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Abbreviations commonly used in 7 Days

DB: Defined benefit
DC: Defined contribution
EIOPA: European Insurance and Occupational Pensions Authority
HMRC: HM Revenue & Customs
LGPS: Local Government Pension Scheme
NAPF: National Association of Pension Funds
NEST: National Employment Savings Trust
PASA: Pensions Administration Standards Association
TPR: The Pensions Regulator

DEPARTMENT FOR WORK & PENSIONS

UK welcomes EU's change of heart on "damaging" plans for Solvency II pensions rules

The UK government welcomed the announcement on 23 May 2013 by EU Commissioner Barnier (see below) that he would postpone his plans to introduce "Solvency II-style" rules for DB pension schemes.

The Commissioner has said that he will not present proposals this autumn to bring in new capital requirements for occupational pensions, although he will focus on governance, transparency and reporting requirements.

Minister for Pensions, Steve Webb said:

> "This is a welcome move by the [Commissioner], and is hopefully a sign that he may eventually abandon his damaging and reckless plans altogether.
>
> Introducing Solvency II-style rules for DB pension schemes would push up liabilities by up to £400 billion, harming businesses' ability to invest, grow and create jobs, and put more schemes at risk.
>
> The UK has been making the case against plans for some time, with growing international agreement. The signs are we are winning the argument."

EQUITABLE LIFE PAYMENT SCHEME

Equitable Life – all in hand?

According to its latest progress report, the Equitable Life Payment Scheme (the Scheme) has made payments totalling £604 million to 448,897 policyholders as of 30 April 2013, with 64,889 payments (worth £30 million) being made to those who bought their policy through their company pension scheme.

The report also refers to the fact that the Scheme has written to all traceable trustees or administrators of eligible company pension schemes to request member data in "recent months". It is important that schemes and administrators engage with this process (and meet any deadlines set by the Scheme) so as to ensure that compensation due to members is paid.

We suggest that trustees of schemes with Equitable Life policies double check with their administrators what action they are taking in this regard, as the Scheme is aiming to close down in 10 months (in April 2014). In a specific update aimed at company (or group) pension schemes, the Scheme makes clear that it has not been able to obtain member details from some company pension scheme trustees which "may be because the scheme is wound up, **or because the trustee has not responded to the Scheme's request to share details"** (our emphasis).

EUROPEAN COMMISSION

Occupational Pension Funds ("IORP")

In a statement on 23 May 2013, Commissioner Barnier indicated his intention to present a proposal for a Directive to improve the governance and transparency of occupational pension funds in the autumn of 2013. However, at this stage, the issue of the solvency of pension funds will not be addressed.

The existing European Directive on occupational pension schemes dates back to 2003. Its aims were to create a single market for occupational pension schemes and to improve their functioning. However, the EU considers that these objectives have only been "very partially" achieved. It has identified three areas where improvements can be made:

- solvency – the European Insurance and Occupational Pensions Authority ("EIOPA") has just carried out a study on the solvency of certain pension funds, which highlights the need to deepen knowledge before taking decisions on any European initiative on solvency;

- governance – the current Directive is perceived as having gaps. For example, it does not impose minimal requirements for fund managers and is seen as lacking detail on internal risk management and control systems;

- transparency and reporting – the existing monitoring and supervision systems vary between Member States, which increases costs for schemes operating cross-border, hinders co-operation between supervisors and restricts the circulation of information.

In the European Commission's opinion, the need for further technical information before making any decisions on the solvency of pension schemes should not prevent it from acting now to improve governance and transparency.

Commissioner Barnier considers that the issue of solvency should be re-examined once the Commission has more complete data. However, he emphasises that "we must not lose sight of the need to guarantee in the longer term a level playing field between different providers of occupational pensions" and calls on "countries which have undercapitalised pension funds to take the necessary measures without delay".

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

EIOPA explores the development of a single market for personal pensions

In July 2012, the European Commission asked EIOPA to provide technical advice on the "prudential regulations and consumer protection measures" needed to create a single market for personal pensions. As a first step to delivering this advice, EIOPA has published a discussion paper.

The goal of the discussion paper is to engage stakeholders at an early stage in the project by gathering their views on a wide range of issues relating to personal pensions. The discussion paper focuses on three key aspects of personal pensions:

- a possible definition of a personal pension;
- potential cross-border frameworks; and
- consumer protection, including information disclosure and selling practices.

The period for providing comments will end on 16 August 2013.

Once stakeholders' comments have been analysed, EIOPA will prepare a report, containing issues and options which will be made available to the European Commission in early 2014. The Commission is then expected to issue a detailed Call for Advice to EIOPA, with a response deadline set for 2015.

