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BULLETIN

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PENSIONS BULLETIN

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In this month's Pensions Bulletin, we consider three significant consultations regarding the Pension Regulator (TPR) and its powers: the proposed approach of TPR to the new criminal sanctions under the Pension Schemes Act 2021 (PSA), the draft consolidated Code of Practice, and details of the extended Contribution Notice and other TPR powers. The anticipated timings for the various different parts of the PSA are summarised. We look at the Government's latest consultation on proposals to require large schemes to manage, and disclose their approach to, climate risks and opportunities. Two post-Brexit scheme governance developments are covered – the end of cross-border schemes and continuation of co-operation on social security rules for secondments to the EU. We highlight the pensions aspects of the Spring Budget and consider the details of the increase in normal minimum pension age to 57 in 2028. We end with our updated watch list of the key pensions legislation and regulation we are expecting over the course of 2021.

THE PENSION REGULATOR'S APPROACH TO NEW CRIMINAL OFFENCES

TPR has published a draft policy setting out its approach to the new criminal offences to be brought in on 1 October 2021 under the Pension Schemes Act 2021 (PSA). The prosecution of the new criminal offences (with potentially up to 7 years' imprisonment) will be closely linked to existing Contribution Notice (CN) tests and a financial penalty. TPR considers that the introduction of the offences will make a fundamental change to the options available to it. Importantly, TPR says it will take account of evidence predating commencement on 1 October 2021, so the change is immediately relevant.

Background: The new criminal offences, which can apply to any "person" (including individuals, and regardless of whether the person has any connection to, or association with, the scheme or its employer), are:

- avoidance of employer debt to a defined benefit pension scheme, under a new Section 58A of the Pensions Act 2004
- conduct that detrimentally affects accrued scheme benefits in a material way, under Section 58B.

In both cases, no offence is committed where the person had a "reasonable excuse" for his/her actions. There is no clearance procedure in relation to the criminal offences, i.e. TPR will not confirm that there will be no prosecution. For more detail, please see our client bulletin on the PSA.

Policy for prosecution: TPR has published its draft policy on its approach to the investigation and prosecution of the new offences, with consultation closing on 22 April 2021. The short consultation document merely asks for comments on TPR's overall approach, how cases will be selected for investigation and whether the examples in the

draft policy are useful. The policy covers only the two criminal offences set out above; TPR already has a Prosecution Policy covering its general approach to criminal investigations and proceedings and a separate Monetary Penalties Policy for civil sanctions.

TPR's approach will be guided by the policy intention – that the offences were not intended to achieve a fundamental change in commercial norms or accepted standards of corporate behaviour but were aimed at enabling TPR to address serious intentional or reckless conduct already within the scope of its CN powers. Therefore, TPR would consider a case for prosecution in broadly the same circumstances where it would consider seeking a CN. However, there may be circumstances where TPR would not pursue a CN (where the target's resources are low, for example) but would still consider prosecution as its deterrent effect might be in the public interest.

It is important to note that TPR states that, in selecting cases for prosecution, it will be "mindful of the policy intent" and take into account whether "significant financial gains have been unreasonably made to the detriment of the scheme", or there has been "some other unfairness" in the treatment of the scheme.

Other considerations in a decision to prosecute would be the relationship between the target and the employer and the scheme and the extent of their involvement, together with any direct or indirect benefits received. TPR notes that offences will not only be committed by those with "significant decision-making power".

Retrospectivity

The draft policy states that, in considering whether the person "knew or ought to have known" that their action would have a detrimental effect on scheme benefits (a requirement for the Section 58B offence), TPR will consider the circumstances as they were at the time of the act and not with the benefit of hindsight based on knowledge of what has happened since. However, TPR also states (in relation to both offences) that evidence pre-dating the commencement date (expected to be 1 October 2021) may be relevant to investigation or prosecution after that date, for example if it indicates intention.

