SPC News No. 7, 2012 Issued in November, 2012

THE NEWSLETTER OF THE SOCIETY OF PENSION CONSULTANTS

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If this issue of SPC News was forwarded to you, and you would like to receive a copy direct from us, please e-mail Carla Smidt at SPC (info@spc.uk.com)

SPC Dinner 2012

November 7th 2012, Dorchester Hotel, London W1

The SPC Dinner promises to provide excellent food and entertainment and, in keeping with one of SPC's key roles, represents a peerless networking opportunity to meet with fellow industry professionals, with the expected attendance approaching 300.

Key information is:

- **Principal Speaker**

  Principal guest and speaker will be Gregg McClymont, MP (The Shadow Pensions Minister)

- **Presentation of the "SPC Journalists of the Year Awards"**

  These awards will recognise one journalist from each of the national press and pensions trade media, who has made an outstanding contribution to pensions journalism in 2012, as voted by SPC Members.

Tickets are available at £175.00 per head and feedback from previous years' Dinners indicates that this is a modest cost, which can be repaid many times over in terms of the useful networking opportunities, which exist to strengthen your business relationships. The price includes pre-dinner cocktails, a five-course meal, half a bottle of wine with dinner, and a liqueur with coffee.

As ever, we are keen to encourage "new blood" at the Dinner and ensure that it continues to offer the broadest possible range of networking opportunities for those attending. To that end, if your organisation has never previously been represented at the Dinner, the person making the booking will benefit from a discounted special price of £150.00, as will one additional guest.

For a booking form CLICK HERE.

New member

The latest new Member of SPC is **NOW:Pensions**.

SPC contacts

SPC has had a further meeting with representatives of the Investment Management Association.

Subjects discussed included the proposed NAPF code of conduct on defined contribution charging disclosure and the review of the IMA discretionary fund management agreement.

The SPC Investment Committee had had a meeting with John Cartwright (Chief Executive of the Association of Real Estate Funds), mainly to provide an opportunity for him to brief the Committee on his Association's interests and current concerns.

SPC has met Marta Phillips (Chief Executive of The Pensions Advisory Service). The main focus was on preparation by TPAS for enquiries arising from auto-enrolment.

SPC London Evening Meetings

Forthcoming evening meetings are as follows:-

Date	Speakers	Subject	Venue	Time
28 November 2012	Dominic Scriven (Dragon Capital)	Frontier Markets	JLT Benefit Solutions, 6 Crutched Friars, London EC3N 2PH	5.00 pm for 5.30 pm
12 December 2012	Ian Gordon and Peter Shave (Wragge & Co LLP)	Implications of recent cases considered by the Pensions Regulator and any developments on them	Hogan Lovells International LLP, Atlantic House, Holborn Viaduct, London EC1A 2FG	5.00 pm for 5.30 pm

SPC corresponds with HMRC on Short Service Refund Lump Sums, Former Protected Rights and "Member Contributions"

Following SPC committee discussion, we have written to HMRC on short service refund lump sums, former protected rights and "Member Contributions".

A copy of our letter is available CLICK HERE.

The letter relates to the abolition of protected rights and short service refunds, namely a failure in the legislation as currently drafted to deal with the refund of those elements of former protected rights which are not classed as 'member contributions' for the purposes of the short service refund lump sum ("SSRLS") legislation. The issue arose out of consideration of the draft Registered Pension Schemes (Authorised Payments) (Amendment No. 2) Regulations 2012.

The starting point for the letter is that it is not possible, under current legislation, to refund a member's protected rights in full because, under the short service refund legislation, former protected rights derived from employer minimum payments (to the extent not deducted from the employee's pay) and HMRC's age-related rebate are not classed as member contributions. On this analysis, a scheme must choose whether to (1) refund a member's protected rights in full (in which case the element of the refund which is not a member contribution will be an unauthorised payment), (2) refund a member's protected rights in part (in which case a small proportion of the protected rights will be retained in the scheme and will have to continue to be administered) or, (3) retain a member's protected rights in the scheme (in which case the scheme will have to continue to administer very small pots of former protected rights). Under option 2 the scheme will also have made an unauthorised payment if the part refund would not fall within draft regulation 20 of the Regulations because the rules of the scheme do not contain rules removing protected rights provision.

