Sackers

DWP Collective Money Purchase Schemes consultation

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Introduction

On 19 July 2021, the DWP published a consultation seeking views on the draft Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021 ("the Regulations") and associated consequential changes that will implement the new authorisation and supervision regime for Collective Money Purchase schemes ("CMP"),commonly referred to as Collective Defined Contribution (or "CDC").

Key points

- On the cards since 2008 (see Alert), the Pension Schemes Act 2021 ("the PSA21) finally provided the statutory framework for CMP in the UK.
- The draft Regulations, "developed in close consultation" with TPR, are designed to enable the launch of single or connected multi-employer CMP schemes, and to accommodate the CMP scheme that Royal Mail and the Communication Workers Union aim to deliver (see Alert).
- The Regulations expand upon the PSA21's framework, providing the detail of what such schemes must do to become authorised, to operate effectively in the market under regulatory oversight, and what happens if changes need to be made to the schemes.
- TPR will produce "detailed practical support" for schemes through guidance and a Code of Practice (which will be subject to separate consultation).
- The Government has chosen to establish the regime through regulations to allow it to be amended "more rapidly in response to market innovation and development", and to utilise the experience of Royal Mail and other early adopters to inform the extension to "other forms of CMP provision" later.

What is a CMP scheme?

In a CMP scheme, financial contributions are invested in a collective fund, with members receiving a regular pension from the fund at retirement. A key principle underpinning CMP is that "the benefit level offered can only ever be an estimate based on current facts".

Broadly, an individual member's pension would be calculated by:

- estimating how much money is needed to provide the benefits already credited to each member
- adding up the values for each member to determine the total assets available to meet the benefits

credited to all members

- if the assets available are higher or lower than the estimated money required to meet credited benefits, make corresponding adjustments to (i) the current payment of benefits to each pensioner member and (ii) the prospective pensions payable to active and deferred members
- adjusting the future target level of benefits so that the total value of benefits is equal to the total value of assets.

The collective nature of a CMP scheme, and the way it adjusts the level of pensions and prospective pensions, should mean that the overall membership will enjoy an element of cushioning from volatility, as investment risk is adjusted for over time and longevity risk is pooled across the membership. And because the fund is administered and managed on a collective basis, there is also no need for members to make choices about investments or the options for converting funds into an income stream in retirement.

PSA21 framework

The PSA21 introduced an authorisation and supervision framework for CMP schemes, which aims to ensure that:

- only schemes that are well run and built on sound foundations are allowed to operate
- schemes have a clear strategy and resources to deal with any problems that may arise
- schemes have an effective framework for communicating with members
- the interests of members continue to be protected throughout the life of the scheme
- TPR has appropriate powers to intervene when necessary.

It also contains powers to make regulations to enable models such as decumulation-only vehicles, commercial master trusts and industry-based multi-employer schemes to be brought into the authorisation and supervision regime in the future. The Government plans to “turn [its] attention to the growing demand for…other types of provision” in due course.

The Regulations

Authorisation

TPR will assess an application for authorisation of a CMP scheme against the following criteria:

- the persons involved in the scheme are “fit and proper”
- the design of the scheme is sound
- the scheme is financially sustainable
- the scheme has adequate systems and processes for communicating with members and others
- the systems and processes used in running the scheme are sufficient to ensure that it is run effectively, and
- the scheme has an adequate continuity strategy.

The draft Regulations set out detail on each of these criteria, with the forthcoming Code and accompanying guidance to provide more information about what TPR expects from schemes in due course.

TPR will publish and maintain a list of schemes that have been authorised.

Supervision

The supervisory regime will require CMP schemes to meet the authorisation criteria on an ongoing basis, and to work productively and proactively with TPR when changes need to be made to the scheme. Again, the Regulations provide further detail of the supervisory requirements. For example, the events that must be notified to TPR, as well as the information which must be provided. While the Regulations set out the information that may be required in the supervisory return, its exact form will be determined by TPR and further information will be given in the Code.

TPR may decide to withdraw a CMP scheme's authorisation if it stops being satisfied that the scheme is continuing to meet the authorisation criteria.

Consequential changes

In addition, the consultation on the draft legislation addresses the following:

- HMRC is in the process of making necessary changes to tax legislation to provide for CMP
- CMP benefits are defined in legislation as a type of money purchase benefit. Existing legislation for DC schemes will therefore largely apply to these schemes, but with some adaptations to cater for the new model; for example, the de minimis on flat fees will not apply, nor the forthcoming simpler annual benefit statement requirements (see our Alert), although this will be kept under review. An annex to the consultation sets out the consequential changes required to various pieces of legislation
- the existing legal disclosure framework for money purchase schemes will apply, but with some adjustments to ensure that the requirements "are fit for purpose and meet the unique design of a CMP scheme". This includes the "important key message that CMP benefits can fluctuate" being reiterated at "key points" in the member journey (at joining, on an on-going annual basis, approaching retirement and to pensioner members with benefit in payment). In addition, a new publication power will require CMP schemes to publish certain documents at set times (including the scheme rules, scheme design statement, and valuation statement)
- the DWP plans to bring forward draft regulations "applying a cost of accrual type test" to CMP schemes later this year. Cost of accruals (based on the cost to the scheme of the future accrual of active members' benefits, applied at benefit scale level, rather than scheme level) is the DWP's preferred option for determining how CMP schemes can meet the legal quality requirements for automatic enrolment purposes.

Next steps

The consultation closes on 31 August 2021.

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