Press release

HM REVENUE & CUSTOMS

HMRC publish draft QROPS Regulations 2013

HMRC has published, for external comment, a draft Statutory Instrument and draft Explanatory Memorandum that makes a number of amendments in relation to qualifying registered overseas pension schemes ("QROPS").

The changes, which are aimed at further strengthening the QROPS regime, introduce:

- a requirement for an overseas scheme to report payments out of funds transferred from a UK pension scheme even if it is no longer a QROPS (with the scheme managers able to report that information electronically);
- a penalty regime for non-compliant former QROPS;
- a system for scheme managers to re-notify HMRC that they meet the conditions to be a QROPS; and
- a relaxation of the benefits tax relief test for overseas public service schemes and pension schemes of international organisations.

The changes also set out in more detail the current reporting requirements for scheme managers of QROPS (and former QROPS).

Any comments on the draft regulations should be sent by email to Pensions Policy by 21 June 2013.

NATIONAL ASSOCIATION OF PENSION FUNDS

"Local Government Pension Scheme 2013: investing in a changing world"

On 21 May 2013, the NAPF launched a report which explores the pressures on the Local Government Pension Scheme ("LGPS") and its investment strategies. The report calls for the Government to facilitate an open debate on the case for local authority schemes to work together to drive efficiency. It also asks for an overhaul of LGPS investment regulations so that funds looking to diversify are not unduly restricted.

Press release

Guide to responsible investment

On 21 May 2013, the NAPF published a guide to responsible investment.

The guide, which updates the NAPF's guidance from 2009, sets out key actions pension funds should take to understand and manage environmental, social or governance factors. It also looks at individual asset classes like hedge funds, real estate and corporate bonds, and suggests key points pension funds should consider and questions they should ask of their investment managers.

NATIONAL EMPLOYMENT SAVINGS TRUST

Employer contributions are key to automatic enrolment success

To help consumers understand the importance of employer contributions, on 22 May 2013 NEST launched a video on their social media channels. The video is designed to help workers realise that employers are required to give them a "helping hand" in saving for their future.

PENSIONS ADMINISTRATION STANDARDS ASSOCIATION (PASA)

Code of Conduct on Administration Provider Transfers

On 23 May 2013 PASA, the independent body dedicated to driving up standards in pensions administration, launched its Code of Conduct on Administration Provider Transfers.

The Code is directed at all pensions administrators. Its purpose is to set out a framework which, if followed, is intended to:

- enhance the transfer of services between providers;
- give clarity to all participants in relation to their responsibilities and accountabilities; and
- mitigate the potential for delays.

At this stage, the Code does not extend to changes of administration systems. However, PASA acknowledges that many of the same principles should apply to such undertakings and it is something which PASA will consider in due course.

PASA will seek feedback from its members and from the industry on the effectiveness of the Code over time and, where deemed necessary, will seek to strengthen the Code. If the Code proves ineffective, PASA may find it appropriate to recommend the introduction of regulation.

THE PENSIONS REGULATOR

Corporate plan 2013 - 2016 published

TPR has published its corporate plan for 2013-16.

The plan sets out TPR's strategic approach to regulating DC and DB schemes and maximising employer compliance with automatic enrolment duties.

Revised report on Uniq plc Pension Scheme

In March 2012, TPR published a section 89 report in relation to the Uniq plc pension scheme.[2] A revised report has now been issued as it became clear to TPR that the wording of one particular passage had caused confusion amongst some practitioners.

The original report stated that TPR's view that its moral hazard powers were not available in that case "was informed by the fact the key transactions and corporate events affecting the size of the group took place before those powers were in place". This was interpreted by some as meaning that TPR believes it cannot take into account acts or events that pre-date the Pensions Act 2004 when considering the "reasonableness" of the exercise of its moral hazard powers.

However, in the Uniq case, the fact that certain transactions and events took place prior to 27 April 2004 meant that certain entities that might otherwise have fallen within the scope of TPR's moral hazard powers were not associated or connected with any employer in respect of the scheme, and therefore did not fall within the moral hazard jurisdiction. In addition, since the acts were prior to 27 April 2004, they could not form the basis of a contribution notice. Therefore, the question of reasonableness did not arise.

TPR notes that, as a number of Determinations Panel decisions illustrate, it is able to consider events that pre-date the Pensions Act 2004 when assessing the reasonableness of an exercise of its moral hazard powers in respect of entities falling within the jurisdiction.

[2] See 7days dated 5 March 2012