TPR does not mention the Government's statement, during the final Parliamentary stages of the PSA, that the new criminal sanctions would not be "retrospective". It is clear now that "not retrospective" means not applying to acts or failures to act taking place before the new powers come into force, but that TPR will look at behaviours pre-dating the coming into force of the criminal offences when assessing whether they will prosecute or whether there is a "reasonable excuse" defence. TPR may adopt a similar approach for other new penalties and sanctions contained in the PSA, such that behaviours pre-dating the coming into force of the provision might be relevant. In the context of Financial Support Directions rather than CNs, such an approach was supported by the courts.

Reasonable excuse

Although it is for TPR to show there was no reasonable excuse, TPR does not need to disprove every possible excuse. Targets will be expected to put forward sufficient evidence (from contemporaneous records such as minutes of meetings, correspondence and written advice) of any matters that might amount to a reasonable excuse. The main factors will be:

- Whether the detrimental impact was an incidental consequence rather than a "fundamentally necessary step". Ordinary business activity conducted at arm's-length by an unrelated party, such as a change in a lending arrangement, where the purpose was unrelated to the scheme, would be incidental. A key supplier terminating a supply contract with the employer with the intention of bringing about its insolvency so they can buy the business out of insolvency apart from the scheme would not be incidental.
- The adequacy of any mitigation and whether there was a viable alternative to mitigation. TPR gives the example of an employer raising debt with prior ranking security, in circumstances where the new debt is critical for the survival of the business, there is no less onerous source of finance available, and continuation of the employer is a better outcome for the scheme than insolvency.
- Whether the scheme is being treated fairly in relation to other parties.

Additional factors include:

- The extent of prior communication and consultation with the trustees.

- Compliance with any statutory duty to notify TPR.
- Openness and timeliness of communication with TPR.

Liability of advisers

In most instances, a professional person, acting in accordance with their professional duties and regulatory standards, is likely to have a reasonable excuse. One of the less extreme scenarios where TPR may look to prosecute advisers is where an investment manager encourages a scheme to change their investment strategy to one that significantly increases downside risk with little corresponding upside.

THE PENSION REGULATOR ISSUES DRAFT CONSOLIDATED CODE OF PRACTICE

TPR has issued a Press Release announcing the publication of its much-delayed draft consolidated Code of Practice for pension schemes. There is a Consultation document and a draft Code of Practice (COP). The new governance provisions, centred around the requirement for all schemes to have an effective system of governance and for all but the smallest schemes to carry out an annual "own risk assessment", dominate the Code's topic-based modules. Although much of the other content has come directly from TPR's existing Codes of Practice, it has been updated and, in some cases, broadened to cover both DB and DC schemes.

The new COP contains 51 modules arranged under five headings:

- Governing body (the new name for trustees/managers)
- Funding and investment
- Administration
- Communications and disclosure
- Reporting to TPR.

The COP sets out TPR's expectations largely in the form of bulleted lists within the modules, but TPR comments that the use of lists does not mean that a "tick box" approach to governance will be acceptable. Legal duties are shown by use of the word "must", while TPR's expectations are referred to as "should". The word "need" is used where there is no expectation or legal requirement but the process is necessary to allow a scheme to operate. "Must" tends to be used where there is a reference to legislation; most of the rest of the content uses "should". As with other TPR Codes of Practice, there is no specific penalty for failing to follow the COP, or to meet the expectations set out in it. However, TPR may rely on it in legal proceedings as evidence that a requirement has not been met. In those situations, a court must take the COP into account.

The COP, which covers DB, DC and public service schemes, consolidates and re-presents existing TPR Codes of Practice, including Code 7 (Trustee knowledge and understanding), Code 9 (Internal controls) and Code 13 (DC Governance and administration – expanded to cover DB schemes). Most of the new material derives from implementation of the governance aspects of the European IORP II Directive, transposed by the UK's Governance Regulations which came into force in 2019. These Regulations amended the main legislative provision on scheme governance - Section 249A of the Pensions Act 2004 - replacing references to the requirement for "internal controls" with references to an "effective system of governance including internal controls". All the governance requirements in the Regulations, as reflected in the COP, apply to schemes with 100 or more members, apart from the requirement for an effective system of governance, which applies to all schemes.

