Global Retirement Update

This Update summarizes recent legislative developments and trends related to retirement and financial management and highlights recently passed and pending legislation that may require employers to take action to comply with new rules or review existing plans.

Countries Covered in This Update

**Americas**: Argentina, Brazil, Canada, Mexico, Panama, Puerto Rico, and United States.

**Asia Pacific**: Bangladesh, China, Indonesia, and South Korea.

**Europe**: Belarus, Channel Islands, Czech Republic, Estonia, European Union, Finland, France, Georgia, Germany, Ireland, Lithuania, Malta, Netherlands, Portugal, and United Kingdom.

Action May Be Required

<table>
<thead>
<tr>
<th>Country</th>
<th>Action Required</th>
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<tbody>
<tr>
<td><strong>Canada</strong></td>
<td>Employers of pension plans registered in Québec should observe the draft regulation recently published by the Québec government that clarifies several implementation issues following from the adoption of Bill No. 57. After the 30-day comment period, the Québec government will publish the final regulation.</td>
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<tr>
<td><strong>China</strong></td>
<td>Employers should monitor new developments aimed at creating a robust environment for private pensions.</td>
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<td><strong>Indonesia</strong></td>
<td>Employers should note that Shariah-compliant pension fund regulations will be published soon and prepare accordingly.</td>
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<td><strong>Belarus</strong></td>
<td>Following Decree No. 137, employers should note the gradual increase in the standard retirement age starting in January 2017.</td>
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<td><strong>Channel Islands</strong></td>
<td>Employers should track new developments arising from a proposed secondary pension system requiring automatic enrollment in 2020.</td>
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<td><strong>Czech Republic</strong></td>
<td>Employers should note that a pension law amendment that would guarantee pension savings against devaluation and bills that would increase the pension retirement age are forthcoming.</td>
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<tr>
<td>Country</td>
<td>Guidance and Requirements</td>
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<td>Finland</td>
<td>Employers with foreign pension funds should familiarize themselves with the new guidance published by the tax administration. In addition, employers should review the provisions of the recent pension reform bill that was passed by Parliament, which are scheduled to take effect January 1, 2017, and prepare accordingly.</td>
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<td>France</td>
<td>Employers should note proposed legislation that would create a new model for supplementary pension provisions and allow for greater investment flexibility.</td>
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<td>Georgia</td>
<td>Employers should familiarize themselves with the Ministry of Economy’s action plan for pension reforms scheduled to take effect in the third quarter of 2017.</td>
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<td>Germany</td>
<td>Following the latest OECD survey published for Germany, employers should note the various pension reform proposals included in the survey and track new developments resulting from the proposals. In addition, if they have not already done so, employers reporting under German GAAP should decide whether or not to take advantage of the additional flexibility offered for determining the discount rate used to calculate pension costs and pension liabilities.</td>
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<td>Ireland</td>
<td>Employers should review the additional codes of governance for DC schemes recently published by the Irish Pension Authority.</td>
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<td>Netherlands</td>
<td>If they have not already done so, employers should carefully consider the new incentives for employing workers above retirement age, which took effect January 1. In addition, employers should consider the new General Pension Fund (GPF) opportunity stemming from legislation that came into force January 1, which allows multiple, unrelated companies or former pension funds to join in a single GPF and enjoy economies of scale.</td>
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<td>Puerto Rico</td>
<td>Employers should ensure that benefit schemes comply with recently affirmed legislation recognizing spousal entitlement to benefits in same-sex marriages.</td>
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<tr>
<td>United Kingdom</td>
<td>Employers with schemes providing money purchase benefits will need to review and update their procedures following amendment regulations that were recently finalized. Employers offering DB schemes should review recently published final guidance on the alternative quality requirements related to automatic enrolment and ensure that proper records are maintained in order to demonstrate compliance. As a result of new regulations banning member-borne commission charges, trustees have new responsibilities, including confirming to service providers by July 6, 2016 whether the scheme is used as a qualifying scheme. Employers should note the revised circumstances in which a Pension Savings Statement (PSS) should be issued. In particular, for 2015/16, PSSs should be issued if total pension input for the scheme over the combined ‘pre- and post-alignment tax years’ exceeds £80,000, or if total input over the “post-alignment tax year” exceeds £40,000. Input must be shown separately for each of the pre- and post-alignment tax years. Employers should ensure that all entities within a corporate group comply with the new PSC requirements. As a result of a recently upheld ruling confirming holiday pay should include commission payments, trustees may decide to obtain legal advice on the implications.</td>
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United States

Employers should note the final rule recently released by the PBGC that amended its regulation on annual financial and actuarial information reporting and affects reporting under ERISA Section 4010.

