

07 December 2009

At a glance

LEGISLATION

- **The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009**

FINANCIAL REPORTING COUNCIL

- **Consultation on revised UK Corporate Governance Code**

HM REVENUE & CUSTOMS

- **Filing deadlines approaching**
- **Christmas Helpline**

PENSION PROTECTION FUND

- **New guidance for actuaries on section 143 valuations**

THE PENSIONS REGULATOR

- **Consultation on revised Internal Controls guidance**

SO7

Abbreviations commonly used in 7 Days

Alert/News: Sackers Extra publications (available from the client area of our website or from your usual contact)

FRC: Financial Reporting Council

HMRC: HM Revenue & Customs

PPF: Pension Protection Fund

TPR: The Pensions Regulator

LEGISLATION

The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

New [Regulations](#) have been published which consolidate the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 with the various amending regulations published since the 1998 Regulations were made. The Regulations set out the arrangements which apply to the management and investment of funds arising in relation to a pension fund maintained under the Local Government Pension Scheme (Administration) Regulations 2008.

As well as consolidating and clarifying existing provisions, the Regulations also introduce three substantive changes:

- regulation 3(4) (definition of "investment") provides that the use of pension fund money for any purpose for which the local authority may borrow money shall count as an investment for the purposes of the Regulations before 1 April 2010, after which time it will cease to count as an investment;
- regulation 5 (power to borrow) sets out the circumstances in which the administering authority may borrow money for the purposes of its pension fund and the rules applying to the repayment of any such borrowing; and
- regulation 6 (separate bank account) provides that pension fund money must be kept in a separate bank account held by the administering authority for that purpose by 1 April 2011.

The Regulations will come into force on 1 January 2010.

Further information can be found in the [explanatory memorandum](#) which accompanies the Regulations.

FINANCIAL REPORTING COUNCIL

Consultation on revised UK Corporate Governance Code

Following its review of the impact and implementation of the Combined Code, the FRC published its final [review](#) of the Code on 1 December 2009. On the same day, it launched a [consultation](#) on proposals to reform the UK's Corporate Governance Code (formerly the Combined Code).

The code is revised regularly to ensure that it reflects changing governance concerns, practices and economic circumstances.

The main proposals are:

- the annual re-election of either the chairman or the whole board, to enhance accountability to shareholders;

- new principles on the leadership of the chairman, the roles, skills and independence of the non-executive directors and their level of time commitment, with a view to ensuring that the board is well balanced and challenging;
- external facilitation of board evaluation reviews at least every three years, and for the chairman to hold regular development reviews with each director;
- new risk management principles on the board's responsibility for, and handling of, risk; and
- alignment of performance-related pay to the long-term interests of the company and its policy on risk.

The renaming of the Code is intended to clarify the Code's status as the UK's recognised corporate governance standard and to avoid confusion among overseas investors.

Sir Christopher Hogg, Chairman of the FRC, who led this review, said that:

"The principal lesson of the financial crisis is that those on boards must think deeply about their individual and collective roles and responsibilities. The chairman has a vital role to play in ensuring that the executives have appropriate freedom to manage the business but also accept the importance of opening themselves to challenge and earning the trust of the whole board. For their part the non-executives must have the skills, experience and courage to provide such challenge."

The consultation will close on 5 March 2010. Subject to the outcome of the consultation and subsequent changes to the Listing Rules, the FRC intends that the revised Code should apply to all listed companies with a Premium Listing for financial years beginning on or after 29 June 2010.

[FRC Press Release](#)

HM REVENUE & CUSTOMS

Filing deadlines approaching

HMRC has published a [reminder](#) for schemes which are required to submit a Registered Pension Scheme return or an Event Report for the tax year ending 5 April 2009, that they must do so online before the deadline of 31 January 2010.

Schemes which have not yet signed up for Pension Schemes Online need to register by 15 January 2010, to ensure they can submit the Return or Event Report by the deadline.

Christmas helpline

HMRC has also published details of the [Christmas and New Year opening times](#) for the Pension Schemes Services telephone helpline.

PENSION PROTECTION FUND

New guidance for actuaries on section 143 valuations

On 1 December 2009, the PPF issued new [guidance for actuaries](#) completing valuations under section 143 of the Pensions Act 2004 (which are used to determine whether the Board of the PPF should assume responsibility for a scheme). Alongside the guidance, the PPF has published a new, more informal document - "[Additional information on carrying out a section 143 valuation](#)".

The main changes to the guidance include:

- instructions on the inclusion of equity stakes where they form part of the section 75 debt;
- the facility for approximations to be made in the calculation of the protected liabilities and assets, where these have been agreed in advance by the Board of the PPF; and
- the requirement to provide a summary of the main benefit provisions of the scheme with the formal report.

The new guidance will apply to all s.143 valuation reports signed on or after 1 January 2010.

THE PENSIONS REGULATOR

Consultation on revised Internal Controls guidance

As part of its current campaign to improve standards in scheme governance and administration, TPR is consulting on [revised guidance on internal controls](#). The revised guidance will replace the original version which was published in February 2007 and is designed to complement TPR's code of practice on internal controls.¹ TPR has also produced "bite-sized" [e-learning modules](#) which provide an overview of the topic.

Following research undertaken by TPR in 2009, it was agreed that the code should remain unchanged, but that TPR should concentrate its efforts "on the development of practical and targeted guidance". The revised guidance (which is not intended to be exhaustive) covers seven risks which have been identified as specific areas where improvements are needed and which should be included in trustees' assessment of risk and subsequent internal controls framework:

- a lack of knowledge and understanding;
- conflicts of interest;
- ineffective relations with advisers;
- poor record-keeping;
- deterioration in the employer's covenant;
- investment risk; and
- ineffective retirement processes.

The revised guidance is aimed primarily at trustees of smaller schemes who, in TPR's view, are most in need of additional support, specifically in relation to risk management.

The consultation will close on 1 March 2010.

[TPR Press Release](#)

1 Pension scheme trustees are legally required to establish and operate adequate internal controls procedures under s.249A of the Pensions Act 2004