

### Pensions - August 2012

#### In this issue:

Auto-enrolment Round-up | Small Pension Pots | Latest News from The Regulator and the PPF

Accounting: Directors' Remuneration | DWP: State Pension Paper Delayed | NAO: TPR and DC Regulation

#### AUTO-ENROLMENT ROUND-UP

## Staging Dates Altered

The Department for Work and Pensions (DWP) has made further tweaks to auto-enrolment staging dates for smaller employers.

This latest change follows an earlier announcement that employers with fewer than 50 workers in their Pay As You Earn (PAYE) scheme will not have staging dates before May 2015. The revised timetable will affect employers that previously had staging dates from April 2014.

Employers with fewer than 50 workers will also have staging dates determined by the number of workers in their PAYE scheme, rather than the number of "full time equivalent persons" (which could also have included pensioners paid from the company payroll, for example).

The first transitional period for Defined Contribution (DC) schemes has been extended to September 2017 to ensure that all existing employers are staged in before the minimum 1% employer contribution increases to 2%. The transitional period for Defined Benefit (DB) and hybrid schemes has similarly been extended.

## Employer Self-certification Guidance

The DWP has published **detailed guidance** for employers on self-certifying Defined Benefit and hybrid schemes that are being used to meet auto-enrolment rules.

The guidance says that the following types of arrangement can be self-certified:

- contracted-out final salary schemes
- contracted-in final salary schemes meeting the test scheme standard (see below)
- contracted-out career average schemes with a minimum level of revaluation
- contracted-in career average schemes which meet the test scheme standard (see below) and which offer a minimum level of revaluation, and
- hybrid schemes which (a) meet the test scheme standard and/or (b) meet the money purchase quality requirements, as appropriate

Employers will be able to self-certify in cases where actuarial calculations are not required - for example where the benefits provided are at least as generous as the test scheme standard. Otherwise, a value-based determination of whether a scheme meets the test scheme minimum must be carried out by the Scheme Actuary.

The key features of the test scheme standard are:

- benefits are payable from age 65 (increasing in line with changes to State Pension Age)
- benefits are accrued at 1/120th of "Qualifying Earnings" each year, for up to 40 years and
- increases to benefits after leaving and after retirement have to be at least in line with statutory requirements

## Employers Urged to Prepare Early

On the back of **research** that reveals that 43% of employers think that preparing for auto-enrolment will take three months or less, The Pensions Regulator (TPR) has urged employers not to underestimate the effort involved. TPR believes larger businesses will need at least 18 months to prepare fully.

## Letter Templates and Language Guide

TPR has launched a **tool** to help employers write to workers about automatic enrolment.

Template letters have been designed to help employers fulfill their legal obligations, although TPR stresses that it is the employers responsibility to ensure that all of the information sent to employees is correct.

Meanwhile, the DWP has published an updated version of its **Automatic enrolment and pensions language guide** which builds on work undertaken by the National Employment Savings Trust (NEST), TPR, the Association of British Insurers, the Pensions Advisory Service and the Money Advice Service, to help people understand pensions. The document sets out principles for communicating key messages to workers and sets out some approaches to reducing the use of jargon.

Following an earlier consultation on dealing with small DC pension pots, the DWP has announced that it will implement a **system** of “pot-follows-worker” where small DC funds will follow workers when they change jobs. The DWP estimates that, with the introduction of auto-enrolment and the possible banning of short service refunds (see *Pensions News – April 2012*), by 2050 there could be 50 million dormant pension pots.

The automatic transfer system will only apply to auto-enrolment DC schemes. The Government will also consider permitting the refund of “micro-pots”. The definition of “micro-pots” is not fixed but these might be pots worth less than £200.

## Employer Departures from Multi-Employer Schemes

TPR has published **updated guidance** for trustees and employers involved in multi-employer schemes. The guidance explains the different ways by which an employer can depart from such a scheme and the legitimate ways in which companies can avoid triggering “section 75” debts or modify them if they are triggered.

The update reflects the introduction of “Flexible Apportionment Arrangements” and changes to the “period of grace” conditions which came into force in January 2012 (see *Pensions News – January 2012*). The guidance also emphasises that trustees must know which companies have legal responsibility for supporting the scheme and regularly monitor their “covenant”.

## Incentive Exercises - Guidance

TPR has reviewed its **guidance on incentive exercises** following the publication of an **industry code** for employers (see *Pensions News – July 2012*).

TPR’s guidance has been streamlined and focuses on its views of trustee responsibilities, setting out five principles representing the “minimum standard” by which such exercises should be conducted:

1. Offers should be made in a clear, fair and not misleading way.
2. Offers should be open and transparent. All parties involved should be aware of the reasons for the exercise and the interests of others.
3. Conflicts of interest should be identified and appropriately managed.
4. Trustees should be consulted and engaged from the start of the process.
5. Independent and impartial financial advice should be accessible to all members and promoted in the strongest possible terms.

## FSDs and Insolvency

TPR has issued **a statement** aimed at helping the insolvency industry understand its approach to using Financial Support Direction (FSD) powers in cases of insolvency. The statement explains TPR’s obligation to ensure use of its powers is reasonable, and in the scheme’s and the Pension Protection Fund’s (PPF’s) interests.

The statement also confirms that, following a 2011 Court of Appeal judgement (see *Pensions News – October 2011*) which established that FSDs rank as an expense of the administration or liquidation, TPR does not intend to deliberately delay the issue of FSDs in order to take advantage of the post-insolvency priority ranking.

