

MAL EBC Regulatory Update

8 November 2011 – 19 December 2011

What's My View? Dan DeKeizer

As we approach the year's end, I'm inclined to look back over 2011 – a year of some turbulence. With the latest round of EU summitry bringing more heat than light, it is regrettable that we look certain to start 2012 with dark clouds still very much overhead.

As a result of the fiscal crisis we have seen moves to slash the Government deficit combined with efforts to breathe new life and drive growth into the UK's economy. A pretty Herculean task, with much heavy lifting still to do.

The Chancellor's Autumn Statement illustrated the inherent difficulties in combining deficit reduction with measures aimed at cutting the fiscal deficit, driving growth and jobs and confidence in the UK. Mr Osborne finds himself with the unenviable task of having to play both Mr Micawber and Mr Motivator at the same time.

New measures to encourage pension funds to invest in UK infrastructure formed a particularly interesting proposal, in an attempt to balance the urgent need for new funding lines with pension funds' requirements for new and suitable long-term investments. The statement also continued to pressure public sector unions over pensions, with further pay restraints coupled with a re-calibrated pension scheme likely to be an on-going bone of contention into 2012.

These measures illustrate the importance of pensions to both societies and to individuals; a highly valuable form of investment for the benefit of the country collectively and pensioners individually. My major concern here is whether the path being plotted by the Government delivers economic viability for employers, and realistic levels of secure retirement income for pensioners.

In this respect I believe we have seen real progress in the pension policy, with reforms developing apace under the watch of Pensions Minister Steve Webb. We are likely to see more detail in 2012, most notably in the form of the White Paper on pensions and plans for a single tier basic state pension. Anything that actually delivers on the 'simplification' agenda will be welcome; but past precedents are not encouraging. Political will and attention to detail will be crucial.

2012 will also be a year of profound regulatory change. With the Financial Services Bill 2011-2012 expected to pass into law this year, debate on post-crisis regulatory reform passes over to implementation. The employee benefit consultancy world will not be immune from these changes, and will need to watch carefully as the new regulatory structure comes into place in mid-2012, with the creation of three new regulatory bodies – the Prudential Regulation Authority, the Financial Policy Committee and the Financial Conduct Authority – in place of the Financial Services Authority (FSA).

It's my view that the new framework must deliver stability and predictability for both scheme sponsors and financial institutions as well as confidence and security for savers and pensioners. I suppose that may sound much like 'Peace on Earth and Good-will towards men', something everyone desires but rarely manages to achieve. However, as Treasury Select Committee chairman Andrew Tyrie has said, this provides "a once in a generation opportunity to get the legislative framework right", and I can hope that the outcome will be worthy of the opportunity!

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Political Update

Government announces changes for small business to the automatic enrolment timetable

The Government confirmed on 28 November 2011 that the automatic enrolment timetable will be adjusted so that no small employers are affected by the reforms before the end of this Parliament. Under the revised timeline, small business would begin automatically enrolling their staff from May 2015, instead of the current timing of April 2014. Automatic enrolment for other businesses will begin on time in Autumn 2012 and all employers will remain in scope.

The full announcement may be viewed at:

<http://www.dwp.gov.uk/newsroom/press-releases/2011/nov-2011/dwp135-11.shtml>

Chancellor delivers Autumn Statement

The Chancellor of the Exchequer, George Osborne MP, delivered his Autumn Statement to the House of Commons on 29 November 2011. In the statement the Chancellor revealed that the Office of Budget Responsibility (OBR) has lowered the UK growth forecast to 0.9 per cent for 2011 and 0.7 per cent for 2012. Other key announcements in the Statement included:

- Borrowing forecasts revised up - an extra £111bn to be borrowed over five years
- Pay cap of 1% for public sector workers once two-year pay freeze ends
- More public sector jobs forecast to go - 710,000 over five years
- £40bn 'credit easing' scheme to underwrite bank loans to small firms
- Working age benefits will be uprated by 5.2% in line with September's inflation rate
- Basic state pension to rise in line with inflation by £5.30
- £5bn plan to improve national infrastructure over three years
- Bank levy to be increased to 0.088% in 2012

The Chancellor announced that the state pension age will be raised to 67 between April 2026 and April 2028, which is expected to save £60bn in the ten years from implementation. Also, Osborne announced that the Government will introduce new financing methods to achieve its infrastructure ambitions. Notably, pension funds are to be used to support additional investment and the Government is working with the Association of British Insurers (ABI) to create an Insurers' Infrastructure Investment Forum. The Government is aiming to raise £20bn through these sources.

