



Pensions stop press

Pensions regulator issues its own Brexit statement

Briefing

January 2019

TPR's Brexit Statement

Brexit has dominated UK life for the last two and a half years, and at the time of writing it is unclear what will happen in next week's Parliamentary vote – will we crash out on March 29, 2019, with no-deal, will there be a time extension, will Theresa May carry the vote on her deal, might there be another referendum or might we stay with the EU?

Planning in such a vortex is difficult. DB trustees should have regard to the Pensions Regulator's (TPR's) Brexit [statement](#), published yesterday. As UK pension schemes are largely domestic, TPR does not expect Brexit to impact significantly on trustees' ability to administer schemes or on the legislation applying to schemes. However the statement contains some useful prompts.

“No-deal” contingency planning

The statement reminds trustees of the guidance provided in 2016 following the referendum and in TPR's [2018 annual funding statement](#). Further guidance will be provided in the 2019 funding statement, due in March 2019 (hopefully once the Brexit mechanism has been clarified). Where relevant, TPR advises trustees to undertake a review of any actions or contingency plans made previously in the context of “no deal”, if they have not already done so. Affected schemes should re-acquaint themselves with the DWP's [guidance](#) about the payment of benefits for EU citizens in the UK and UK nationals in the EU in a no-deal scenario and consider whether a member announcement is necessary. TPR is concerned about continuity in the payment of benefits.

Scheme investments

Trustees will need to consider whether their investment strategies remain appropriate which will be a major challenge in volatile markets. Engagement with scheme advisers is crucial and decisions may need to be made on how actions could be taken quickly once the shape of Brexit is known.

Strength of covenant

Covenant strength becomes ever more critical with increasing stock market volatility. Some businesses will be more vulnerable than others. How might covenant be impacted in a no-deal scenario and is there anything trustees can do to insulate the scheme?

Integrated risk management

Trustees should consider how Brexit could affect the scheme's ability to fund accrued liabilities and whether risk registers need updating, depending on specific risks affecting the employer's business. Communication with the employer is key, so that any concerns can be addressed at an early stage.

Cross-border schemes

There are very few cross-border schemes in the UK, largely because of the onerous funding requirements which would apply. Once EU legislation is dis-applied (by whatever means) it is possible that the number of schemes with members in different countries may increase. TPR is working with the UK government, EU institutions and pensions authorities in other member states to ensure that the position of authorised and approved cross-border schemes and their members is considered in each of the possible exit scenarios.

Trustees of schemes currently authorised and approved to accept cross-border contributions will need to keep a close watch on developments and any further guidance emerging from the DWP and TPR. Any schemes which are in the process of applying for authorisation to commence cross border activity might wish to wait until there is more certainty.

What should be the next steps for trustees?

Talk to your advisers and discuss what action, both immediate and in the mid-to-longer term, may be required. Engage with the principal employer and discuss how a Brexit no-deal may impact the employer's business and the funding position of the scheme. Consider whether it would be appropriate to issue a member newsletter outlining potential actions in the event of no-deal.

It may be appropriate to have arrangements in place whereby trustee investment committee meetings can be called quickly (and perhaps by telephone if necessary) to take decisions with the minimum delay. If trustees do not already have an investment sub-committee, this might be a good time to establish one.

We will be keeping a close eye on future publications from TPR, particularly the next funding statement due in March, and will publish further updates then.

Please contact your Norton Rose Fulbright adviser if you would like to talk through any of the issues above.

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