SPC responds to PPF consultation: Funding Determinations

We have responded to PPF's consultation document on funding determinations.

For a copy of our response, please CLICK HERE.

The consultation document is available CLICK HERE, and the PPF consultation response is available CLICK HERE.

DWP Draft Occupational Pension Schemes (Miscellaneous Amendment) Regulations 2013

DWP has published the draft Occupational Pension Schemes (Miscellaneous Amendment) Regulation 2013.

The draft regulations are available CLICK HERE.

For a copy of our response, please CLICK HERE.

Correspondence between SPC and DWP: TUPE Transfers and Auto-Enrolment

We have corresponded with DWP on TUPE transfers and automatic enrolment and a copy of the correspondence is available CLICK HERE.

We are currently considering the implications of DWP's response.

PPF issues draft determination on 2013/2014 levy

This article is derived from Mercer Select, Mercer's subscriber service offering news and analysis of UK pension developments on-line and by email. For further information please CLICK HERE.

This article was correct on September 25th 2012.

- The Pension Protection Fund (PPF) issued the consultation and draft determination for the 2013/14 levy on September 25th 2012. They set out the basis on which the Board of the PPF intends to charge the Pension Protection Levy for the 2013/14 levy year.
- When the new levy framework was introduced for 2012/13, the PPF said that, in the normal course of events, the levy parameters would be fixed for 3 years. In practice, changes in market conditions mean that, if the parameters remained unchanged, then the expected levies collected would have increased about 21% from circa £630m in 2012/13 to circa £765m in 2013/14.
- In view of the difficult economic conditions, the PPF has reduced the key levy parameters, so that at a headline level it expects to collect total levies of £630m. The key levy parameters for 2013/14 are as follows:
- Levy scaling factor of 0.73 (compared to 0.89 for 2012/13)
- Scheme-based levy multiplier of 0.000056 (compared to 0.000085 for 2012/13)
- Levy cap (the maximum risk-based levy a scheme will be expected to pay) of 0.75% of the smoothed liabilities (as for 2012/13)
- In practice, the actual impact on the levy will vary from scheme to scheme. The PPF has estimated that whilst 31% of schemes can expect to see little change in their levy (less than 5%), nearly half will see a bigger increase, with an increase of over 25% expected for 11% of schemes. Conversely, 22% of schemes are expected to have a lower levy, due either to lower investment risk than the average, or large deficit reduction contributions.
- D&B's methodology for calculating company failure scores is expected to be unchanged. The failure score will be averaged over the 12 months to 31 March 2013 and assets and liabilities will be smoothed over the five years to 31 March 2013.
- The PPF intends to operate the contingent asset regime for 2013/14 in much the same way as for 2012/13, although it intends to update the guidance to reflect its experience and has stated it is less likely to give schemes the "benefit of the doubt" than in 2012/13.
- The new levy parameters will be treated as the starting point for the 2014/15 levy and will only be changed if the increase in the levy estimate was greater than allowed. Assuming the current market conditions persist over the period to 31 March 2014, the PPF expects the levy estimate to increase by around 10% between 2013/14 and 2014/15.

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PPF issues draft determination on 2013/2014 levy

- The deadline for submitting data on Exchange for levy calculation purposes is 5pm on 28 March 2013. The Exchange system will open for submission of scheme returns in December 2012. Schemes should submit deficit reduction certificates, contingent asset certificates and full block transfer certificates on Exchange by the relevant deadline:
  - Certification and recertification of contingent assets – 5pm, 28 March 2013
  - Certification of deficit reduction contributions – 5pm, 30 April 2013 (subject to consultation)
  - Certification of full block transfers – 5pm, 28 June 2013
- The consultation on the draft Determination closes at 5pm on 2 November 2012. The final Determination is expected to be published by the end of 2012.

