PENSIONS AND LIFETIME SAVINGS ASSOCIATION

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Chris Collins
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Re: The PLSA's response to the 2019/20 Pension Protection Levy Consultation

Dear Mr. Collins,

The Pensions and Lifetime Savings Association (PLSA) welcomes the opportunity to respond to the proposals set out in the PPF's Levy Consultation 2019/20.

The PLSA represents more than 1,300 workplace pension schemes serving 20 million savers and pensioners. Our members include defined benefit (DB) and defined contribution (DC) schemes, master trusts and local government pension funds, together controlling £1 trillion of investments in the UK and global economy. Our membership also includes 400 businesses that provide essential services and advice to UK pension providers. Our mission is to ensure that everyone has a better income in retirement.

Overall, we support the PPF's approach of not making substantive changes during a triennium. We offer below additional views on the key policy areas highlighted in the consultation document.

Contingent assets

The requirement for the re-execution of Type A and Type B contingent assets, as well as the stated preference for schemes to move on to the January 2018 standard forms for when it comes time to renew Type C contingent assets, are both reasonable. Ample notice of these changes has been provided by the PPF and it should be straightforward for schemes to comply with the requirements. Where there is no fixed cap, the suggestion to restate the existing legal opinion should be helpful.

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Implementation of other third triennium changes

Payment Flexibility
For schemes, it can be difficult to accurately budget for the levy, given the complexities of the business and budget planning cycle, and due to the time lags between when official levy estimates are sought by advisers and when an invoice arrives for payment. These challenges have direct impact on cash flows for employers and trustees. Disinvestments may have to be made by trustees at sub-optimal times in order to meet payment deadlines.

An official modeller, housed on the PPF Portal website and which could in principle incorporate data from Experian, would not be intended to replace a more bespoke approach through an adviser, but rather could offer additional support to schemes. It may help schemes to obtain a more up to date and relevant estimate of their levy; it could help to reduce costs for schemes, as regular monitoring of the levy position through advisers can become expensive; and it could be beneficial to schemes that do not have advisers.

Additional support for Small and Medium-sized Employers (SMEs) from the PPF could also come in the form of:

- allowing for monthly instalments;[1]
- allowing for an extension in payment term where the levy has increased since the prior year;
- allowing for an automatic lengthening of the payment term where the levy has increased by a certain amount since the prior year (e.g. if the levy has increased by more than 50% year-on-year);
- allowing for flexibility in payment dates, such as allowing levy payers to choose whether the full invoice is paid at the start or end of a business year.

While allowing for a delay in payment may be the easiest option to execute, the additional administrative resource required to set-up more complex payment arrangements is unlikely to be burdensome, as the PPF could draw upon existing payment systems from other industries described above.

Deficit Reduction Certificates (DRCs)
While there may be benefit to schemes from the new arrangements, DRCs do not ultimately affect the levy amount, and so even a simplified process for a DRC certification is an unnecessary expense, which may be contributing to the low take-up rate of DRC certification.

The consultation document presents the possible challenges that a Pension Increase Exchange (PIE) member benefit option at retirement – where people are allowed to exchange future pension

[1] Allowing for monthly payments in instalments would also align with regular divestments of assets for pension payments.

increases for higher initial pension – places on schemes. There is anecdotal evidence that PIE options are increasingly available and popular, which may mean it has a potential impact on the scheme's PPF position. This in turn would mean that including an augmentation for the purposes of certifying the scheme's DRC is applicable and welcomed. However, while augmentation will more accurately reflect the risk to the PPF, it may discourage DRC certification by making it more expensive for affected schemes.

Block Transfers

Any proposals that help to streamline the process are welcomed by PLSA members.

Potential impact of Brexit

It is not yet known how Brexit will impact the wider economic landscape. Any significant disruption to business – for instance in a "no-deal" situation – could weaken the employer covenant, increasing the risk that should be factored into the levy.

The PLSA has conducted primary research with our members on the potential effects Brexit will have on schemes, which we are happy to share if it would be helpful.

Scheme consolidation & schemes without a substantive sponsor

We recognise the difficult position the PPF is in, as there is a necessity to develop rules for the coming year whilst new providers and legislation are also still coming into being. In many ways, we would expect the proposals for scheme consolidation to be a stop-gap to ensure PPF is protected until the authorisation regime becomes clearer.

With this in mind, there are two key principles that we'd like to see given consideration: fairness and flexibility.

First, there must be parity of treatment between existing DB schemes and the new commercial consolidators ("Superfunds"). For instance, for the same degree of risk, there should be equivalent levels of levy. Some DB consolidators may be able to access assets outside of the fund itself (held in a "buffer"). This means they are comparatively low risk, and it may thus be appropriate to allow them to use the same methodology used for occupational pension schemes which can access external assets in the same way. The use of the Black-Scholes formula in the SWOSS[2] methodology should not disproportionately affect consolidation vehicles in comparison to other schemes if they are actually comparable.

Second, as the new consolidation vehicles imbed, it is important to allow for flexibility in levy determination by using a case-by-case methodology:

[2] Schemes Without a Substantive Sponsor

- For instance, flexibility may be important when dealing with charged assets. Allowing for some flexibility to ensure that the consolidator can respond quickly may be necessary.
- Each commercial consolidator model will be different, and there likely will not be very many commercial consolidators in the market. This will make a less prescriptive determination more viable.
- If Government & the Pensions Regulator are seeking innovation in the DB consolidation space to help protect members' benefits, maintaining flexibility may also be important.
- The "case-by-case" methodology can be revisited regularly to check that this flexibility in approach and lack of prescriptiveness is still the right one.

To support the principles of fairness and flexibility, the PPF should consider adjustments to the contingent assets regime to allow capital buffers that offer risk reduction, and are structured by scheme consolidators to fully protect the underlying scheme (or schemes), to gain sufficient credit in the levy calculation.

It would also be helpful to have clarity on what the calculation methodology would be if a scheme that becomes absorbed within a consolidation vehicle has already paid its levy, as the consultation document does not directly address this circumstance.

Miscellaneous

The European Court of Justice's (ECJ's) decision on the Hampshire case[3] indicates that there may be a need to revisit what the ruling means for schemes which have already been bought out. While the court judgment likely affects only a very small number of members, the re-calculations could be complex and costly. If an employer for a scheme that has been bought out is now insolvent, the relevant costs may then fall on the PPF, which may in turn have knock-on effects on future levies.

Yours sincerely,

Tiffany Tsang
Policy Lead: LGPS and DB

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[3] On 6 September 2018, the European Court of Justice (ECJ) ruled that each scheme member entering the PPF should have their benefits protected to a floor of 50% of the total value of their accrued benefits. The judgment is also likely to apply to members of the Financial Assistance Scheme.

The ruling was in favour of PPF member Grenville Hampshire, who was a member of the Turner & Newall (T&N) pension scheme, that entered PPF assessment in 2006. As a result of the current legislation governing PPF compensation (including the cap, and restrictions on pre-97 indexation), Mr Hampshire's pension entitlement was reduced by 67%, from £76,302 p.a. to £19,189.