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Update from our European experts
European Pensions Agenda

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Advisers: Eversheds LLP

1 EU – IORP II text finalised – The **new IORP Directive** has now been finalised and is expected to come into force by the end of this year. EU Member States will have two years to implement the directive, which contains new governance and disclosure requirements, relaxes the funding requirements for cross-border schemes and increases member protection on cross-border transfers. It is possible that these requirements will still be implemented in the UK despite Brexit.

Action: Review the new requirements and consider the implications for your plan. **Read more**.

2 France – Supplementary pensions could be exempt from Solvency II – The government is proposing to exempt supplementary pensions from Solvency II capital requirements under a new omnibus bill, *Sapin II*. To achieve this, insurers will be permitted to transfer supplementary pensions into a new legal entity, which will take the form of an institution for occupational retirement provision (*IORP*). According to official estimates, €130bn of assets should be eligible for this.

Action: Insurers should assess this opportunity. Employers should consider the implications for their supplementary pension plans.

3 Germany – Employers face increased pension liability – A recent ruling of the Federal Labour Court could increase an employer's liability for underfunding of direct insurance pension contracts ("*Direktversicherung*") and staff pension funds ("*Pensionskasse*"). Employers are now required, amongst other things, to comprehensively repeat their limitation of liability ("*versicherungsförmige Lösung*") within three months of an employee leaving to avoid any liability for underfunding.

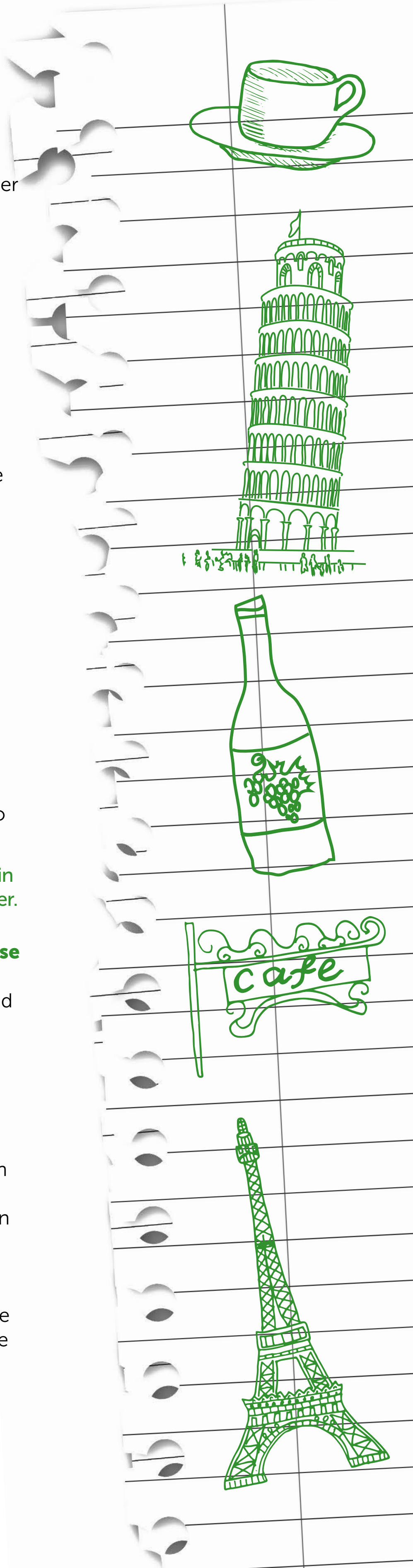
Action: Ensure that the liability limitation is repeated to employees in writing within three months of the end of their employment and that notice is given to the insurer.