All schemes "must" have effective system of governance (ESOG) and an "own risk assessment" (ORA) which schemes with 100 or more members "should" carry out each year. Under the ORA, the governing body "should" assess the effectiveness of, and risks from, a number of issues, such as risk management policies, investment governance, administration, payment of benefits, and the policies of the governing body itself. The ORA will not have to be sent to TPR, or published, but it should be documented by the governing body. Schemes in scope should prepare and document their first ORA within one year of the COP coming into force, and then annually thereafter. The ORA should also be reviewed whenever there is a material change in the risks facing the scheme or to its governance processes. In one of only a few module-specific questions, the consultation asks if this cycle for review and update is appropriate.

There is other new content reflecting existing law, Codes of Practice and guidance, on topics including stewardship, climate change, audit requirements and cyber controls.

The consolidated COP does not at this stage cover some existing COPs, including those on corporate transactions which are affected by provisions of the PSA. The first updating of the COP will bring in the new DB Funding Code after consultation at the end of 2021, followed by the changes to reflect the PSA.

The consultation closes on 26 May 2021 but there is no indication when the COP will come into force, although we know it will be phased in.

NEW "EMPLOYER RESOURCES" TEST FOR EXTENDED CONTRIBUTION NOTICE POWERS

On 19 March 2021, the DWP published a consultation paper (Strengthening the Pension Regulator's Powers) on the proposed drafting of regulations under the Pension Schemes Act 2021 (PSA) on the powers of TPR to issue Contribution Notices (CNs). The proposed "employer resources" test is based on profitability and not, as had been expected, similar to the net assets resources test for Financial Support Directions. Whilst the new test would be less subjective than other alternatives considered, there is concern that a reduction in profitability may arise from all sorts of ordinary business activity that one would not expect to be covered by a CN.

The PSA will now have two new grounds for issuing a CN, both relating to the weakness of an employer:

- an "employer insolvency" test, and
- an "employer resources" test.

Defences are available in relation to both tests and both are subject to the existing "reasonableness" test whereby TPR must be of the opinion that it was reasonable to impose a CN. For more information, please see our recent client bulletin on the PSA.

The "employer insolvency" test will allow TPR to issue a CN on a person where, in TPR's opinion:

- immediately after the act/failure to act to which the person was party, the pension scheme is in deficit on a buy-out basis (using TPR estimates of scheme asset and liability values), and
- if a debt had been triggered at the time, the act/failure to act would have materially reduced the amount of the debt likely to be recovered by the scheme.

Under the "employer resources test", TPR can issue a CN on a person where, in TPR's opinion:

- that person was party to an act/failure to act which reduced the value of the "resources" of the employer; and
- the reduction was "material" relative to the estimated Section 75 debt in relation to the scheme.

The draft Regulations, which are expected to come into force on 1 October 2021 (see next item), outline a proposed approach to the employer resources test: "resources" of the employer should be the employer's normalised profits before tax. TPR would operate a three-stage process:

1. Calculate normalised annual employer profit before tax (NAPBT) absent the "act", using latest annual accounts and excluding exceptional or non-recurring items.
2. Calculate the change to NAPBT attributable to the act. TPR would determine the impact from sources such as subsequent annual accounts or management accounting information.
3. Compare the difference between 1 and 2 above to the Section 75 deficit and apply the materiality test.

The consultation notes the other options considered for assessing employer resources (net assets, covenant value or strength) but concludes that the profitability measure should be used. Whilst acknowledging that it is "not perfect", and could lead to uncertainty as to whether future actions would be caught, no less subjective alternatives were identified.

