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Pensions: what's new this week

Welcome to your weekly update from the Allen & Overy Pensions team, bringing you up to speed on all the latest legal and regulatory developments in the world of occupational pensions.

Anti-money laundering rules: new consultation | Latest HMRC newsletter | Annual GMP uprating order | TPR report on Arcadia enforcement | Brexit update | Pensions Academy: 18 March 2020

Anti-money laundering rules: new consultation

HMRC and HMT have published a [technical consultation](#) on draft legislation to transpose the requirements of the Fifth Money Laundering Directive (5MLD) in relation to registering trusts. It is proposed that all express trusts will be required to be registered on the Trust Registration Service (TRS), unless they are expressly excluded. However:

- Trust-based pension schemes will not be required to register on TRS if they are registered with HMRC via existing mechanisms (i.e. 'Pension Schemes Online' or 'Manage and Register Pension Schemes'). Trust-based schemes that are not registered with those services will be required to register on TRS.
- In the case of trusts for life insurance policies or policies solely for the payment of retirement death benefits, where the trust consists solely of a policy which is a pure protection policy and payment is not made until the death or terminal illness of the insured, registration will not be required. This is on the basis that registration would be disproportionate to the risk of the trust being used for money laundering.

HMRC's latest Pension Schemes Newsletter (see next item) states that the current guidance regarding taxable activity and registration of pension schemes should be followed for the moment.

The consultation closes on 21 February 2020.

Latest HMRC newsletter

HMRC's latest newsletter (no. [116](#)) contains information on the Pension Schemes Online and Managing Pension Schemes services, as well as information on notification of residency status reports for schemes operating relief at source. The newsletter also refers to the Trust Registration Service and 5MLD consultation (see above).

The newsletter does not include any commentary on GMP equalisation (guidance and a progress update was expected from HMRC in December).

Annual GMP uprating order

The government has laid before Parliament a [draft](#) of the annual uprating order for guaranteed minimum pensions (GMPs). It is due to come into force on 6 April 2020 and specifies 1.7% as the rate at which the GMP element of an individual's occupational pension entitlement accrued in tax years 1988/89 to 1996/97 must be increased.

TPR report on Arcadia enforcement

The Pensions Regulator has published a [regulatory intervention report](#) concerning its involvement with the Arcadia Group schemes, to highlight its expectations of employers in company voluntary arrangement (CVA) scenarios. Seven CVAs were proposed with creditors of Arcadia Group companies in late 2018, with the main objective being to reduce rents on some of the group's high street stores. The pension schemes were being asked to accept an aggregate 50% reduction in the deficit reduction contributions due to them, as part of one of those CVAs.

TPR notes that it expects to be told at an early stage when a CVA is being considered that impacts a DB scheme and for trustees and advisers to work collaboratively with TPR and the PPF. In this case, that approach resulted in a significant improvement in the mitigation offered to the schemes. TPR will assess a proposed CVA in line with the principles set out in its earlier [statement](#) on regulated apportionment arrangements – for example, whether the employer's insolvency would be inevitable without the CVA; whether there might be a better outcome for the scheme on the employer's insolvency or through the use of TPR's powers; and whether there is equitable treatment with other creditors. In this case, TPR found that the previously agreed DRCs were clearly unaffordable by the employer, but ensured that the proposed reduction was mitigated in return for trustee agreement.

Brexit update

The political agreement on the UK's withdrawal from the EU (the withdrawal agreement) has now been ratified by the UK and EU Parliaments – you can read more about this in our recent [client briefing](#). We have now entered a transitional period known as the 'implementation period'.

The government has published new guidance about the impact of Brexit on benefits and pensions for [UK nationals in the EEA or Switzerland](#), and for [EEA or Swiss citizens in the UK](#). The new guidance takes account of the withdrawal agreement and implementation period.

The Information Commissioner's Office has published a [statement](#) confirming that data protection obligations are 'business as usual' for the moment. It will update its guidance as appropriate during the implementation period to reflect the position at the end of the transitional period.

Pensions Academy: 18 March 2020

Please join us on Wednesday 18 March 2020 for our Pensions Academy – a free update on current issues for pension schemes and the people that run them. The session will run from 9am to 12.30pm, with breakfast and registration available from 8.30am. Topics covered will include:

- The Pension Schemes Bill
- Cybersecurity – practical tips on dealing with a breach
- An update on ESG, implementation statements and other legal developments

To reserve your place, please email pensions.team@allenovery.com.

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