding up commenced to be included in the Register of Occupational and Personal Pensions.

## For whose benefit?

- The draft regulations are a further step towards the goal of providing scheme members with a higher degree of protection through the imposition of stringent security standards.
- However, given the likely involvement of the PPF with schemes to which the new requirements apply, it is difficult to envisage what members will gain from this extra regulation in what is already a highly regulated area.

This edition of Sackers Extra News is part of a series focusing specifically on Pensions Reform to keep you abreast of the key issues throughout this period of change.

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