The DWP highlights that meeting the employer resources test will not automatically mean that a CN will be issued, since TPR must still show reasonableness. It acknowledges that if an employer's profitability has reduced as a result of

an act/failure to act, that employer might continue to have substantial strength (for example due to its assets, which would not be taken into account in a profitability assessment) so that it is able to support the scheme. TPR would take these circumstances into account in considering whether to impose a CN. The consultation document does not mention TPR's clearance process for CNs, which it had been anticipated might be extended.

The consultation also covers TPR's information-gathering powers. Draft Regulations include:

- The information that notices to interviewees should contain.
- Inspection powers will be permitted against any employer in a multi-employer scheme.
- The penalty rates for non-compliance with information-gathering requests. The proposed fixed penalty is £400 and the escalating penalty would be £500 per day for non-individuals, up to a daily rate of £10,000.

The consultation period runs until 29 April 2021 and the Government aims to publish its response to the consultation within 12 weeks.

PENSION SCHEMES ACT 2021: PROPOSED START DATES

In our client bulletin on the Pension Schemes Act 2021 (PSA) published last month, we cover details of the major changes to pensions legislation made by the PSA and the next steps and timing for regulations and guidance. Since then, the Government has given some further indications of likely start dates.

In a written statement to Parliament on 2 March 2021, the Pensions Minister Guy Opperman provided updates on timings:

- Strengthening the **powers of TPR** in relation to DB schemes: the Minister confirmed that consultation on the "majority" of draft regulations will take place this spring; the enhancement of TPR's power to issue CNs and the criminal offences (neither of which require any regulations) will come into force in the autumn. Consultation on the new "Notifiable Events" will take place "later this year" and will take effect "as soon as practical thereafter". It therefore appears that these regulations will be brought in later than the TPR powers. (TPR has now issued draft guidance on the criminal offences and draft regulations on CNs – please see the items above.)
- **DB scheme funding**: the Minister said that consultation on draft regulations will take place "later this year" (previously, TPR had indicated that it would take place in "the first half of 2021"). The second part of consultation on new TPR funding Code of practice is now likely to be late in 2021, once the regulations are in final form. TPR has recently indicated that the new regime will not therefore be operational until late 2022 or early 2023. It will then apply to triennial valuations after that date. In the final stages of the PSA's progress through Parliament, the Government confirmed that the Code and the regulations underpinning it will acknowledge the different position of open and less mature schemes.
- New requirements for trustees of larger occupational pension schemes to manage, and disclose their approach to, **climate-related risks and opportunities**. The Minister confirmed that regulations will be published this summer to come into force from October 2021, as expected. Please see more on this topic below.
- Further action on **scams**, in the form of restrictions on individual transfers-out: consultation will take place in "early summer", with legislation commencing in "early autumn".
- **Pension dashboards**: there will be consultation on regulations "later this year", with delivery on track for 2023.

CLIMATE RISK GOVERNANCE AND REPORTING: LATEST DEVELOPMENTS

The DWP has published its response to consultation on proposals to require large schemes to manage, and disclose their approach to, climate risks and opportunities. Our February 2021 detailed client briefing: Climate risk and the Pension Schemes Act covers what trustees will need to do and the wider impact of the new governance and disclosure regime. Whilst initially applying to large schemes, schemes of all sizes will need to consider their governance of climate risk in the light of the proposals. TPR has recently made clear the importance that it attaches to pension trustees addressing

climate risks, pointing out that the new regime is likely to increase engagement by members with their schemes on climate risk.

The Government's response to its August 2020 consultation on climate-related risks included a further consultation (which ended on 10 March 2021) on two sets of implementing regulations under the PSA and on draft statutory guidance. (The regulations and guidance were not included in the original consultation.) The regulations will require trustees of schemes in scope to have regard to the statutory guidance, which sets out how they should meet the requirements and report in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD). Trustees would be able to diverge from the statutory guidance, but would have to explain why they had done so in their annual TCFD report.