SPC responds to FRC consultations: UK Stewardship Code and UK Corporate Governance Code and Guidance to Audit Committees

We have responded to the Financial Reporting Council on its consultation documents on the UK Stewardship Code and the UK Corporate Governance Code and Guidance to Audit Committees.

A copy of our response is obtainable CLICK HERE, and the consultation documents are available CLICK HERE.

In our view the Stewardship Code is a well structured, balanced and clear document and should not cause either asset owners or asset managers practical difficulties of interpretation. We therefore welcome the revisions that have been made to the text and clarity about the scope of the Code's remit, ie its extension to overseas equities as well. Increasingly, UK pension funds have a greater exposure to overseas equities in order to achieve diversification of investment risks and this aspect, together with the parallel extension under the Corporate Governance Code, to have regard to bondholder interests, is welcome from the SPC's perspective.

SPC responds to EIOPA: Draft Technical Specification QIS IORP

We have responded to the European Insurance and Occupational Pensions Authority on its draft technical specification for a quantitative impact survey of its advice to the European Commission on the review of the IORP Directive.

In April 2011 the European Commission asked EIOPA to provide advice on the review of the IORP Directive. The Commission stated that it intended to introduce a risk-based prudential regime for IORPs, which attains "a level of harmonisation where EU legislation does not need additional requirement at a national level".

The Commission's stated objectives are to encourage cross-border activity of IORPs, allow IORPs to benefit from risk-based supervision, while ensuring regulatory consistency between and within sectors, and to modernise the prudential regulation for IORPs, which operate dc schemes.

The call for advice covers a broad range of areas on scope and definitions, valuation and capital requirements, role of the supervisors, governance and information to members and beneficiaries.

It states that the Commission's proposal to review the IORP Directive will be accompanied by an impact assessment, which will take into account the fact that supplementary occupational pension schemes are generally provided by employers for their employees on a voluntary basis and that any new supervisory system for IORPs should not undermine the supply or the cost-efficiency of occupational retirement provision in the EU.

EIOPA was therefore also requested to prepare a quantitative impact study (QIS) of its advice, with a view to informing this impact assessment. The aim of the QIS is:

- To provide all stakeholders with detailed information on the quantitative impact of EIOPA's advice on the prudential balance sheets of IORPs.
- To collect quantitative and qualitative data to support the analysis of different policy options in the impact assessment of the Commission.

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SPC responds to EIOPA: Draft Technical Specification QIS IORP

More background is available via https://eiopa.europa.eu/consultations/consultation-papers/index.html.

In our response, we expressed disappointment that the consultation is so complex and conducted over too short a timescale for us to be able to make a more meaningful response. We fail to understand why an issue that is of such great importance is being rushed. We also note that EIOPA stated that it intends to review and reconsider its advice given in February 2012 in the light of the QIS. We see little scope for it being able to do so in the face of the Commission's complete lack of regard to the concerns often expressed by the social partners that too little time is allowed to consider all the issues fully. We are sorry to observe that it appears that the Commission is determined to press on with its proposal despite almost universal concern that this is to the potential cost of millions of EU citizens.

In light of the above, we thought it highly unlikely that many individual IORPs would be able to respond. Many IORPs are small in size and lack the resources either to respond or to bear the additional cost of calculations of this nature. This raises the concern that this is not a genuine consultation. We know that senior management within insurance companies have struggled with the detail of Solvency II; still less able are IORPs to deal with the content of the consultation and therefore the QIS itself.