In addition, employers should observe the final rule recently released by the Department of Labor (DOL) defining who is considered a “fiduciary” under ERISA and the Internal Revenue Code. The rule is intended to provide guidance with respect to potential fiduciary issues that the DOL has long been concerned about with respect to investment advice.

Global

Task force considers how pension funds should respond to climate change.

A Financial Stability Board task force has released an initial report and public consultation on how pension funds and other financial institutions should manage the risks associated with climate change. Stress tests, more uniform disclosure rules, and funding buffers are under consideration. The panel is also reviewing institutional investor vulnerability to an abrupt sell-off of the fossil fuel sector. Its final report is due by the end of the year.
Recent Developments

Americas

Argentina

*Pension reform previewed.*

The Labor Minister outlined the administration's pension reform agenda in a recent interview. There would be a basic universal pension and an additional component that would reflect one's actual contribution to the system. A return to the private capitalization system has been ruled out, but those making higher contributions cannot go unrewarded.

The reform will be sent to Congress after the social security tax holiday is over in September 2016. This moratorium allowed Argentina to have almost 100% of coverage ratio.

Brazil

*Proposal to alter social security contribution base.*

[Bill 4,281/2016](#), currently under consideration in the Chamber of Deputies, would trim the definition of gross income used in the taxable base for employer social contributions. Backers argue that the amounts earmarked for the employee profit participation program (PIS) and the social security financing contribution (COFINS) should not be counted as part of gross revenue. The bill must get through three committees before a plenary vote.

*Social security levy on services suspended.*

[Senate Resolution N. 10/2016](#) has suspended the measure under [Law 8,212/91](#) that levied a 15% social security contribution on the bills for services provided by work cooperative members. This follows a Supreme Court ruling that found the charge unconstitutional.

Canada

*Québec draft regulations on pension funding.*

On April 6, 2016, the Québec government published the *[Regulation to amend the Regulation respecting supplemental pension plans](#)* (Draft Regulation) following the adoption of Bill No. 57 *An Act to amend the Supplemental Pension Plans Act mainly with respect to the funding of defined benefit pension plans, SQ 2015, chapter 29* (Act).

Sponsors of pension plans registered in Québec have eagerly awaited this Draft Regulation, given that the Act has been in force since January 1, 2016. Until now, several implementation provisions have been uncertain or unknown, including those related to the funding measures for private sector pension plans.

Please click [here](#) for the full report.

Mexico

*New investment vehicle for Afores.*

Pension regulator Consar has welcomed the [concept](#) of allowing the Afores pension fund managers to invest in new government securities for funding infrastructure and energy products. CerPL, investment project certificates, are viewed as a way to safely diversify assets. CerPLs are very new to the market and Consar guidelines on how to use them are due soon.
Panama

**Pension reform urged.**

The International Monetary Fund has warned Panama that state pension coffers will be empty in 10 years unless urgent reforms are implemented. It recommends gradually raising the retirement age to better align it with life expectancy and cutting the replacement ratio. It also suggests a consolidated approach to managing the assets and liabilities of the defined benefit and defined contribution schemes.

Puerto Rico

**Same-sex marriage right affirmed.**

The U.S. First Circuit Court of Appeals has ruled that the U.S. Supreme Court ruling upholding same-sex marriage must be recognized in Puerto Rico. This came in rapid response to a Federal District Court decision that Puerto Rico's ban on same-sex marriage was not unconstitutional because Puerto Rico is an "unincorporated territory" where the U.S. Constitution does not fully apply. Spousal entitlement to benefits under social programs and employer schemes will become gender neutral.

