Sackers

Autumn Statement 2023 – it's a bumper pensions crop

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Introduction

Among the Autumn Statement's 110 growth measures, the Chancellor of the Exchequer, Jeremy Hunt, announced a "comprehensive package of pension reform that will provide better outcomes for savers, drive a more consolidated pensions market and enable pension funds to invest in a diverse portfolio". These measures represent the next steps of the Chancellor's Mansion House reforms.

Key points

- The Government has published letters to the Chief Executives of the FCA and TPR setting out its vision for the pensions market in 2030.
- Plans to enable a small number of authorised schemes to act as consolidators for eligible DC pension pots of £1,000 or less will go ahead. A call for evidence on a lifetime provider model has been launched, to explore whether allowing individuals to have a "pot for life" would simplify the DC pensions market.
- "At the earliest opportunity", a duty will be placed on DC occupational pension scheme trustees to offer decumulation services and products to members at the point of access, and at an appropriate quality and price, either directly or through a partnership arrangement.
- A "winter" consultation is in the pipeline looking at changes to the rules around repaying DB surplus to an employer, as well as opening up the PPF to act as a consolidator for smaller DB schemes "unattractive to commercial providers".
- TPR will establish a trustee register and, based on what it has learnt following its July call for evidence, the Government believes that trustees and others "would benefit from more support, guidance and training".
- Five years on from the 2018 master trust regulations, the Government has also published a review of the authorisation and supervisory regime and wider market development.
- Finally, no doubt as a prelude to the Finance Bill officially being introduced into Parliament, HMRC has issued an updated policy paper detailing how the pensions tax system will work following the LTA's demise in April 2024.

The Government’s 2030 pensions vision

Forming the backdrop to many of the Mansion House reforms, the Government’s 2030 vision includes:

- expecting to see a DC market “in which the vast majority of savers belong to schemes of £30 billion or larger by 2030”
- encouraging alternatives to DB de-risking and buy-out where schemes are well-funded with a strong employer covenant
- increasing the standards of investment expertise and trustee skills, “enabling pension funds to create diversified investment strategies” and to build “stronger links with specialist UK investors”
- expanding the range of quality investment vehicles to ensure sufficient opportunities to invest in high-growth UK companies, and
- prioritising a system that ensures long-term value of pension schemes over short-term cost to support employers, trustees and managers in making decisions in members’ best interests.

Acknowledging the significant work that is already being undertaken by the FCA and TPR in this area, future decisions will be informed by this long-term vision.

DC consolidation

The Government is pressing ahead with plans to introduce multiple default consolidators to support the consolidation of deferred, small DC pots. Initially applying to DC pots of £1,000 or less, this threshold will be kept under review. Under the proposals, a “clearing house” will act as a central point to match deferred pots and will lead on communication with members and schemes. The Government will establish an industry delivery group to consider the role, remit and design of the clearing house, and intends to legislate for this approach when Parliamentary time allows.

Taking account of various international examples, the Government is also looking into a “lifetime provider model” so as to reduce the number of individuals holding multiple DC pots in the first place. A new call for evidence seeks views on how this might work and what central architecture, including data standards, would be needed. Any move to a lifetime provider model would need to join up with other policy developments, such as dashboards and default consolidators.

Supporting individuals in DC decumulation

The Government has published its response to its recent consultation on a policy framework to support individuals using their pensions savings in decumulation. Responses agreed that there is a role for trustees in decumulation and that the only way to make a “real difference” to the current market is through legislation.

The Government will legislate “at the earliest opportunity” to introduce a duty on all DC trustees to offer a range of decumulation services and products to members at an appropriate quality and price, either within the scheme or through a partnership arrangement. Members that do not make an active choice will be placed into a default decumulation solution by their scheme.

In the meantime, schemes will be encouraged to develop a voluntary decumulation offering or to enhance their existing provision. TPR has already announced that it will publish interim guidance on DC decumulation in 2024 which will “show how the objectives of these policies can be met without legislation, and to encourage innovation”.

Work continues on the potential for establishing a CDC decumulation model.

DB options

As part of its July call for evidence on DB options, the Government explored how DB schemes could use their assets more flexibly, while maintaining appropriate member security and not undermining trustees’ fiduciary duties. In its response, the Government acknowledges a lack of consensus as to the path forward, but it will issue a further consultation this “winter” addressing:

- measures to make surplus “extraction” easier. Appropriate safeguards, such as the levels at which surplus can be taken and covenant strength, will be covered as part of this. In the meantime, the tax rate on an authorised surplus repayment will be reduced from 35% to 25% from 6 April 2024

- establishing a public sector consolidator by 2026, aimed at schemes which are unattractive to commercial providers. Despite moral hazard concerns and the implications of extending the PPF’s remit, the Government believes the PPF “would be well placed” to fulfil this role.