On the one hand, many IORPs are likely to be grateful that the UK Regulator intends to carry out the QIS based on aggregate data it holds, rather than placing the burden on IORPs. However, this raises several important points:

1. There is a risk that the aggregate position is not representative of the effect on individual IORPs
2. The fact that this is necessary is evidence that a regulatory system built on these proposals will not be workable in practice (if IORPs cannot carry out the QIS themselves, why should they be any better placed to implement a risk-based supervisory/solvency regime built on that QIS?)
3. How will the cost of adopting a new regime be assessed? It is evident that some of the approaches (such as the method of assessing best estimate cash flows) and some of the data (eg look through to underlying assets) will be difficult for many IORPs – it is unclear how this cost can be captured by a supervisory authority's aggregate assessment. Without knowing this, how can an accurate impact assessment be made? We consider that there is a significant risk that implementation costs will be underestimated.

If (as an alternative) IORPs are provided with 'tools' to assist them in calculating the complex numbers, it seems self-evident that such a 'black box' approach does not aid in the transparency and management of risks by those operating IORPs.

There are some yawning gaps – acknowledged by EIOPA both in this QIS consultation and in its advice in February 2012. Most notable is the absence of any reference to regulatory intervention in the event that the proposed Holistic Balance Sheet is considered not to balance

Despite assurances from Commissioner Barnier at the March 1st 2012 public hearing on the review of the Directive, a great deal of the technical specification is a 'cut and paste' from the Solvency II measures.

The regime for Solvency II was developed over a matter of years and informed by successive QISs – starting at a basic 'range-finding' level and building to the detail covered in QIS5.

Where new 'aspects' (not previously explored in the Solvency II project) have been introduced, it is evident that far too little thought has been given to their relevance and the proposed method of taking them into account – for example the inflation and salary assumptions. For IORP-specific elements at least, a series of iterative QISs should be undertaken.

We question the relevance of a Solvency Capital Ratio for UK IORPs at all. Most UK defined benefit IORPs are 'closed' to new members and many closed to new accrual. Sponsors are currently seeking to make contributions as quickly as is reasonably affordable, with a view to being able to buy out all remaining liabilities through an insurer as soon as possible. Whilst on this 'journey to settlement' the SCR would appear to have no value (it adds no greater security for members than is already afforded by the sponsor support) and is a complicated and expensive set of values to calculate.

We see no likelihood that the revised solvency regime will lead to a proliferation of cross-border arrangements (one of the Commission's stated aims of the review). We believe that the onus is on the Commission to demonstrate that there is both a desire for such plans and that these proposals will facilitate delivery of them.

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SPC responds to EIOPA: Draft Technical Specification QIS IORP

It is evident from the discussions with sponsors of IORPs that the Commission's proposals will do nothing to promote the provision of defined benefit pensions. Quite the contrary, we know that this will further accelerate the shift from defined benefit to defined contribution offerings. Sponsors have finite resources. Where these are diverted to further bolster the existing security of defined benefit liabilities (for generally older employees and ex-employees), it follows that less is available to provide for the adequate retirement provision of younger and future generations of EU citizens. We see no evidence of systemic failures in existing Member States' pension systems (something that we believe has been tacitly acknowledged by DG MARKT); the proposals appear to be EU-wide harmonisation for harmonisation's sake. Worse, the real and significant cost associated with the upheaval will remove funds from EU citizens' retirement provision.

For our full response, please CLICK HERE.

SPC responds to FRC consultation: Assumptions for Statutory Money Purchase Illustrations

We have responded to FRC's consultation document on assumptions for Statutory Money Purchase Illustrations.

For a copy of our response, please CLICK HERE.

We reported the publication of the consultation in **SPC News no. 6, 2012**.

FRC consultation paper: Pension Scheme Incentive Exercises

We have responded to the Financial Reporting Council's consultation paper on pension scheme incentive exercises.

For a copy of our response, please CLICK HERE.

We reported the publication of the consultation paper in **SPC News no. 6, 2012**.

About SPC

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 15,000 people providing pension-related advice and services.

SPC's fundamental aims are:

(a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and

(b) to provide Members with services useful to their business.

THE SOCIETY OF PENSION CONSULTANTS

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