United States

**PBGC Issues Final Rule on Annual Financial and Actuarial Information Reporting.**

On March 22, 2016, the Pension Benefit Guaranty Corporation (PBGC) released a final rule amending its regulation on annual financial and actuarial information reporting to codify provisions of recent legislation and related guidance that affect reporting under ERISA Section 4010. The final rule modifies the reporting waiver under the current regulation tied to aggregate plan underfunding of US $15 million or less to be based on non-stabilized interest rates. Additionally, the final rule adds new reporting waivers for smaller plans and for plans that must file solely on the basis of either a statutory lien resulting from missed contributions over US $1 million or outstanding minimum funding waivers exceeding the same amount (provided the missed contributions or applications for minimum funding waivers were previously reported to the PBGC). The final rule also provides alternative methods of compliance for reporting certain actuarial information and makes a few technical changes to the regulation. The final rule becomes effective on April 22, 2016.

The final rule is available [here](#).

**DOL Releases Final Rule on Definition of the Term “Fiduciary”; Conflict of Interest.**

On April 7, 2016, the Department of Labor’s (DOL) Employee Benefit Security Administration released the highly anticipated final rule defining who is a “fiduciary” of an employee benefit plan under ERISA as a result of giving investment advice to a plan or its participants or beneficiaries. The final rule also applies to the definition of a fiduciary of a plan (including an individual retirement account [IRA]) under the Internal Revenue Code of 1986. The final rule treats persons who provide investment advice or recommendations for a fee or other compensation with respect to assets of a plan or IRA as fiduciaries in a wider array of advice relationships. The final rule becomes effective on June 7, 2016. The final rule has an applicability date of April 10, 2017.

The final rule is available [here](#).
Asia Pacific

Bangladesh

Laying the foundation for a mandatory private pension scheme.

The World Bank is assisting the government in creation of a pension fund management authority in preparation for a mandatory private-sector pension scheme. The regulatory body should be operational at the start of 2018, but the Insurance Development and Regulatory Authority would have a transitional role in oversight. Extensive finance ministry analysis and stakeholder consultation would precede the legislation. Employers and employees would both contribute to a pension fund and another body would be charged with making profitable investments.

China

Guidelines for developing a pension service industry.

Several ministries and regulators have jointly published guidelines on financial support to accelerate the development of pension services, a blueprint for the financial sector evolution needed to foster a robust environment for private pensions. There would be a diversified menu of regulated investment options including infrastructure, private equity, and real estate. The plan also includes standards for credit rating and financial services for the elderly. A multi-level old age insurance system will feature regulatory guidance and incentives for a variety of pension products.

Indonesia

Islamic pension fund regulations due soon.

The Financial Services Authority has disclosed that regulations for Shariah-compliant pension funds will be published in the second quarter of this year. The rules will cover pension fund management firms run by employers, as well as those marketed by insurers and banks. Insurers and other plan sponsors would be free to develop compliant retirement plans or modify existing plans.

South Korea

Expatriate severance policy survives court challenge.

The Constitutional Court has affirmed the constitutionality of the end-of-service benefit paid out to foreign workers as a Departure Guarantee Insurance upon their departure from South Korea. Employers make monthly payments to a pension/ severance fund for their foreign workers with work contracts of at least one year. Under a 2014 law, the money is disbursed to them within 14 days of leaving the country rather than after the contract is terminated to ensure that workers do not overstay their employment contract. Foreign workers took the government to court on grounds that the new law is discriminatory, but the court noted that employment permits stipulate leaving the country at the end of the contract.
Europe

Belarus

*Decree on retirement age hike.*

The President has issued [Decree No. 137](#) ordering a gradual increase in the standard retirement age [GLU 3/16]. From January 2017, it will rise from age 60 to age 63 for men and from age 55 to age 58 for women at a rate of six months per year. The same three-year increase over the course of six years will be applied to preferential, military, and long-service pensions. The Decree also exhorted employers and workers to sign up with voluntary pension schemes.

Channel Islands

*Auto-enrollment scheme proposed.*

An interdepartmental group recently proposed introducing a secondary pension system with an automatic enrollment feature in 2020:

- All employers would enroll all their workers into either the secondary pension or a "qualifying pension scheme."
- This would be a money purchase scheme with one's survivors entitled to any account balance.
- The contribution rate is tentatively set at ER 3.5% and EE 6.5% of gross salary. It would be phased in and subject to ceilings. Top-ups would be permitted.
- Employees would be allowed to opt out but they would be re-enrolled every two years, then free to opt out again.
- Employer incentives for opting out would be illegal.