The full Statement may be viewed at:

http://www.hm-treasury.gov.uk/press_134_11.htm

Steve Webb speech on Solvency II

The Minister for Pensions, Steve Webb MP, delivered a speech on 6 December 2011 to the National Association of Pension Funds (NAPF) trustee conference in London. In this speech Webb commented on the imposition of Solvency II funding requirements for pension funds. Webb said that:

“We are all in favour of solvent pension funds but trying to impose a standard design for insurance on DB pensions does not fit and would be extremely damaging for the UK.”

He also stated that the Government has “a small number of European allies on this, so we will be working with other European countries to try to build a coalition to stop the imposition of Solvency II on pension funds.”

Hoban speech at the ABI Solvency II Conference

The Financial Secretary to the Treasury, Mark Hoban MP, delivered a speech to the ABI Solvency II Conference on 8 December 2011. In this speech Hoban stated that the UK would continue to work with the EU to solve the Euro area crisis, but noted that “regulatory reform cannot stifle the competition and innovation that has enabled the UK Insurance sector to develop into a global leader”.

Hoban said that the Treasury is keen “to provide greater certainty on implementation which is why we have recently published a consultation which, together with the FSA’s own paper, addresses the transposition of Solvency II into UK legislation and the regulatory Handbook.”

Hoban also noted that there is a “broad consensus in Europe to separate out the transposition and the implementation dates” and stated that “The likely effect will be that firms will be required to comply in full from 1 January 2014, potentially with some ‘soft implementation’ from early 2013.”

The full speech may be viewed at:

http://www.hm-treasury.gov.uk/speech_fst_081211.htm

HMT consultation and impact assessment on the Solvency II Framework

HM Treasury published a consultation on the Solvency II Framework on 23 November 2011. The consultation seeks responses from interested parties on the way in which the Government proposes to make changes to UK legislation to comply with Solvency II rules. The Government’s Solvency II Impact Assessment, published alongside the consultation document, considers the effect the introduction of Directive 2009/138/EC will have in the round, including the changes to legislation both the Government and FSA intend to make. The closing date for this consultation is 15 February 2012.

The full documents may be viewed at:

http://www.hm-treasury.gov.uk/consult_solvency2_framework_directive2009_138_ec.htm

Commissioner Barnier speech on Solvency II and IORP Directive

Michel Barnier, the European Commissioner for the Internal Market and Services, delivered a speech on 16 November 2011, in which he provided an update on the progress of the Solvency II Directive. In the speech Commissioner Barnier confirmed that the transposition

of the Directive (when it is implemented into national law) will occur on 1 January 2013 but it will not be applicable until 1 January 2014.

Barnier also announced that the Commission will be publishing its White Paper on pensions soon and, noting the lack of cross-border pension funds in the EU, said that the Commission will revise the IORP Directive to “enable employers to reap the full benefits of the single market”. He said that the Commission proposal on this will be submitted at the end of 2012.

The full speech may be viewed at:

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/766&format=HTML&aged=0&language=EN&guiLanguage=en>

Regulatory announcements

TPR: Six principles for good workplace DC

The Pensions Regulator (TPR) announced on 6 December 2011 that it will invite the pensions sector to take part in a dialogue on six principles for good design and governance of workplace defined contribution (DC) pension provision, which will form the basis of its regulatory approach going forward. The six principles for good design and governance of workplace DC schemes are as follows:

- Principle 1 – Schemes are designed to be durable, fair and deliver good outcomes for members.
- Principle 2 – A comprehensive scheme governance framework is established at set-up, with clear accountabilities and responsibilities agreed and made transparent.
- Principle 3 – Those who are accountable for scheme decisions and activity understand their duties and are fit and proper to carry them out.
- Principle 4 – Schemes benefit from effective governance and monitoring through their full lifecycle.
- Principle 5 – Schemes are well-administered with timely, accurate and comprehensive processes and records.
- Principle 6 – Communication to members is designed and delivered to ensure members are able to make informed decisions about their retirement savings.

TPR's chief executive Bill Galvin said the Regulator would work with stakeholders to develop a shared understanding of the principles, with a view to publishing further tools and guidance on the features of a good DC scheme next year. To inform this work, the Regulator would engage with trustees, industry, employers and member bodies.

