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Update on the timing of the new DB funding code of practice

The Pensions Regulator has published its Corporate Plan for 2023 to 2024, setting out its key priorities for the year ahead.

In a not altogether unexpected move, the Regulator has confirmed the likely introduction of its long-awaited revised code of practice on DB funding will be deferred by six months.

Background

While trustees should focus on the needs of their own members, and their own particular plans for their scheme, it is always worth being aware of the Regulator's key priorities. The Corporate Plan is informed by the Regulator's five strategic priorities set out in its strategy document from March 2021:

1. Ensuring the security of savers' money invested in pension schemes.
2. Ensuring savers get good value for their money.
3. Scrutinising the decisions made on behalf of savers to ensure they are in their best interests.
4. Embracing the market innovation necessary to meet savers' needs.
5. Be a bold and effective regulator.

This FYI Alert focuses on the key DB issues covered in the Corporate Plan. Other Regulator priorities include the on-going work to develop a value for money framework, laying foundations for a significant increase in addressing quality outcomes in DC schemes, increasing attention on tackling pension scams, supporting schemes to prepare for connecting to pensions dashboards, and helping to develop the CDC scheme market. The Corporate Plan also covers the Regulator's work on climate change and improving equality, diversity and inclusion on trustee boards, as well as a look ahead to the forthcoming general code of practice.

The revised DB funding code

Both the DWP and the Regulator had previously been working to introduce the scheme funding regulations and the revised code of practice respectively, from October 2023. The Corporate Plan states the Regulator’s intention to “prepare to implement the DB funding code and regulatory framework in April 2024, enhancing our ability to protect savers’ money”.

Other issues

Market stability

Following the Regulator’s statement last year on liability-driven investments (LDI) and managing investment risk, and the subsequent guidance on maintaining an appropriate level of resilience in leveraged arrangements, trustees investing in leveraged LDI have been called on to improve their scheme’s operational governance. (New LDI guidance, not referenced in the Corporate Plan but published three days later, replaces both the 2022 statement and guidance.)

Good data is fundamental to the Regulator’s ability to monitor and assess market risks relies, and it is considering what further data would enable greater oversight of schemes’ leveraged positions, and the best way of collecting that data. This may mean the amount of information gathered, on a range of asset allocations, including LDI is increased. Any request for more data will take account of the costs to schemes of providing further data.

Sponsoring employers’ ability to support their DB schemes

Although corporate insolvencies among sponsoring employers of DB schemes have generally been low recently, the Regulator is aware of the pressure that businesses are under and recognises that trends may reverse.

Recent gilt yield increases may have driven the improvements in the funding position for many schemes. However, the Regulator remains concerned that some “outliers” do not have an appropriate funding target or have a target that is some way from being met.

Superfunds and other alternative DB models

The Regulator will continue to engage in the development of new DB models, including superfunds. Its superfunds guidance details the principles that providers are expected to follow until legislation is in place. This will be reviewed to ensure it continues to deliver what the market needs.

Clara Pensions, the superfund that passed Regulator assessment last year, will continue to be supervised, while the guidance remains applicable for any potential superfund seeking to enter the market. The Regulator intends to publish guidance on other DB models during the year.

Comment

The decision to plan for April 2024 as the effective date for the new DB funding regime seems sensible. While the plan to introduce the revised code from this October was based on the valuation cycle, responses to both the consultation on the DWP’s draft regulations last autumn, and the Regulator’s draft code earlier this year, suggest there was more work to do before the new regime could come into force.

Allied to this is the Pensions Minister's wish for the two Parliamentary committees inquiries into the LDI crisis last year to inform the finalised regulations, with one inquiry still to report back, and October 2023 was probably not practicable.

Further detail is still needed, not only in terms of seeing the finalised code and regulations, but knowing exactly when in April 2023 the new regime will take effect. The new requirements will only apply to valuations with effective dates from the date the regulations and revised code come into force. At this stage, we don't know if next April means 1 April, 6 April, or some other date altogether.