Czech Republic

*Pension reform proposals in the pipeline.*

The state pension commission is preparing a decree that would amend the pension law to guarantee pension savings against devaluation. The measure is viewed as necessary to revive a flagging sector and the Czech Association of Pension Insurers has agreed in principle to this but wants a role in setting out the details. Meanwhile, the government is preparing two nearly identical bills on retirement age hikes for submission to Parliament in the second quarter of this year. The one sponsored by the Ministry of Labor would set a pension age of 65 while the Finance Minister's submission would make it age 67.

Estonia

*Pension reform proposals.*

Two different pension reform proposals have been showcased in the press recently. The Ministry of Social Affairs has drawn up a social security reform proposal that it will soon share with the Cabinet. The retirement age would rise from age 63 to age 65 by 2026 and would then be pegged to life expectancy. Flexible retirement scenarios, including partial retirement, would be included in the package and the minimum pension would be linked to the subsistence wage.

The government work group on competitiveness has already released its conclusions. It recommends setting minimum and maximum thresholds for the social tax and shifting part of the social insurance and health insurance levies to employees. These two taxes would be more formally differentiated to make the two funds easier to manage. The report also urges streamlining the employer reporting obligations under the fringe benefits tax.
European Union

_EIOPA guidance on Solvency II._

The European Insurance and Occupational Pensions Authority has published a microprudential approach to complying with Solvency II requirements in a low interest rate environment. It surveys the problems that could arise in this environment and describes several existing instruments that could improve insurance sector resiliency while reducing vulnerability to economic fluctuations and the impulse to take risks for higher yields.

_EIOPA risk assessment and transparency recommendations for pensions._

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Opinion to EU Institutions on a Common Framework for Risk Assessment and Transparency for IORPs. It calls for performance of standardized risk assessment running "common, pre-defined" stress scenarios for pension funds. Transparency would be improved by a "public disclosure of market-consistent balance sheet," as well as results of the risk assessment. There would be a "proportionate approach" for smaller pension funds. Perhaps most importantly for stakeholders, EIOPA has decided against solvency capital requirements "at this point in time," reasoning that the stress tests should be adequate.

_Sustainable work and healthy aging campaign._

The European Commission has unveiled a two-year campaign, Healthy Workplaces for All Ages, to advance occupational safety and health in evolving workplaces with aging workforces. The launch features guidance on risk prevention from the European Agency for Safety and Health at Work. Documentation illustrates that with workers increasingly deferring retirement, many are remaining in employment long enough to be impaired by occupational illnesses so employers have a business case for investing in a sustainable workforce.

_Parliament approves data protection rules._

The European Parliament and Council have approved the EU General Data Protection Regulation, replacing the 1995 EU Data Protection Directive. The modernization comes in response to globalization and technical advances, with special emphasis on the cross-border movement of personal data in multinational companies. The regulation is on track for publication in the Official Journal in May, which would give Member States a May 2018 deadline for transposition.

_Hurdle for EU/U.S. privacy shield._

The Article 29 Working Party comprised of privacy officials from all 28 Member States has issued an advisory opinion sceptical of the Privacy Shield (GLU Feb 2016) approach to protecting personal data transfers between the EU and U.S. While praising the Privacy Shield as a major improvement on Safe Harbor, the group found the set of documents unclear, complex, and not fully compliant with the General Data Protection Regulation (GLU Apr 2016). It urges the European Commission, which has already issued a draft adequacy decision to "resolve those concerns" before making a final approval.

Finland

_Guidance on tax break for foreign pensions._

A European Court of Justice ruling has required equal tax treatment for foreign pension funds in Finland since January 1, 2015. The tax administration has now published guidance for foreign pension funds on how to calculate the deductible and on the disclosure requirements necessary to qualify for the favorable regime.

_Gender neutral marriage law._

This month the President signed a variety of measures on implementation of last year’s gender-neutral marriage law. The relevant laws on social benefits and health care were not in this batch, but it was confirmed that all will be in place for full launch of the law on March 1, 2017.
Retirement age hike measures clear Parliament.

