

Around the world

International Pensions Agenda

April 2018

1 USA - end of “determination letters” – The US Internal Revenue Service recently stopped issuing most “determination letters” that would confirm that an amendment to a retirement plan complies with extensive tax qualification requirements.

Action: Plan sponsors who make material amendments to their retirement plans should consult with counsel to confirm that the amendment does not impact the tax-qualified status of the plan. Sponsors should consider whether they need a tax opinion letter from a law firm to demonstrate compliance to external auditors, lenders and others.

2 Ireland - Roadmap for Pensions Reform – The Irish government has launched the Roadmap for Pensions Reform 2018-2023, a document setting out significant reform proposals covering many aspects of the Irish pension regime. It includes proposals on a new system of pensions automatic enrolment, reform of the state pension, improved governance and regulation of occupational plans (including a more proactive role for the Pensions Authority and a fitness and probity benchmark for trustees), additional protection for DB plan members and a review of the tax treatment of different pension arrangements. The stated timescales for implementing these wide-ranging plans are ambitious (automatic enrolment, for example, is due to begin by 2022). For more information, please click [here](#).

Action: Monitor progress. Detailed proposals will need to be formulated and published before stakeholders can fully gauge the potential implications of these reforms for the Irish pensions industry.

3 France - complementary pension plans to merge – ARRCO and AGIRC (the two mandatory and complementary pension plans in France) are due to merge from 1 January 2019. This involves all private sector employees and will impact many aspects of the working relationship: for example, employer contributions to retirement plans, payslips and differences between executives and non-executives.

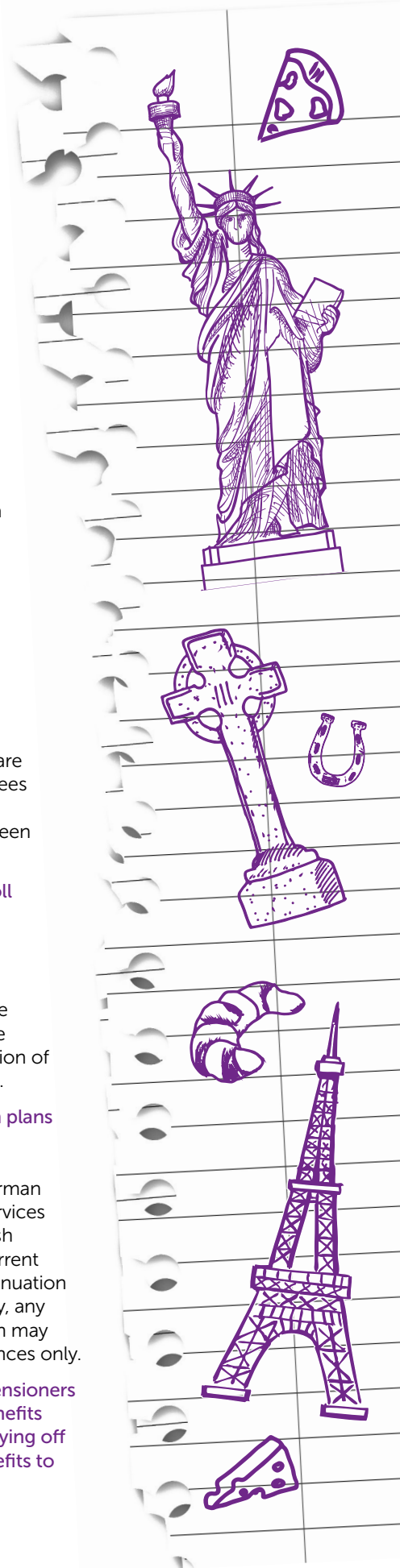
Action: Work on the implementation of the new pension plan with payroll providers and on the provision of information to employees.

4 Spain - benefits on termination of employment – In February 2018, the Spanish government finally enacted a regulation implementing some amendments to the legal framework for pension plans in Spain. One of the most important reforms is in relation to participants’ entitlement to receive retirement benefits early (irrespective of their age) in the event of termination of the employment relationship where so provided by the pension plan rules.

