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Briefing note

Corporate pensions hot topics – H2 2021

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Here are the corporate pensions issues we expect will be key priorities over the coming 6 months

1) New regulatory powers coming into force

The Pensions Scheme Act 2021 now has Royal Assent, and accompanying regulations and guidance are expected to come into force generally from 1 October 2021. This introduces a range of new regulatory powers, including the following:

- Two new criminal offences, relating to conduct (including failure to act) that either avoids an employer debt or has a materially detrimental effect on the likelihood of accrued benefits being received. These offences are based on existing contribution notice grounds but are much wider – they can apply to almost anyone whose actions relate to or affect a pension scheme, not only employers and those associated or connected with them.
- New discretionary civil penalties up to £1m on similar grounds to the new criminal offences.
- Two new grounds for issuing contribution notices. These grounds are:
    - If a section 75 employer debt had hypothetically fallen due as a result of employer insolvency immediately after an act or failure to act, the act or failure to act would have materially reduced recovery of that debt; and
    - The act or failure to act reduced the employer's resources by an amount that is material, relative to the estimated section 75 employer debt.
- An accelerated regime for notifying and engaging with pension scheme trustees and TPR in relation to specified corporate activity, with the requirement to disclose a Declaration of Intent to the trustees and TPR setting out the implications for the scheme of the transaction and how any potential detriment will be mitigated.

Key takeaway – review your pension governance processes to manage the increased regulatory risk.

2) Triennial valuations

If you have a DB triennial valuation on the go, these are likely to be the key issues:

- Integration with the new funding regime – a new DB funding regime is coming in 2022/23 but is not yet in force. You'll need to consider the extent to which you align valuations to the expected new regime, and any broader 'end game' discussions (see next section for further details).

- Impact of RPI reforms – with RPI trending down to CPI from 2030, it's likely that CPI and potentially RPI assumptions will need revisiting.
- Life expectancy – the longer term impacts of Covid-19 on longevity remain unclear, meaning the life expectancy assumption needs particular care.

Key takeaway – engage early with trustees on triennial valuations.

3) End game planning

Most DB scheme trustees (and their advisers) are seeking to map out the journey of their scheme from today through to its end. This requires a wide ranging dialogue that covers funding, investment, risk transfer and operational project planning. It is essential companies properly engage and ideally drive these discussions. A passive approach for most companies will lead to sub-optimal corporate outcomes.

At the same time the pensions industry expects the first superfund transactions to happen soon and we are seeing new and innovative capital backed risk transfer solutions emerging in the market which can offer lower cost solutions to traditional buy-ins or buy-outs by leaving some risks with the sponsor and members for a period of time. For the right situation these developments could be a valuable addition to the company "toolkit" when setting pension strategy, but only if well understood.

Key takeaway – take the lead on end game discussions with your trustees and understand the relevance of new risk transfer solutions.

4) Member options

RPI reforms from 2030 mean that market implied RPI is arguably over-stated, with investors paying a premium for inflation protection. If you are hedging RPI in your scheme then you will not see a funding boost from this feature. However, you should ensure that a deduction is being applied to market implied RPI in the costing of member options in the scheme (e.g. transfer values and pension increase exchange). This feature, alongside the need to engage with members anyway as part of the process for equalising GMPs, means that you should consider introducing member options or revisiting the terms on which they are offered.

Key takeaway – RPI reforms and GMP equalisation are both drivers to revisit member options.

5) DC – are you getting good value?

Companies pay large amounts into their DC arrangements on an annual basis. In no other part of your business would you do this without regularly reviewing whether it's giving value from your spend. When did you (or the trustees) last review your DC arrangement? If it's under £100m and trust based, there's a lot more governance that will need to be done from this year to demonstrate value.

The DC marketplace has developed lots over the past 3 years, creating opportunity to deliver significant fee savings for many clients. For example, £0.5m a year on fees for one large employer without changing the provider.

Key takeaway - review your DC arrangements to ensure you are getting value for your money.

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