The full announcement may be viewed at:

<http://www.thepensionsregulator.gov.uk/press/pn11-29.aspx>

TPR: Industry must press on with automatic enrolment preparations

TPR said on 28 November 2011 that those working in the pensions sector should not take their foot off the accelerator in their preparations for automatic enrolment. The Government has reiterated its commitment to automatic enrolment for all employers and stated that businesses with less than 50 staff would now have longer to prepare - and would begin automatically enrolling their staff in May 2015, instead of the current timing of April 2014.

The full announcement may be viewed at:

<http://www.thepensionsregulator.gov.uk/press/pn11-28.aspx>

FSA consultation on transposition of Solvency II

The FSA published the first of its planned consultations on rules to transpose the Solvency II level 1 Directive on 9 November 2011. The consultation paper sets out the FSA's approach to the transposition of the Solvency II Directive and how the fundamentals of Solvency II will be applied in the UK. The deadline for comments on the consultation is 15 February 2012.

The full consultation paper may be viewed at:

http://www.fsa.gov.uk/pages/Library/Policy/CP/2011/11_22.shtml

EIOPA publish report on pre-enrolment info to pension plan members

The European Insurance and Occupational Pensions Authority (EIOPA) published a report on the 12 December 2011 on pre-enrolment information to pension plan members. This report is part of the PRIPs-related work that the OPC (Occupational Pensions Committee) is developing, following the mandate received from the CEIOPS (The Committee of European Insurance and Occupational Pensions Supervisors) Managing Board in December 2009, later endorsed by the Members' Meeting.

It is also part of the OPC own work plan, as a follow-up of previous work on information to IORP (Institutions for Occupational Retirement Provision) members; finally, it is preparatory work for the response to the Call for Advice from the European Commission to EIOPA for the review of the IORP Directive, as regards the information to members and beneficiaries.

The full report may be viewed at:

https://eiopa.europa.eu/fileadmin/tx_dam/files/publications/reports/20111117_EIOPA-BoS-11-039_Report_on_pre-enrolment_info_to_pension_plan_members_final_.pdf

Other announcements

ABI launches new bulk insured pensions guidelines as assets reach £30billion

Bulk insured pension companies reported an increase in funds under management, totalling £30 billion to the end of 2010, according to new figures released by the ABI on 9 November 2011. The pensions of over 600,000 people are now covered by these funds.

Responding to increased interest the ABI and NAPF have published an updated bulk insured pensions guidance, 'A Good Practice Guide 2011', to help trustees understand the process of entering into a buyout or buy-in bulk insured pension scheme. The guide will help pension trustees to organise, examine and implement buyout/buy-in options, as well as highlight key legal and regulatory issues that they will need to consider.

The guide may be viewed at:

<http://www.abi.org.uk/Publications/58274.pdf>

NAPF guide highlights responsibilities for trustees towards derivatives

The NAPF published a guide on 7 December 2011 to illustrate the responsibilities of pension trustees towards the use of derivatives by the schemes they govern. "Derivatives: A practical guide to trustees' responsibilities" addresses what trustees need to do to monitor and control their scheme's derivative positions, as well as when they need to make decisions on the use of derivatives. It provides practical guidance on governance, modelling, implementation, collateral, execution, monitoring and accounting requirements.

The guide may be viewed at:

http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/0204_Derivatives_A_practical_guide_to_trustees_responsibilities.aspx

NAPF calls for greater clarity on pension charges ahead of auto-enrolment

The NAPF announced on 23 November 2011 that businesses and their staff need much clearer information about pension fees and charges if upcoming plans to automatically enrol them in a pension are to work. The NAPF warned that unless details on charges were set out in plain English, then many people would have little faith in their new pension, and would simply choose to leave it.

The full announcement may be viewed at:

http://www.napf.co.uk/PressCentre/NAPFcomment/0147_Greater_clarity_on_pension_charges_needed_ahead_of_auto_enrolment.aspx

Debt Management Office decision not to issue CPI-linked gilts in 2012-13

The United Kingdom Debt Management Office (DMO) announced on 29 November 2011 that after careful consideration and taking into account the feedback received to its recent consultation, the Government has taken the decision not to issue CPI-linked gilts in 2012-13.

The Government judges that issuance of CPI-linked gilts in the near-term would be unlikely to be cost-effective and would involve a number of risks, although it is possible that this could change over time. The decision not to issue CPI-linked gilts in 2012-13 does not preclude CPI-linked gilt issuance in the medium term, should there be a case to do so. The Government will therefore keep the case to issue CPI-linked gilts under review.