Action: Take these new provisions into account when managing pension plans for your workforce.

5 Germany - non-cash benefits as pension arrangement – Some German employers choose to offer non-cash benefits, be it products, goods or services (e.g. free or reduced price monthly public transport tickets). Such non-cash benefits often continue to be granted to pensioners. While benefits for current employees can potentially be discontinued collectively, collective discontinuation would not extend to pensioners. According to recent case law in Germany, any benefits granted to pensioners may be considered pension benefits, which may be amended, changed, reduced or discontinued in very limited circumstances only.

Action: Consider carefully which non-cash benefits will be granted to pensioners and be aware that, once granted, the risk is extremely high that these benefits cannot ever be discontinued collectively or (due to the prohibition on paying off or settling pension claims) individually. If in doubt, restrict non-cash benefits to active employees only.





6 Netherlands - ambitions of coalition government on pensions 2017-2020 – The coalition agreement of the Dutch government contained significant potential changes in relation to pensions. The government considers the following measures essential for a new pension system by 2020: (a) personal pensions with collective risk sharing, (b) abolition of the average pension contribution system, and (c) more freedom of choice for participants. If the proposed reforms continue, the Dutch pension system will become very different.

Action: Employers should prepare for this major reform. Employers who are currently discussing a new pension plan should consider which elements of the proposed new system they would like to adopt.

7 Netherlands - continued investing in DC plans after retirement (deferred annuities) – In a Dutch defined contribution (DC) plan, members traditionally had to convert their total accrued amount into a lifelong fixed annuity at retirement, based on the interest rates at that moment. The recent legislation on 'deferred annuities' makes it possible to convert pension capital into a deferred annuity (which could vary each year) while keeping the capital invested. Each provider has its own rules and approach on this new option.

Action: Employers with DC plans should consider reviewing how their pension provider is dealing with this legislation. They could, for example, ask whether the plan member is offered the best default proposition; if not, is there an opt-out; and what about information to plan members? Generally, the new legislation will not increase the liabilities of the employer directly but liability could potentially arise if the changes in legislation are poorly managed or communicated.

8 Luxembourg - supplementary pension reform – The Luxembourg government has introduced a bill aimed at reforming supplementary pension plans. One of the objectives of this bill is to transpose the EU Portability Directive into Luxembourg law. This will have the effect of limiting the maximum vesting period in a supplementary pension plan to 3 years, whereas current legislation provides that this maximum vesting period is 10 years.

Action: Since the scope of the proposed amendments is very broad, it is important to monitor these changes during the legislative process and then to take the new provisions into account in the management of your staff pension plans.

9 EU - IORP II Directive – EU Member States have until 12 January 2019 to implement the new IORP II Directive. The directive focuses on governance and member communication requirements. It also relaxes the funding requirements for cross-border plans and contains provisions on member protection as well as environmental, social and governance factors in investment.

Action: Consider the implications for your plan and start thinking about any changes that may be needed.

10 EU - pan-European pension product – The European Commission has set out plans to create a 'simple and cost effective' pan-European personal pension product (PEPP). This is designed to offer a new voluntary Europe-wide option for retirement saving which will sit alongside current national options – complementing rather than replacing existing state and private sector provision. Proposed features include portability between EU member states, capped cost switching and a default investment option. It is envisaged that the PEPP will be offered by insurers and other financial services providers. Timescales are currently unclear but the Commission expects providers to start offering PEPPs about two years after the (directly applicable) PEPP regulation first applies.

Action: Interested parties should keep up to date with the progress of the PEPP.

Our Eversheds Sutherland global employment and pensions law app has recently been updated. This contains information on key employment and pensions issues from multiple jurisdictions. It is available to download on your iPhone, iPad or desktop. To access the app, please click [here](#).

For more details on these or any other issues please speak to your usual Eversheds Sutherland adviser or email Francois Barker, Head of Pensions, at

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