The response confirms that the scope of the proposals will be broadly as set out in the 2020 consultation: schemes with net assets of £5 billion or more (on the first scheme year-end date which falls on or after 1 March 2020) will be required to disclose annually, with climate governance in place by October 2021 (unless audited accounts are not yet available). "Net assets" means those attributed in the annual report and accounts, less any external liabilities, i.e. other than liabilities to pay pensions and benefits. The equivalent requirements will apply to schemes with at least £1 billion assets one year later.

Whilst initially applying to large schemes, schemes of all sizes will need to consider their governance of climate risk in the light of the proposals. A recent statement from TPR is a reminder for trustees of the importance it attaches to addressing climate risk. In a Press Release accompanying publication of its annual survey of DC trust-based schemes, David Fairs of TPR expressed concern at the low percentage of DC schemes whose trustees are considering climate change in their investment strategies (43%), commenting that trustees must give greater attention to climate risks.

DC schemes with more than 100 members and/or which are used for automatic enrolment (95% of DC members) were asked whether they took climate change into account when formulating their investment strategies and approach. The report notes that, of schemes whose trustees had not considered climate change, although 19% stated they were planning to review this, a further 21% felt climate change was not relevant to their scheme. Referring to the PSA requirements, David Fairs commented, "*Although a phased approach means the new Act won't affect all DC schemes to start with, it will increase the expectations savers have of those responsible for their pension pots when it comes to climate change*".

TPR's recently published corporate strategy confirms that it is shortly to publish a climate risk strategy "*to ensure schemes are investing in the best interests of members*".

BREXIT: CROSS-BORDER REGIME ENDS; SECONDED WORKER RULES CONTINUE TO APPLY

TPR has updated its guidance following the ending of cross-border schemes. Any schemes operating cross-border within the EU with some UK participation (such as UK schemes that have Republic of Ireland members) will need to check whether they can continue functioning as before, depending on the laws or regulations of the countries in which they are operating.

In another, helpful, development, all EU countries will apply the "detached worker" exception to UK employees who are posted temporarily to work in the EU. As a result, the current arrangements whereby auto-enrolment duties apply to employers of workers on short-term assignment in the EU should be able to continue as before.

Cross-border schemes

TPR has updated its guidance for cross-border schemes: *Arrangements following the end of the Brexit transition period*, to reflect the repeal of the EU law on cross-border schemes (which had been implemented in the UK) with effect from 31 December 2020. The new guidance treats EU countries in the same way as other overseas countries, as follows:

- **UK-based cross-border occupational pension schemes:** UK law does not prevent an employer in another country contributing to the scheme, but the rules of the other country should be checked to see if that country allows this to happen and whether there are any restrictions.

- **UK employers contributing to occupational pension schemes based outside the UK:** UK employers may be able to continue to contribute but should take steps to assess whether this is possible, including checking with the regulatory body in the overseas country and potentially taking legal advice. From the UK's perspective, these non-UK schemes must be established under trust, and have a trustee or a trustee-appointed representative who is UK resident. The scheme may also need to be registered with HMRC in the UK for tax purposes.

The repeal of the cross-border pension scheme regime also means the end, in practice, of the exemption from the duty to auto-enrol for a "European employer" (the employer of a worker working in, and subject to the social and labour law of, an EEA state other than the UK). The exemption was put in place because of the risk that accepting such workers into an auto-enrolment scheme might cause the scheme to be a cross-border scheme. The exemption has not yet been removed from the Auto-enrolment Regulations but ceases to have practical effect now that the cross-border regime has been repealed.

Seconded worker social security rules to continue

HMRC has updated its social security contributions guidance for EEA and Swiss workers coming to the UK and its guidance on National Insurance Contributions (NICs) for UK workers going to the EEA and Switzerland, to reflect the fact that all EU member states have opted to apply the "detached" (formerly "seconded") worker rules.

Under the Social Security Coordination Protocol in the December 2020 EU-UK Trade and Cooperation Agreement, the general rule is that employee and employer social security contributions are due only in the country in which the employee is physically working. However, the Protocol contains an exception for detached workers whereby employee and employer social security contributions continue to be paid in the employee's home country, subject to satisfying certain conditions (principally that, generally, the secondment is for no more than two years).