Parliament has approved the pension reform bill HE 16/2015 vp (GLU Feb 2016) featuring a gradual increase in the minimum retirement age for the earnings-related pension. The retirement age currently ranges from age 63 to age 68, but the minimum will now rise three months at a time until it reaches age 65. The upper age limit will rise from age 68 to age 70 at the same pace. After that, there will be a peg for life expectancy with annual increases capped at two months. In other provisions:

- Employers must start providing statutory pension insurance for their workers at age 17, one year earlier than currently.
- The increase in pension accrual for those who work past their minimum retirement age will be 0.4% per month, slightly up from the current 4.5% per year.
- A partial early retirement system will supplant the part-time pension system. Taking benefits as early as age 61 will reduce the final retirement benefit, but this model will set no limitations on salary or work hours for the scheme.

All of these provisions are set to take effect from January 1, 2017.

France

New supplementary pension model previewed.

The Finance Ministry has published draft legislation that would create a new model for supplementary pension provision to bypass the investment restrictions on insurance-based pension schemes under Solvency II. The new prudential regime for pensions would preserve a high level of protection for participants while reducing capital requirements and allowing more investment in equities. This is part of an economic reform package that was submitted to the Council of Ministers on March 30.

Georgia

Pension reform agenda outlined.

The Cabinet has reviewed the Ministry of Economy’s action plan for pension reforms slated to take effect in the third quarter of 2017. A second-pillar defined contribution scheme would be financed by employer, employee, and state contributions. The savings plan would complement—not replace—the basic state pension, which is set to be annually indexed to inflation.

Germany

Auto-enrollment urged.

The latest Organisation for Economic Co-operation and Development (OECD) Economic Survey for Germany features some pension reform proposals, most notably one that would follow the UK and Italy model for default auto-enrollment in occupational pensions. This approach already has the support of some German officials and could gain some traction from the OECD endorsement. Its other pension proposals include:

- Being sensitive to the systemic risk of book reserve schemes;
- Setting a longevity peg for retirement age; and
- Improving the incentives for retirement deferral.

New discount rate for calculation of pension liabilities.

New legislation extended the period from which the discount rate, used to calculate pension liabilities under local billing requirements (HGB—Commercial Code), is calculated from the previous seven years to the previous 10 years. As this extension includes precrisis years with higher interest rates, the resulting discount rate becomes higher. The extension applies to discount rates for pensions only (i.e., it is not intended to be applied to other employer benefits such as old age part-time arrangements). The new regulations, however, include a ban on increasing dividend payouts that could be afforded...
as pension liabilities go down. The legislation takes effect for all fiscal years ending from 2016 on. Companies have the option to apply the new HGB provision to their 2015 annual reports, if these have not been published yet.

**Ireland**

*More codes of governance for defined contribution (DC) schemes published.*

The Irish Pensions Authority has posted its second tranche of codes of governance for DC plans (GLU Feb 2016):

- Collection and remittance of contributions provides guidance on the process flow and recordkeeping involved in the handling of plan contributions.
- Investing scheme assets covers professional standards for investment advisors and statements of investment policy principles (SIPP).
- Paying benefits addresses disclosure of payment options, transfers to other approved schemes, and reporting to trustees on payouts.

**Lithuania**

*Second pillar default life-cycle investment model proposed.*

The Bank of Lithuania has drafted a paper urging that members of the voluntary second-pillar pension be better protected from risky investments by implementation of a default investment strategy based on the life-cycle model which reduces high-risk investments as a person ages. Pension providers commonly offer a multi-fund menu with equity exposure at 0%, 30%, 70%, or 100%. The regulator has determined that frequent age-inappropriate risk profiles threaten to defeat the second pillar's purpose.

**Malta**

*Retirement deferral incentives.*

The Social Solidarity Minister is campaigning for a measure in the 2016 Budget that would increase benefits for those who opt to stay in the workforce when they reach the state pension age of 61. The top-up is:

- 5% for age 62.
- 5.5% for age 63.
- 6% for age 64.
- 6.5% for age 65.

So a four-year deferral nets a 23% benefit increase. The minister noted that there are plans for further incentives for deferrals past age 65.

*Voluntary second-pillar scheme planned.*

The Finance Minister’s overview of a national reform program broached the issue of a voluntary second-pillar pension with financial incentives for employer participation. The opposition, having unsuccessfully promoted a mandatory second-pillar pension model, welcomed the announcement. A task force will soon be convened to flesh out the proposal.