## GP Noble

TPR has published **details of its intervention** into the GP Noble Trustees pensions fraud case, following the lifting of reporting restrictions.

£52m from nine pension schemes overseen by GP Noble was transferred to off-shore investment vehicles which were “not sufficiently transparent” and “not considered to be in the best interests of the members”. £36m has so far been recouped via the civil courts with further action progressing.

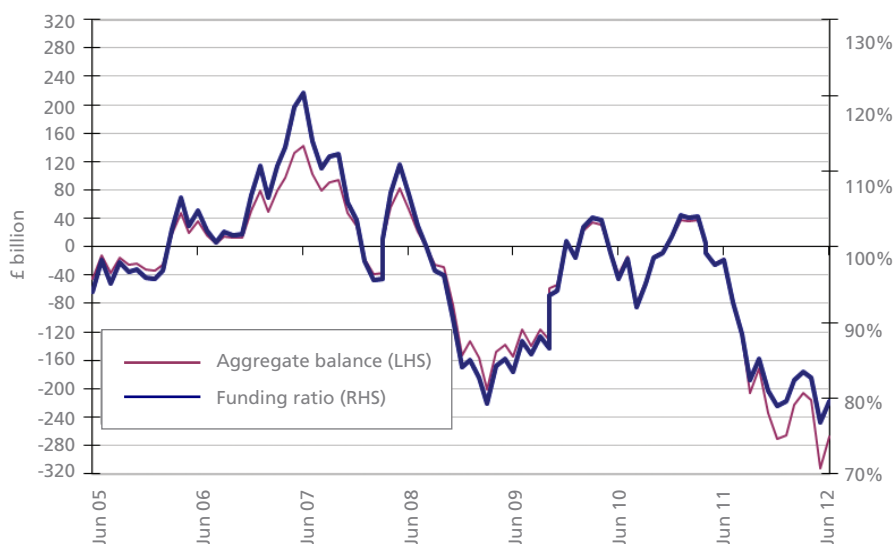
TPR first raised suspicions of the independent trustee company with the Serious Fraud Office in August 2008, following its own intelligence-gathering activities.

## PPF: 7800 Index

The **latest update** of the PPF 7800 Index which looks at the funding of schemes on a section 179 basis has been published.

The aggregate deficit of the 6,432 schemes in the index is estimated to have decreased to £267.0 billion at the end of June 2012 (compared to an aggregate deficit of £312.1 billion at the end of May 2012).

The position has worsened over the last year (there was an aggregate deficit of £17.7 billion at June 2011).



## PPF: Funding Determinations

The PPF is **consulting** on the exercise of its power under the Pensions Act 2011 to make “funding determinations” when a very underfunded or overfunded scheme enters an assessment period. A funding determination would avoid the need for a full “section 143” valuation in such cases. An estimate of assets and liabilities from a recent valuation may be used to estimate the relevant liabilities instead.

Regulations will also be amended in relation to schemes that are refused PPF entry because they are fully funded (on a section 143 basis), but are subsequently unable to secure protected benefits with an insurer. Such schemes will be able to be reconsidered for PPF entry without a revised buyout quotation being obtained if the trustees have taken all reasonable steps to obtain one and PPF believe that the funding level has since declined.

### ACCOUNTING: DIRECTORS' REMUNERATION

The Department for Business Innovation and Skills is **consulting** on revised remuneration reporting regulations, including pension disclosures for directors in companies' accounts.

Changes in the value of each director's DB pension are currently determined using the cash equivalent transfer value (CETV) basis and disclosures are required to comply with both the Companies Act and the Listing Rules. Under new proposals, a single figure for remuneration, incorporating all forms of pay including bonuses, benefits linked to shares and pension arrangements, will be disclosed. Pension benefits will be valued using a factor of 20 per £1pa of pension earned.

The revisions are expected to come into effect for reporting periods ending after October 2013. The Government will liaise with the UK Listing Authority over whether their rules should also be changed.

### OTHER NEWS

## State Pension Paper Delayed

The DWP has delayed proposals for state pension reform until the Autumn.

The white paper will include detail on the proposed flat-rate state pension and the mechanism to link State Pension Age to longevity improvements. In a **written statement**, Pensions minister Steve Webb said more time is needed given the “scale, complexity and importance” of the reforms.

## NAO: TPR and DC Regulation

The National Audit Office (NAO) has published a report on **regulating DC pension schemes**. The NAO report concludes that TPR has achieved value for money in some areas but that it is not possible to judge whether TPR is effective in protecting members' benefits.

The report recommends that TPR should strengthen its framework for measuring performance, conduct a comprehensive review of capabilities and develop new approaches to reach less-engaged trustees and employers. The report also observes that the regulatory system for DC pensions lacks clear aims, with no single public body having responsibility for the delivery of objectives.

TPR has published a **response** to the NAO report.

You might also find our recent publications on the following topics useful:

- *Current Pensions Issues – Summer 2012*
- *Auto-enrolment and your Occupational Pension Scheme*
- *LIBOR – calculation and manipulation*

We are also running a series of nationwide seminars in September and October 2012 to help trustees and employers get the most out of their DC schemes. Further details, including booking information, can be found on [our website](#).

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For further information on any of the topics in this bulletin, please speak to your usual Barnett Waddingham consultant, or visit our website [www.barnett-waddingham.co.uk](http://www.barnett-waddingham.co.uk)

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August 2012 | BW0331

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