Sackers

1 October - what's changing?

Alert | 28 September 2022

Introduction

Several changes are coming into effect from 1 October 2022 and beyond. Where necessary trustees and employers should seek advice on what those changes mean for their schemes and on any preparatory steps they should be taking.

Key changes from 1 October

- The climate risk governance and reporting requirements will apply to occupational pension schemes with £1 billion or more of relevant assets, along with the introduction of the new fourth "Paris alignment" metric for all schemes in scope of these requirements.
- Statutory guidance on reporting on stewardship and other matters in SIPs and implementation statements ("IS") will apply to SIPs and ISs in respect of scheme years ending on or after 1 October 2022.
- New annual benefit statement requirements come into force for DC schemes used for automatic enrolment.
- Changes to employer-related investment restrictions for authorised DC master trusts with 500 or more employers come into force.
- Regulations giving TPR oversight of the investment consultant objectives and fiduciary management regime come into force.
- With more developments on the horizon, see "What's still to come" below for more detail, including as to expected timing.

Climate reporting

Climate reporting to apply to £1 billion plus schemes

New climate reporting obligations were introduced in 2021. The new requirements are being phased in, with larger schemes whose relevant assets are £5 billion or more, CDC schemes and authorised master trusts

already required to comply. Schemes with £1 billion or more in relevant assets will be in scope from 1 October 2022.

Trustees of such schemes must put in place appropriate governance arrangements to manage climate-related risks during the first scheme year which ends after 1 October 2022. Trustees must then produce and publish a report on how they have complied with the requirements within seven months of their scheme year end date. The report must be available free of charge on a publicly available website. Compliance is monitored and enforced by TPR, and schemes face a mandatory penalty of at least £2,500 for failure to publish a report.

Whilst actual timings and specific steps required to meet the statutory timelines will vary from scheme to scheme, there are steps that affected schemes should be taking now to ensure they can meet these deadlines. See our Hot Topic for more information on these steps.

Schemes to measure and report on "Paris alignment"

From 1 October 2022, all schemes in scope of the above climate change reporting requirements will also have to measure and report on the "Paris alignment" of their investment portfolios. This means reporting on the extent to which their investments are aligned with the Paris Agreement goal of limiting global warming to well below 2°C and pursuing efforts to limit it to 1.5°C above pre-industrial levels.

Statutory guidance for preparing SIPs and ISs

New statutory and non-statutory guidance intended to help trustees report on stewardship, financially material ESG factors and non-financial factors was published in June. Whilst trustees were encouraged to comply with the non-statutory elements from the date of publication, the statutory guidance only applies to SIPs and ISs prepared in respect of scheme years ending on or after 1 October 2022. See our Alert for more detail.

Simpler annual benefit statements

From 1 October 2022, trustees of DC schemes used for automatic enrolment will be required to issue "simpler annual benefit statements" to all their members (excluding pensioners) within 12 months of the end of each scheme year.

Specifically, trustees will be required to issue statements which must not exceed one double-sided sheet of A4 paper when printed and enable members to establish, among other things, how much money they have in their pension plan and what has been saved in the statement year. See our Alert for more detail.

Restrictions on employer-related investments

There are restrictions on investments that are connected with sponsoring employers of a scheme (known as "employer-related investments" or "ERI"). These include, among other things, limiting trustees of multi-employer schemes from investing more than 5% of a scheme's assets in any one participating employer or associated employers, with a cap of 20% on the total amount of a scheme's assets that are invested in ERI.

However, from 1 October, for authorised master trusts with 500 or more active participating employers, these restrictions will not apply in relation to each participating employer but will apply to the scheme funder and scheme strategist (and persons connected or associated with them) instead.

Overseeing investment consultants and fiduciary managers

On 1 October 2022, regulations intended to integrate relevant aspects of an order produced by the CMA in 2019 (the "Order") into pensions law will come into force.

Subject to limited exceptions, the Order requires trustees to carry out a tender process for fiduciary management services and to set objectives for their investment consultants ("ICs"). The regulations, which largely replicate the Order, bring the requirements under the pensions law umbrella, allowing TPR to oversee compliance rather than the CMA.

As the regulations are intended to broadly replicate the current requirements, there are no immediate actions for the majority of trustees. However, master trusts that have their scheme strategist or scheme funder as the scheme's IC will now have to set IC objectives and monitor performance, as the exemption from these requirements under the Order has not been carried into the regulations. In addition, where the objectives for an IC were set before 1 October 2022, the trustees must complete the first review of these objectives within three years from the date they were set under the CMA Order. As such objectives were originally required to be set by 10 December 2019, some schemes are likely to be required to complete their first review by 10 December 2022.

Schemes that had a fiduciary manager in place, without a competitive tender, will also need to consider when they need to carry out a competitive tender, if they haven't already done so. See TPR's guidance if this is relevant to your scheme.

See our Alert for more detail.

What is still to come?

As well as the above items, there are various other pensions developments on the horizon, including:

- TPR's single code, which will combine 10 of TPR's existing 16 codes and include new requirements in respect of scheme governance, is expected in the "autumn". See our Hot Topic for steps trustees can be taking now in respect of the new code

- TPR's consultation on the new DB funding code of practice is due once TPR has "taken the opportunity to learn" from the DWP's consultation on draft regulations, which outline the detail of the new requirement for DB schemes to have a funding and investment strategy (see our Alert)

- final regulations relating to pensions dashboards. These are expected later this year, following DWP's response to its consultation (see our Alert)

- changes to the notifiable events regime. We are still awaiting the government's response to its consultation seeking views on changes and additions to the notifiable events regime, which we had originally expected back in the spring.

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