The full announcement may be viewed at:

<http://www.dmo.gov.uk/documentview.aspx?docName=/gilts/press/pr291111.pdf>

NEST signs FRC Stewardship Code and procures EIRIS to deliver responsible ownership approach

The National Employment Savings Trust (NEST) announced on 12 December 2011 a number of developments that deliver on the commitment to act as a responsible owner of assets on behalf of NEST members, namely:

- Signing the Financial Reporting Council's Stewardship Code, following the signing of the United Nations-backed Principles for Responsible Investment earlier this year.
- Announcing EIRIS as the successful bidder for a contract to provide NEST with an environmental, social and governance (ESG) data provider.
- Becoming an affiliate member of the UK Sustainable Investment and Finance Association (UKSIF), enabling NEST to join co-operative efforts to influence policy makers on behalf of sustainable and responsible finance.

The full announcement may be viewed at:

<http://www.nestpensions.org.uk/schemeweb/NestWeb/includes/public/news/NEST-signs-FRC-Stewardship-Code-and-procures-EIRIS-to-deliver-responsible-ownership-approach.html>

House of Commons note on automatic enrolment and employer contributions

The House of Commons published a briefing note on the debates around automatic enrolment and employer contributions on 9 December 2011.

The full note may be viewed at:

[http://www.parliament.uk/briefing-papers/SN04847.pdf" target="_blank](http://www.parliament.uk/briefing-papers/SN04847.pdf)

House of Commons note on State Pension age

The House of Commons published a briefing note on the state pension age on 9 December 2011.

The full note may be viewed at:

[http://www.parliament.uk/briefing-papers/SN02234.pdf" target="_blank](http://www.parliament.uk/briefing-papers/SN02234.pdf)

Pension Protection Fund (PPF) updates

Pension funds and PPF sign landmark agreement with Government to help boost investment in UK infrastructure

The PPF and pensions funds announced on 27 November 2011 that they have signed a Memorandum of Understanding with the Government to facilitate the development of a new pension infrastructure platform to help pension funds invest more in infrastructure. The Memorandum of Understanding sets out the framework of how the Government will work with the NAPF and PPF to help facilitate and increase their investment in infrastructure. The Government is targeting an additional £15-20bn of new investment in UK infrastructure.

The full announcement may be viewed at:

http://www.napf.co.uk/PressCentre/NAPFcomment/0148_Funds_and_PPF_sign_landmark_agreement_with_gov_to_boost_investment_in_UK_infrastructure.aspx

PPF confirms GMP treatment method and announces pilot project

The PPF on 10 November 2011 confirmed how it will calculate compensation for men and women being assessed for entry into the PPF – or who are already PPF members – to ensure the equal treatment of men and women required by law. But, before applying the method to all pension schemes in the PPF assessment period, it will undertake a six month pilot project with selected schemes to iron out any teething problems.

As the manager of the Financial Assistance Scheme (FAS), the PPF will also ask affected FAS schemes in wind-up for data to enable it to adjust the calculation of assistance payments. To help schemes do this, the PPF will issue revised guidance shortly. Alongside this announcement, the PPF also published its response to the consultation on the calculation methodology which began in January 2011.

The full announcement may be viewed at:

<http://www.pensionprotectionfund.org.uk/News/Pages/details.aspx?itemID=242>

Draft Contingent Asset Guidance for 2012/13 Determination

Following the stakeholder responses to its consultation on the draft 2012/13 Determination, the PPF published a draft of the Contingent Asset Guidance on 25 November 2011. A final version will be published shortly, alongside the final Determination.

The draft may be viewed at:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/1213_draft_contingent_asset_guidance.pdf

PPF appoints four LDI managers

The PPF announced on 8 December that it has recruited four liability driven investment (LDI) managers. Blackrock Investment Management (UK) Limited; F&C Management Limited; Insight Investment Management (Global) Limited and Legal & General Assurance (Pensions Management) Limited have been appointed to its new panel.

The full announcement may be viewed at:

<http://www.pensionprotectionfund.org.uk/News/Pages/details.aspx?itemID=244>

PPF 7800 Index Update

On 8 November the PPF published the latest 7800 Index update. Highlights include:

- The aggregate deficit of the 6,533 schemes in the PPF 7800 index is estimated to have decreased over the month to £158.6 billion at the end of October 2011, from a deficit of £196.4 billion at the end of September.
- The funding ratio rose from 83.1 per cent to 86.3 per cent.
- Total assets were £1000.5 billion and total liabilities were £1159.1 billion.
- There were 5,175 schemes in deficit and 1,358 schemes in surplus.

