Human Capital

News

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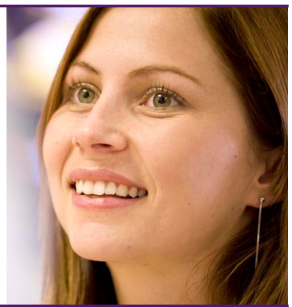

Time is running out to certify contingent assets

A significant number of defined benefit pension schemes and sponsoring employers are now using contingent assets to reduce their Pension Protection Fund (PPF) levy. Contingent assets can also provide trustees with some much-needed reassurance where there is concern over a scheme deficit and the sponsoring employer's ability to meet that deficit. Clearly this is of particular relevance in the current financial climate (please see our previous Pensions Alert, "Time for trustees to take the initiative", January 2009, where we discussed this and other measures that trustees should be considering in response to the economic downturn). However, time is running out for trustees and employers who wish to put in place new contingent assets and re-certify existing arrangements, if those contingent assets are to be taken into account by the PPF in setting the 2009/2010 levy applicable to their schemes.

We outline below the requirements, deadlines and recent changes to the PPF certification process applicable to contingent assets.

PPF REQUIREMENTS – A SUMMARY

A contingent asset is an asset that will produce funds for a pension scheme if certain events occur, such as the insolvency of the scheme's sponsoring employer. The PPF will take account of certain specified contingent assets (such as a group company guarantee, a charge over property, shares or a bank account, or a letter of credit) when calculating the PPF risk based levy payable by a pension scheme. In a recent publication, the PPF estimated that a total of £67 million was saved on levy bills for 2008/09 as a direct result of schemes certifying contingent assets.

In order for the PPF to recognise a contingent asset, it must be documented using PPF standard documentation. Trustees must also certify that the contingent asset is in the standard form and is legally valid, binding and enforceable. This must be supported by a formal legal opinion relating to the contingent asset.

Where a scheme already has the benefit of a PPF recognised contingent asset, the trustees will need to re-certify that contingent asset for the levy year 2009/2010, to confirm that it remains in place.

RECENT CHANGES TO THE CERTIFICATION PROCESS – WHAT YOU SHOULD KNOW

Although relatively few changes have been proposed to the calculation of the 2009/2010 levy, partly in response to the current financial pressures faced by pension schemes and employers, substantial reform has taken place as regards the process for submission of certificates relating to contingent assets:

- All certificates and re-certifications must now be submitted through the Pensions Regulator's online Exchange service. Trustees will now have to access the website themselves and fill in the appropriate forms for submission.
- All new certificates and re-certifications must be submitted by the deadline of 5pm on 31 March 2009.
- Hard copy support documentation for contingent assets must also be submitted separately by hand or by post to the PPF, by the same deadline.
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We recommend that schemes make their applications as soon as possible, to take advantage of the reduction in levies that can result from a contingent asset that is recognised by the PPF. We would also encourage trustees to diarise the re-certification of existing contingent assets by the 31 March 2009 deadline, particularly as the PPF will no longer be issuing re-certification reminders. Hammonds has extensive experience of assisting trustees and employers with the creation of contingent assets and can offer advice and practical guidance on ensuring that these meet the PPF requirements.

FURTHER INFORMATION

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