The short-term assignment rule (now referred to as the "detached worker" rule) between the UK and an EU member state continues to apply, as all member states have opted in to the detached worker rules. HMRC's guidance confirms that UK employers sending an employee to work temporarily in the EU should apply to HMRC for certification so that NICs can continue to be paid in the UK. Likewise, UK employers bringing an EU-based employee to the UK to work temporarily should ensure that the employee obtains a certificate from their home EU member state so that social security contributions can continue to be paid in that home member state.

The continuation of the seconded worker rules means that the current arrangements whereby auto-enrolment duties apply to employers of workers on short-term assignment in the EU should continue as before. Auto-enrolment applies to individuals working or "ordinarily working" in the UK and, as TPR's guidance on Assessing the workforce explains, evidence of payment of NICs in the UK is a clear indication of a sufficiently strong UK connection remaining despite an overseas placement.

BUDGET 2021: PENSION ASPECTS

The Budget 2021 contains three measures of significance for pension schemes:

1. The standard lifetime allowance will be frozen for the next five tax years (2021/22 to 2025/26), meaning that a broader group of pension savers will potentially be affected.
2. As part of its push to remove regulatory barriers to DC pension schemes investing in higher growth assets such as venture capital and private equity, the Government is consulting on whether certain costs within the auto-enrolment charge cap affect DC schemes' ability to invest.
3. The Coronavirus Job Retention Scheme has been extended until 30 September 2021, initially on the same basis as now but with the employer's salary contribution increasing from July.

For more details, please see our HR Budget Briefing.

INCREASING NORMAL MINIMUM PENSION AGE TO 57 IN 2028: MORE DETAILS ON THE NEW REGIME

Schemes will need to communicate to members the proposed 2028 change in normal minimum pension age (NMPA - the earliest age at which pension benefits can be taken in authorised form for tax purposes), from age 55 to 57. They will also need to check whether members currently have an unqualified right under scheme rules to take benefits at 55 in any circumstance, and so whether grandfathering is likely to be relevant to their members. Schemes that are considering bulk transfers (such as master trust transfers) will need to consider how the proposed change might affect members.

The consultation from HM Treasury (HMT) confirms that the NMPA will rise to 57 on 6 April 2028 (as originally proposed in 2014 and recently reconfirmed – see our Pensions Bulletin September 2020). The consultation confirms that "*in principle*" it is appropriate for the NMPA to remain "*around 10 years under state pension age*" but that the Government does not intend to link NMPA rises automatically to state pension age increases at this time. Therefore, the proposed draft legislation that will be put forward in summer 2021, and included in the subsequent Finance Bill, will just cover the rise to age 57.

The change will apply to all schemes except certain public sector schemes. The existing grandfathering protection for individuals with a protected NMPA of less than 55 will remain in place. In addition, HMT proposes a new additional scheme specific grandfathering regime. This will be based on the existing grandfathering regime but is proposed to be more flexible in some respects:

a) A member of a pension scheme who has a right under the scheme rules as at 11 February 2021 (the date of the consultation) to take pension benefits at an age below 57 will be able to keep an NMPA of 55 in that scheme, for benefits built up both before and from the date of change. A right means an unqualified right where no consent of another person (e.g. trustee, employer) is required.

b) Helpfully, there will not be a 'retirement from employment' or 'full crystallisation' condition (unlike the current grandfathering regime).

c) The protection will be automatic (there is no need to apply for it), which is the same position as under the current grandfathering regime.

d) It is proposed that the protection can be retained on a "block transfer". It is unclear what this will involve in the new regime. If the same conditions were to apply as under the current grandfathering regime, this would require all of the member's benefits to be transferred in a single transaction. This can be problematic on, for example, a DC transfer to a master trust from a "hybrid" pension scheme providing both DB and DC benefits, if the transferring member retains DB benefits or life cover in the transferring scheme.

e) The protection regime will apply to all types of registered pension schemes, including personal pension schemes (which are excluded from the existing grandfathering regime).