The full update may be viewed at:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/PPF_7800_November_2011.pdf

Ireland Monitoring

General Updates

Irish Budget removes PRSI relief on employee pensions

In the Irish Budget announcement on 6 December 2011, Minister for Finance Michael Noonan announced the removal of the remaining 50% employer PRSI relief on employee pensions. In his speech, the Minister said: "Due to the changes in pension tax relief adopted in last year's Budget and Finance Act 2011 and the pension fund levy required to fund the Jobs Initiative, the pensions sector is making a sizeable contribution of about €750 million in 2012. Although the EU/IMF Programme commits us to move to standard rate relief

on pension contributions, I do not propose to do this or make changes to the existing marginal rate relief at this time. However, the incentive regime for supplementary pension provision will have to be reformed to make the system sustainable and more equitable over the long term. My Department and the Revenue Commissioners will work with the various stakeholders in the next year to develop workable solutions. This will include consultation on whether and to what degree Pension Funds might invest more in Ireland, rather than abroad.”

The Minister’s speech may be read at:

<http://budget.gov.ie/budgets/2012/FinancialStatement.aspx>

Pension funds rose in October

Irish pension funds recorded their sharpest gains in more than 18 months in October 2011. The average Irish group managed fund recorded a gain of almost 5 per cent during the month of October, recovering some of the ground lost in August and September. It was the first positive return for the industry since May.

A full report is not publicly available, but commentary from the Irish Times dated 8 November 2011 can be viewed at:

<http://www.irishtimes.com/newspaper/finance/2011/1108/1224307206999.html>

The Pension Realities for Ireland - Goodbody Stockbrokers Report

In a new report on Ireland's pensions time bomb, Goodbody Stockbrokers says Ireland's demographic advantage over the rest of the developed world means that there is time to do something to avert a pensions crisis, but the Government needs to act now and government policy of dis-incentivising private pension provision in recent years is dangerous and counterproductive. Changes in pension rules have led to a great deal of uncertainty and Ireland needs to act to regain positive pensions position.

The Goodbody press release on this issue can be found here:

http://www.goodbody.ie/about_news_gb20111109.html

Merger of the Pensions Board and Financial Regulator

On Thursday 17 November 2011 the Minister for Public Expenditure and Reform, Brendan Howlin TD, made a major announcement on Public Service Reform – efficiencies to be found across the Civil and Public Service; the future of quangos; cuts in 2012 etc. Included in the announcement was the news that the regulatory functions of the Pensions Board are to be integrated with the Financial Regulator. Equally, the Pensions Ombudsman is to be merged with the Financial Services Ombudsman.

The Minister’s statement can be found here: <http://per.gov.ie/2011/11/17/public-service-reform-announcements-speaking-note-for-minister-for-public-expenditure-and-reform-brendan-howlin-t-d/> and the Government’s paper on the announcements can be found here: <http://per.gov.ie/government-statement-public-service-reform/> .

Irish Pensions Board Announcements

Submission of defined benefit scheme recovery plans

Following the announcement on 28 October 2011 by Joan Burton TD, Minister for Social Protection, on changes to the funding standard for defined benefit schemes, recovery plans submitted to The Pensions Board by 12 noon Friday 16 December 2011 will continue to be considered by the Board under the current funding standard and guidance. For later submissions, trustees should note that the Board expects to publish updated guidance by the end of the year in relation to applications under both Section 49(3) and Section 50/50A of the Pensions Act. The updated guidelines will take account of the changes introduced by the Minister and will inform trustees of schemes which are not in compliance with the funding standard of the dates by which recovery plans must be submitted to the Board. The earliest such date will be no earlier than 1 July 2012.

More information can be found here:

http://www.pensionsboard.ie/en/News_Press/News_Press_Archive/Submission_of_defined_benefit_scheme_recovery_plans.html

Central Bank of Ireland Announcements

Insurance Compensation Fund

On 8 November 2011 the Central Bank of Ireland gave notice for the purposes of Section 6 (2) of the Insurance Act 1964 that the financial state of the Insurance Compensation Fund is such that financial support should be provided for it. The Central Bank has determined that the appropriate contribution to be paid to the Fund by each insurer or insurer authorised in another EU Member State is 2% of the aggregate of the gross premiums paid to that insurer or insurer authorised in another Member State in respect of policies issued in respect of risks in the State. The date on and after which each insurer and insurer authorised in another Member State shall be obliged to pay the appropriate contribution is 1 January 2012.

The full Central Bank Notice can be viewed at: <http://www.centralbank.ie/regulation/industry-sectors/insurance-companies/non-life-insurance-companies/Pages/InsuranceCompensationFund.aspx>