Sackers

The 2019/20 PPF levy determination

Alert | 9 January 2019

Introduction

On 12 December 2018, the PPF published its final levy rules for the 2019/20 levy year.

Key points

- Following consultation (see our Alert), the PPF has refined its proposals for a methodology for calculating an appropriate levy for commercial consolidators.
- There will be no adjustment to the calculation of insolvency risk scores to mitigate the impact of the Lloyds decision on GMP equalisation (see our Alert).
- Existing Type A (parental guarantee) and B (security over an asset) contingent assets that include a fixed cap must be re-executed on the PPF's current standard forms (if this has not been done already) and certified in accordance with PPF requirements to be recognised for the 2019/20 levy year.

Commercial consolidators

The PPF notes that the methodology to be used for commercial consolidators in the 2019/20 levy year is likely to need development as the proposed regulatory framework takes shape. The approach is intended to ensure that the PPF can charge an appropriate levy in the near term.

Following consultation, the PPF intends to retain the core methodology as proposed. In particular:

- the levy calculation for commercial consolidators will be based on that used for schemes without a substantive sponsor (SWOSS). Such vehicles only require a fall in funding to result in failure as there is no "real" employer. (In contrast, for a typical DB scheme with a substantive employer, funding and sponsor insolvency are separate risks.)
- "commercial consolidators" will be defined broadly to allow the PPF to take a flexible approach. The PPF intends to use the discretion the definition provides to exclude schemes that it considers ought not to be covered. "This will include schemes where the original covenant has not been altered - such as master trust arrangements."

However, the PPF saw "merit" in arguments that its current risk reduction measures (Type B contingent assets and asset-backed contributions) would not support recognition of buffer funds. Such funds are a key feature of the DWP's consolidation proposals (see our Alert). The PPF will therefore assess each buffer fund proposal on its merits using the same key principles that TPR will adopt when assessing consolidation propositions under its clearance process. Where the PPF is satisfied about the security of the arrangement and the availability of the fund's assets to the scheme, it will treat the fund's assets as scheme assets for the purpose of the levy.

GMP equalisation and insolvency risk scores

The Lloyds decision will mean that some employers may need to make accounting adjustments to reflect higher scheme liabilities at the next opportunity. This could lead to a worsening in insolvency risk scores.

Having been asked to consider allowing an adjustment to avoid a worsening in score for affected employers, the PPF has concluded that it would not be appropriate to do so. "It could be argued that the scoring of the employer in the past (excluding [the liability for equalising for the effect of the GMP]) was too generous and understated its insolvency risk".

Contingent assets

Re-execution required for certain Type A and B assets

The PPF published revised standard forms for contingent assets on 18 January 2018. For the levy year 2018/19, these new forms had to be used for any new arrangements executed on or after that date, but previous arrangements could be certified or recertified without moving to the new versions.

Any schemes with Type A or B contingent assets with a fixed cap **must** re-execute their agreement (using the new forms) and certify it in order to receive credit for the asset in the 2019/20 levy. The procedure which must be followed is set out in Part 1 of the Contingent Asset guidance.

Guarantor strength report

2018/19 was the first levy year that the PPF required a guarantor strength report for Type A assets which generate a levy reduction of £100,000 or more (see our Alert). Having reflected on "lessons learnt" from last year, the PPF's 2019/20 Levy Policy Statement sets out a few points for trustees and providers of these reports to note:

- the PPF expects the provider of the report to be an independent, external adviser
- the same requirements as to the nature of the report apply whether the levy saving is above or below £100,000 (ie whether the report is compulsory or being provided voluntarily)
- the duty of care requirements cannot be caveated by reference to any separate terms between the adviser and the trustee
- advisers should make sure there is clarity over the basis of assumptions used in the creation of the reports.

Levy payment

Ahead of invoicing for the 2019/20 levy year, the PPF will review and publish the criteria it plans to use to assess whether a payment plan should be agreed to and the factors that may allow it to decide to waive the interest on payments within a payment plan. In doing so it aims to reassure schemes facing genuine difficulties in paying their levy.

For the longer term, the PPF is also considering a range of other customer service improvements, particularly with a view to better supporting SMEs and intends to investigate the possibility of introducing electronic invoices and a wider range of payment methods.

Next steps

Trustees and employers who intend to put in place or retain contingent assets (including those who need to move existing Type A or B contingent assets with a fixed cap onto the PPF's revised standard forms) should start the process as soon as possible.

The deadline for certification / re-certification on Exchange is **midnight on Sunday 31 March 2019**. Hard copy documentation must be submitted to the PPF, as necessary, by **5pm on Monday 1 April 2019**. (Please click here for a list of all the key PPF dates for the levy year 2019/20.)

If you have any questions on any of the above, please speak to your usual Sackers contact.

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