**Netherlands**

*New incentives for hiring seniors.*

The Work After the State Old Age Retirement Scheme Act, which took effect on January 1, features some incentives for employing workers above retirement age:
The 104-week cap on paid sick leave is reduced to 13 weeks for seniors and their protection from dismissal ends after that period.

The standard maximum of three fixed-term contracts in two years is doubled to six fixed-term contracts in four years.

The dismissal notice period is limited to one month, rather than increasing with years of service.

The workers are not entitled to transitional payment upon termination of employment.

Certain employer social security contributions are no longer required.

Consultation on pension funding crisis.

The Social Affairs Ministry has entered consultations with the pension sector, social partners, and pension regulators over the funding "difficulties" for Dutch pension schemes. The minimum funding level is 105%, but low interest rates have driven the average level to 95%. Pension funds with funding level below 90% at the end of 2016 will be obliged to start cutting benefits. The consultation is due to produce a report on its findings in early May and the Dutch National Bank is preparing a report on coverage ratios and the recovery plans for underfunded pensions. Solutions under consideration include increasing the AOW state pension to offset lost pension rights.

New type of pension fund created.

The law “General Pension Fund” (APF in Dutch) came into force on January 1, 2016. The law introduces a new pension provider into the pension world. The GPF leaves the existing delineation and makes ring fencing possible. This law makes a new pension fund possible in which several companies or former pension funds can join. Through the use of separate compartments a GPF allows employers, whether or not they are connected to each other, to administrate financially separated different pensions. This provides scale advantages while maintaining its own identity. A GPF can be operational after the Dutch Central Bank has granted the license.

Portugal

Transitional cutback for early retirement.

An early retirement formula that was introduced on January 1, 2016 was withdrawn on March 8 pending the outcome of a government study on flexible retirement. The entitlement based on age 55 with 30 years of contributions has been dropped in favor of a "transitional" reversion to the age 60 plus 40 years of contributions combination that was in place before January. Claims for the simpler formula filed through March 8 will be honored. This does not affect the bridge to early retirement for the long-term unemployed.

Pension sustainability adjustments.

Ordinance No. 67/2016 set out automatic adjustments to the state pension reflecting increases in longevity. From 2017, the normal age for accessing a retirement pension will rise from 66 years to 66 years and three months. The sustainability factor for pensions taken before the normal retirement age will be 0.8666. The sustainability factor for those on disability benefits for up to 20 years and converting to a retirement pension in 2016 is 0.9349.

United Kingdom

Miscellaneous amendment regulations.

Amending regulations have been finalized following consultation earlier in the year. Provisions include a new requirement for occupational schemes to issue a risk warning when the scheme provides a member with the means to apply to take their benefits flexibly; and an extension to the PPF entry requirements for certain entities that cannot have an insolvency event.
Alternative quality requirements for DB schemes.

Final guidance has been published on the alternative quality requirements for defined benefit (DB) schemes in relation to automatic enrollment. This can help in the practical application of the requirements for schemes that ceased to contract out on April 6, 2016. For example, it may be appropriate to analyze members who were contracted out separately from those who were not.

Ban on member-borne commission charges.

New regulations prevent charges being levied on members to recover commission payments made to advisers for certain advice or services. They apply to occupational pension schemes that provide money purchase benefits and are used for automatic enrollment, and affect both new commission arrangements and those varied or renewed on or after April 6, 2016.

Annual allowance information changes.

Schemes must issue a Pension Savings Statement (PSS) to anyone whose pension input to the scheme exceeded the Annual Allowance in a tax year. HMRC have revised the circumstances in which a PSS must be issued.

People with significant control over companies.

A new requirement was introduced from April 6, 2016 for companies—including pension trustee companies—to keep a register of "people with significant control" (PSC). Failure to maintain a PSC register is now a criminal offense, so directors need to ensure that procedures are in place to meet the new requirements and provide the relevant notifications.

Ruling on including commission in holiday pay.

The Employment Appeal Tribunal has upheld a ruling against British Gas that the Working Time Regulations 1998 should be read so that statutory holiday pay includes certain commission payments. There is still uncertainty around the impact of this ruling, but it could affect the calculation of pensionable pay in pension schemes if this includes elements of variable pay.
For More Information

For more information on the topic and countries in this newsletter, please refer to the Aon Hewitt Country Profiles eGuide. You can learn more about the Country Profiles eGuide here.

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