Limiting the proposed new grandfathering regime to rights under pension scheme rules aligns with the existing regime, and would not extend to contractual promises made outside a pension scheme. This has caused some issues in practice with the current regime.

It appears that the intention is that new scheme members joining after 11 February 2021 will not be able to qualify for the new grandfathering regime. This would be a different approach from that taken in 2006, where the right to take benefits before age 55 had to be in the scheme rules at 10 December 2003 but could be conferred on new joiners up to 5 April 2006.

Schemes should check whether members currently have an unqualified right under scheme rules to take benefits at 55 in any circumstance, and so whether grandfathering is likely to be relevant to their members. Assuming that the new regime follows the existing one in this respect, relevant rights would include an unqualified right to take benefits if a contingency arises such as redundancy, or a minimum service period. In any event, schemes should review member communications, and add flags reflecting this proposed change. Depending on the exact formulation of the legislation eventually laid, the changes may affect all new joiners after 11 February 2021.

There will be a cliff edge rise to age 57 at 6 April 2028, as there was when the NMPA rose to age 55 in 2010. This caused some difficulties in practice in 2010, requiring remedial legislation, and it is to be hoped that the draft legislation avoids the same pitfalls.

There is an opportunity to respond to consultation on the change in NMPA before 22 April 2021.

PENSION LEGISLATION AND REGULATION WATCH LIST

No	Topic	Deadline	Further information/action
1	Statement of Investment Principles (SIP) annual implementation statement	Annual reports which are signed off on or after 1 October 2020	This applies to all pension schemes required to provide a SIP. The requirements for DB schemes are more limited: they do not require a review of the SIP; and limit the provision of details of how the SIP has been followed to voting and engagement only.
2	Include annual implementation statement on website	Annual reports which are signed off on or after 1 October 2020	For DC schemes only. (The requirement for DB schemes applies in part only, and later - see 7 below.)
3	Draft DB Funding Code of Practice	Regulations expected for consultation later in 2021. Part 2 of consultation on draft Code expected towards end of 2021 and new Code expected to be operational in late 2022/early 2023.	Once in force, the Code will apply to triennial valuations thereafter.
4	Pensions Schemes Act 2021: TPR powers; scheme funding; CDCs; transfer scams; pension dashboards	Different implementation dates expected for different parts	Regulations and further consultation expected. Climate risk provisions - see 8 below.
5	TPR consolidated Code of Practice	TPR consultation on draft Code closes on 26 May 2021	
6	Trustee oversight of fiduciary managers and investment consultants	Under the Investment Consultancy and Fiduciary Management Market Investigation Order 2019, compliance statements had to be provided to CMA by 7 January 2021.	Consultation response and new DWP regulations have been delayed until June 2022.

No	Topic	Deadline	Further information/action
7	Include annual statement on compliance with policy on stewardship and engagement activities, and voting behaviour, on website	I October 2021	DB schemes only.
8	Climate risk governance and reporting requirements under the Pension Schemes Act 2021	1 October 2021	Applies to schemes (DB and DC) with £5 billion or more in net assets on the first scheme year to end on or after 1 March 2020. They will be required to have governance for the scheme year underway from 1 October 2021 and publish the first annual report within seven months of the end of the scheme year. Consultation on draft Regulations under the Pension Schemes Act and draft statutory guidance issued with response to consultation.
9	Proposals to improve DC scheme governance and disclosure and to encourage consolidation, including changes to the annual Chair's statement and charge cap changes	October 2021	DC schemes only. Consultation on improving outcomes for members of Dc schemes issued September 2020. Further consultation on incorporating performance fees within the charge cap issued March 2021; draft regulations and statutory guidance on other aspects of the September 2020 consultation expected June 2021.
10	DB superfunds	Interim regulatory regime in place from October 2020	New legislation promised

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