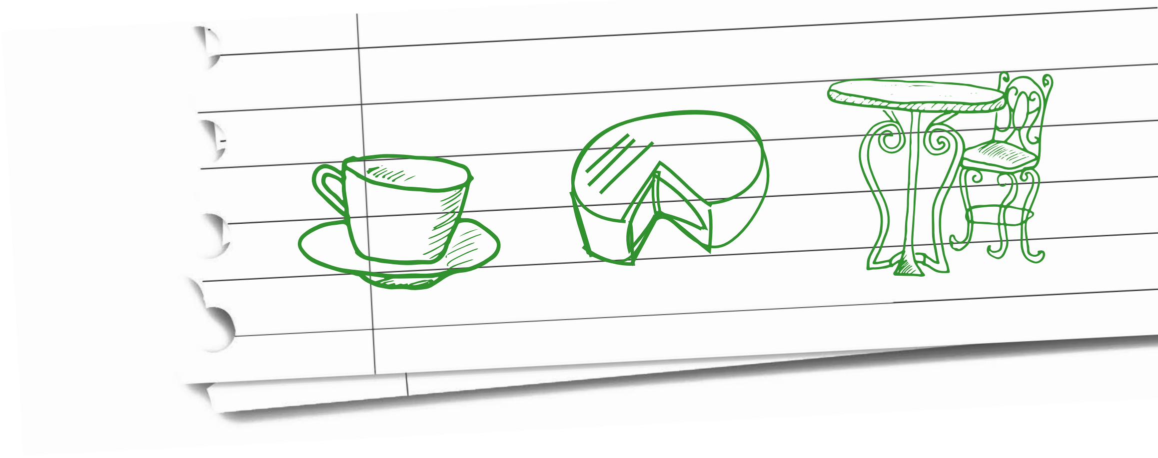
4 Ireland – Irish Revenue Commissioners relax rules on annuity purchase – All monies held in a retirement or a buy-out bond, whether they originate from a DB scheme or not, can now be invested in an approved retirement fund by the holder on his or her retirement, rather than the individual being forced to buy an annuity.

Action: Trustees, administrators and HR departments should factor this into their decision making and member communications.

5 Italy – Agreement reached on loans in anticipation of retirement – On 28 September, the Minister of Labor and Social Policies signed an agreement with the trade unions on social security reform. The agreement includes a plan to introduce a new measure to allow individuals within three years and seven months of retirement to take out a secured bank loan (known as "*Anticipo Pensionistico*" (i.e. anticipation of retirement) or "*APE*") repayable over twenty years, to help bridge the gap to retirement. Generous terms would be available to certain groups including the unemployed, those made redundant and those unable to work due to a disability.

Action: Assess the potential impact of these proposals for your staff and on corporate restructurings.





6 The Netherlands - First General Pension Funds licenced – The Dutch Central Bank has recently authorised two pension funds to be established using a new pension vehicle, the *General Pension Fund* (or "*APF*"). This means there is now an alternative to insured DB-pension plans where renewing an insurance contract is too expensive, due to the cost of guaranteeing accrued benefits. The APF is also a potential alternative for pension funds that want to transfer accrued benefits to another provider. Further APFs are expected to be licenced shortly.

Action: Consider the potential advantages of an APF if you are approaching the renewal of your insured benefits contract or terminating your company pension fund.

7 The Netherlands – Works Councils' rights extended – The Works Council Act has recently been amended to give Works Councils the right to be informed about proposed amendments to the execution agreement (i.e. the agreement between an employer and an insurance company or pension fund). If these amendments have a direct impact on the pension agreement (i.e. employment conditions regarding pensions) they will be subject to the Works Council's consent.

Action: Inform and consult Works Councils as required by this new law.

8 Switzerland – Minimum interest rate for Pensionskassen set to be reduced – Following its annual review, the BVG Kommission has recommended a further reduction in the minimum interest rate Pensionskassen (i.e. occupational pension funds) must guarantee on active members' mandatory contributions (Mindestzins) from 1.25% to 1% for next year. This is due to economic conditions. The change is subject to government approval, although historically the government has always accepted the Kommission's recommendation.

Action: Monitor developments and assess the potential impact on your pension plan.

9 Norway – Compulsory retirement age rises to 70 – The minimum compulsory retirement age employers can operate has risen from 67 to 70. To be enforceable, a compulsory retirement age must be communicated to employees, be supported by an occupational pension plan and be consistently applied to all employees. Without this, termination of employment due to age is prohibited before age 72.

Action: Ensure your retirement policy complies with these new legal requirements.

10 UK – Preparing for Brexit – The priority for trustees and sponsors of DB plans following the EU referendum has been assessing the immediate and potential longer-term impact on their plan's funding position, investments and employer covenant. The vote has also led to opportunities for some plans to buy-out at attractive prices and it has highlighted the need to have effective contingency plans in place.

Action: Assess the impact of Brexit on your plan and sponsor. Ensure suitable contingency plans are in place to deal with future 'shock' events. **Read more**.

Check out our **Brexit hub** for the latest views on the legal implications of Brexit.

For more details on these or any other issues speak to your usual Eversheds' adviser or email Francois Barker, Head of Pensions, at **francoisbarker@eversheds.com**.

Read the last edition of our **European Pensions Agenda**.

Read PensionsEurope's paper on the ***'Key Principles of Good Governance for Workplace DC Plans throughout Europe***'.

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