One of the questions asked in the call for evidence was whether having access to higher PPF guarantees might result in greater investment in productive finance. Whilst a number of responses questioned the feasibility of schemes opting to pay higher levies in return for 100% benefit protection by the PPF, this will also be explored further in the winter consultation.

Finally, a “significant number of responses” commented on the interplay between the draft funding and investment regulations and the Mansion House proposals, in particular that the regulations might “support de-risking over productive finance investment”. Adjustments to the final regulations and code now look increasingly likely.

Trustees’ skills, capability & culture

Given the “evolving and more complex regulatory environment”, a July call for evidence asked questions about TKU standards, accreditation, and a trustee register. According to the response, the majority of trustees are regarded as “well-supported, knowledgeable, and hard-working”. However, the Government believes there is “space for action”, to ensure that all trustees are able to work effectively and that those making key decisions for pension savers do so based on the “best possible long-term outcomes”.

In particular, one of the key barriers identified to achieving better long-term outcomes is a “damaging and continual focus on cost and minimising all risks throughout the pensions industry”. Once implemented, the new DC VFM framework should help, although the Government expects trustees, advisers, and employers to take “action now to ensure that they are not focusing on cost at the expense of value”. However, this somewhat overlooks the possibility that existing legislation and regulation could be hindering schemes.

In terms of “immediate actions”, the Government will:

- support TPR in taking forward a trustee register

- “strongly encourage” professional trustee accreditation – once in force, TPR’s new general (formerly “single”) code will identify this as an expectation. The two main providers of voluntary accreditation are currently the PMI and APPT, and the Government will keep the possibility of mandatory accreditation under review

- work with TPR in engaging with employers on pension scheme selection. The Government is keen to challenge an emphasis on low costs and fees, which it believes will result in long-term “sub-optimal outcomes for pension savers”.

TPR is expected to issue updated investment guidance “by the end of the year”, covering investment decisions and alternative assets, and a review of the toolkit is underway. The Government also “strongly” encourages those providing trustee training and accreditation to consider expanding materials to cover the full range of possible investments.

Master trusts review

The wide-ranging review considers market development, increasing scale, reducing costs, supporting diversification, charges and consolidation, as well as the relationship with the Chancellor’s Mansion House reforms and other DWP policies and proposals. Changes which may be considered include:

- amending the authorisation regime to consider market withdrawal in mergers and acquisitions cases, ensuring it is appropriate for these circumstances and that TPR has proper oversight

- the addition of the Chief Investment Officer to the list of persons required to undergo a “fit and proper” persons check

- in line with CDC requirements, introducing risk notices. For example, enabling TPR to issue a notice to trustees about matters of concern which, if left to deteriorate, are likely to lead to a breach of the authorisation criteria, and

- lifting the ban on pre-agreements to allow new market entrants the best opportunity to build scale and promote further market competition.

Pensions tax from 6 April 2024

Based on the draft legislation and the latest policy paper published on 22 November, the headlines are:

- the LTA regime will be removed and replaced by two new tax-free allowances, the “lump sum allowance” and the “lump sum and death benefit allowance”, with benefits in excess of either taxed at an individual’s marginal rate

- the standard lump sum allowance will be frozen at £268,275 (being 25% of the current LTA), and the standard “lump sum and death benefit allowance” will be £1,073,100 (matching the current standard LTA)

- individuals holding a valid LTA protection will retain their rights to a higher level of tax-free lump sum, and will also have a higher lump sum and lump sum death benefit allowance (generally reflecting the LTA they would have protected)

- following consultation on the draft Finance Bill’s clauses over the summer, HMRC has now confirmed that the tax-free elements of trivial commutation, winding-up and small lump sums will not be deducted from the new allowances. However, an individual must have availability against those thresholds to take such lump sums, presumably mirroring the current requirement to have available LTA.

Exceeding the current maximum PCLS triggers an unauthorised payment charge. However, HMRC has now confirmed that this will be replaced by a marginal rate tax charge. Subject to scheme rules and to a nominal pension coming into payment, theoretically this means that a DB member could take most of their benefits as cash from 6 April 2024 onwards. (A DC member can already cash out their benefits by taking an UFPLS.)

Along with other consequences of removing the LTA, this could have knock-on effects on scheme design. There is no word yet though on whether a statutory power under section 68 of PA95 to allow trustees to amend schemes by resolution (with employer consent where relevant) will be forthcoming, or indeed a section 67 exemption. These, together with transitional provisions and new information requirements, are urgently needed to help schemes get ready in time for 6 April 2024.

Perhaps we will know more next week as the Finance Bill is due its first reading in Parliament on 27 November.

Next steps

Whilst there is much to digest, many of the proposals which will now be taken forward following yesterday's Autumn Statement have been on the cards for some time. With the Chancellor apparently keen to pack a lot into the time available before the next General Election, the pensions industry should ready itself for a hectic run-in to Christmas and beyond to 2024.

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