5 August 2003

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Reduction of Transfer Values – Opra's relaxation comes to an end

1 BACKGROUND - A QUICK REMINDER

The long-awaited Occupational Pension Schemes (Transfer Values and Miscellaneous Amendments) Regulations 2003 came into force on 4 August 2003. To recap, the 2003 Regulations amend the 1996 Transfer Value Regulations in the following key respects:

- Subject to the statutory minimum, cash equivalents may be reduced if a report by the actuary (drafted in accordance with revised actuarial Guidance Note, GN11) to the trustees shows that the scheme is not sufficiently well funded to provide cash equivalents in full for all members.
- If the last Minimum Funding Requirement (MFR) valuation suggests that a scheme was insufficiently funded to meet the statutory minimum cash equivalent, the 2003 Regulations allow the trustees to reduce the cash equivalent in these circumstances by an amount up to the percentage of underfunding.
- The 2003 Regulations make similar amendments to the provisions governing the calculation of cash equivalents when dealing with pension sharing on divorce.

NB: The 2003 Regulations do not allow cash equivalents which have already been guaranteed to be reduced.

2 EFFECT ON OPRA'S TEMPORARY RELAXATION OF POLICY

In Update 1 (published in February 2003), Opra announced a temporary relaxation of its policy on the payment of transfer values under which it said that it would not take action against trustees if they postponed the provision of transfer value quotations in certain circumstances. Opra has now withdrawn Update 1 with effect from 4 August 2003 and replaced it with Update 2. This provides guidance generally on what steps trustees who took advantage of the temporary relaxation must take now that the 2003

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Regulations are in force.

Essentially, trustees should ask the scheme actuary to produce a report in accordance with revised GN11 without delay. Where possible, transfer value quotations should then be provided within three months of the member's request. Where this is not possible, generally speaking, trustees should be looking to provide them "as soon as they can reasonably do so" and, in any event, within six months of the request. Unfortunately, Update 2 does not make it clear what happens if this six month deadline is missed but the onus will probably be on trustees to show that they have acted reasonably and in the interests of all the members of the scheme.

Whether or not the scheme actuary should report trustees to Opra for failing to provide cash equivalent quotations will depend upon whether it is of material significance to Opra (for example, could a member lose his/her opportunity to transfer to a new scheme?). In considering reports that it receives "Opra will have regard to the steps taken by the trustees to ensure that they are in a position to comply with the regulations at the earliest possible opportunity…[and] also take into account the consequences of any delay for scheme members".

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