Briefing

BURGES SALMON

Pensions

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Importance ★★☆☆

PPF levy 2016/17: consultation

There will only be minor changes in the levy rules for 2016/17. They will be practical or technical adjustments.

The PPF remains less than content with the covenant strength behind numbers of contingent asset guarantees. The guidance for 2016/17 will have more on the due diligence it expects.

The consultation document also covers:

- FRS 102 – the PPF accepts this new accounting standard (applicable to accounting periods starting after 1 January 2015) could affect insolvency scores for 2017/18 and invites evidence to help it understand the possible impact and
- last man standing (LMS) schemes – some schemes have recognised they are not LMS after all and the PPF will look to recover discounts erroneously given in earlier years. Those that have not yet certified they have had legal advice on LMS will have another opportunity to do so.

Employers affected should consider the potential consequences of FRS 102.

In pursuit of stability, the PPF is keeping the main levy rules, including arithmetical elements like the scaling factor, unchanged for the second year of the current three year cycle.

It estimates a total levy for 2016/17 of £615m (3% down on the estimate for 2015/16).

The consultation closes on 22 October. The final rules will be published before the year end.

Insolvency scoring

Mortgage exclusion: recertification

Insolvency scoring ignores five types of mortgage. Most of them (refinance, rent deposit and pension scheme mortgages) will not need to be recertified for the new levy year. The benefit will carry forward automatically.

But immaterial mortgages will need to be recertified because the criteria that have to be satisfied are vulnerable to change year by year.

Mortgages ignored on the strength of an investment grade credit rating that is public will be carried forward automatically unless Experian's check shows the rating has fallen.

Views are invited whether this ground for exclusion should be extended to private credit ratings from the major agencies.

For refinance mortgages, the PPF accepts the requirement for the new mortgage be in place within 14 days of the original one being released can be hard to meet. In the alternative, a term that the new loan must be used to pay off the old one will suffice.

Scheme and industry average insolvency scores

There are proposals to improve the way scheme and industry average insolvency scores are generated. These are used where Experian's normal methods cannot be used.

Foreign exchange rates

The general date for setting foreign exchange rates will be the employer's balance sheet date rather than 1 April.

Averaging period

Mean insolvency scores will return to a 12 month average (after being cut to six months last time because of the switch to Experian).

FRS 102

FRS 102 is a general accounting standard and applies to accounting periods starting after 1 January 2015. Its effect in relation to a multi-employer DB scheme is that sponsors will no longer be able to report pension cost on a DC basis but must show any deficit in a balance sheet somewhere in the group. This is likely to have a negative effect on insolvency scores.

The PPF says the employers most affected are likely to be those on the Large and Complex and the Not-for-Profit scorecards.

It believes the initial impact will be on the 2017/18 levy. Meanwhile it invites evidence and views on potential effects.

Levy reduction

Last man standing

For 2015/16, the PPF reports about half the schemes claiming to be LMS met the requirement to certify they had legal advice to that effect.

From 2016/17, this certification will be part of the scheme return.

Where schemes have realised they are not LMS, or have ceased to be so, the PPF will normally look to recover discount erroneously given in earlier years. This, it says, is a matter of fairness to all levy payers.

Where a scheme has not confirmed legal advice, the PPF plans to allow another opportunity via the next scheme return before getting in touch. When contacted, a scheme will be able to explain its grounds for considering itself LMS.

See section 4.6 of the *consultation paper*

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/1617_levy_consultation.pdf

Asset backed contributions (ABCs)

Separate certification of ABCs was introduced for 2015/16. There were 66 certificates.

The PPF is generally content with the standard of valuation work but noted procedural flaws in other areas. Its stance in the first year has been to look for overall compliance rather than rigid adherence to the requirements but it cautions that it might be more rigorous in future.

The guidance on ABCs for 2016/17 has a new section about annual recertification. A valuation is required. It can be a full one or an update on last year's. It is for the valuer to decide but reasons for opting for an update must be given. If the terms of the ABC have been changed or the trustees are aware of anything that might materially affect the basis of the original legal opinion, a new opinion must be taken.

Contingent assets

In carefully chosen words the PPF makes clear it is still not entirely content with the covenant strength behind many contingent asset guarantees. This is so even though a cash "realisable recovery" figure now has to be certified. The guidance on contingent assets for 2016/17 will have more on the due diligence the PPF expects.

More information

If you would like more information, please get in touch with your usual contact in our pensions team or:

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