SPC news

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in this issue ...

THE BIMONTHLY NEWSLETTER OF THE SOCIETY OF PENSION CONSULTANTS

SPC News No. 2, 2009

If this issue of SPC News was forwarded to you, and you would like to receive a copy direct from us, please e-mail

(carla.smidt@spc.uk.com)

SPC London Evening Meetings

Handouts are available for the following meetings:-

Date	Subject	Speakers
January 26th 2009	Conflicts of Interest	Jane Samsworth and Joanna Smith (Lovells & APL) and Mark Ashworth (Law Debenture & SPC)
February 23rd 2009	Turning the Trustee Governance Ideal into Reality	Steve Robinson and Gordon Buist (HSBC Actuaries and Consultants
April 28th 2009	Last Bank Standing: What are some of the remedies available to pension funds to recoup their losses from the financial crisis?	Caroline Goodman (Institutional Protection Services) and Mark Willis (Spector Roseman Kodroff & Willis P.C.)
May 28th 2009	Current Developments in Pension Risk Transfer	Jay Shah and John Fitzpatrick (Pension Corporation LLP)

You can obtain a copy of the January and April handouts by clicking on the speakers. We are grateful to **Wragge & Co.** and **KPMG Pensions** for hosting the January, February and April meetings and to **The Pension Corporation** for hosting the May meeting.

SPC Meetings in Scotland 2009

SPC held a joint meeting with PMI and NAPF on March 5th 2009, at Hymans Robertson in Glasgow.
Steve Delo, Chief Executive of PAN Governance and President of PMI, spoke on Pension Governance Issues, followed by a group discussion.

The latest new members of SPC

- **Entrust Pensions Limited,** Manchester
- **Mazars LLP,** Sutton

Latest SPC Online Poll Results

In our latest online poll of SPC Members we asked:-

"How is the current financial crisis impacting client-adviser relationships?"

The vote was as follows:

a.	No change in relationships	57.69%
b.	Clients cutting back on non-core projects	26.92%
c.	Increased activity due to increased fluidity of the environment	15.38%
d.	Re-tendering or benchmarking exercises being initiated to drive cost reductions	0.00%

Budget 2009

On April 22nd, Alistair Darling, the Chancellor of the Exchequer, presented his second budget. In addition to the restriction on higher rate tax relief on pension contributions (reported in General Circular 1221) and covered separately in our next article there are some other changes relevant to pensions.

Changes in tax rates

In the 2008 Pre-Budget Report, the Chancellor announced the introduction of a higher rate tax charge of 45% on incomes above £150,000, to be effective from April 6th, 2011.

This has been changed to 50% and will take effect on April 6th 2010.

For individuals, whose pension benefits exceed the Lifetime Allowance, this also means that benefits taken in pension form could be taxed at this rate. This gives an effective tax rate of 62.5% (50% on 75% of the excess benefit), compared with the current 55%. The tax charge on the excess taken entirely as cash is a stand-alone charge of 55%. The government has made a clear expression that this stand-alone charge will be reviewed "taking into account the new additional higher rate of income tax".

In line with the new higher rate of income tax, there will also be a commensurate new tax rate on dividend income. From April 6th 2010 there will be three rates of tax for dividends. Dividends - otherwise taxable at the 20% basic rate - will continue to be taxable at the 10% dividend ordinary rate and dividends otherwise taxable at the 40% higher rate, will continue to be taxed at 32.5%. Dividends otherwise taxable at the new 50%, rate will be taxable at a new 42.5% dividend rate.

The dividend rate payable by trusts increases from the current 32.5% to 42.5%. In addition, the income tax rate for trusts will increase from 40% to 50%. These two tax changes will have a direct impact on Employer Funded Retirement Benefit Schemes.

SPC Dinner 2008

November 4th 2009
Dorchester Hotel, London W1
7.00 pm for 7.30 pm

Key Information is:

- **Principal Speaker - Dr. Vince Cable**
  (Liberal Democrat Shadow Chancellor and Deputy Leader)
- **Venue**
  The Dorchester, Park Lane, London W1

Duncan Howorth (SPC President and Managing Director, JLT Benefit Solutions) and Sir James Hodge (SPC Chairman) will also speak.

The event promises to provide excellent food and entertainment and, in keeping with one of SPC's key roles, represents a peerless networking opportunity to meet with fellow industry professionals.

Tickets are £155.00 per head and feedback from previous years' Dinners indicates that this is a modest cost which can be re-paid many times over in terms of the useful networking opportunities, which exist to strengthen your business relationships. The price includes pre-dinner cocktails, a five-course meal, half a bottle of wine with dinner, and a liqueur with coffee.

As ever, we are keen to encourage "new blood" at the Dinner and ensure that it continues to offer the broadest possible range of net-working opportunities for those attending. To that end, if your company has never previously been represented at the Dinner, the person making the booking will benefit from a special price of £125.00, as will one additional guest.

The closing date for applications is October 7th.

However, please be aware that, due to the prestige of our principal guest and the excellent value which the Dinner represents, bookings are already comfortably past 100, although the Dinner is still almost six months away.

For a booking form, please click here. ■

Personal allowances

In the 2008 Pre-Budget Report, the Chancellor also announced proposed changes to personal tax allowances. The changes have been confirmed, but have been made more stringent. From April 6th 2010, where an individual's income exceeds £100,000, the amount of the personal allowance will be reduced by £1 for every £2 of income above £100,000. The two-stage reduction previously announced has been removed.

Other items

- Legislation will be introduced in the Finance Bill 2009, to allow payments made by the Financial Assistance Scheme to be given broadly the same tax treatment as if they had been paid by a registered pension scheme. This will allow certain lump sums to be paid free of tax.
- The basic state pension will increase by 2.5% next year.

- Winter Fuel Payments will be provided at the following rates this year: households including someone aged over 80 will receive £400 and households with someone aged over 60 will receive £250.
- The amount of capital, which will be disregarded for the purposes of Pension Credit (and pensioner-related Housing and Council Tax Benefit), will be increased from £6,000 to £10,000 in November 2009.
- With immediate effect, the Individual Savings Account (ISA) annual limit for people aged 50 and over is raised to £10,200 (of which £5,100 can be invested in cash). The ISA limit will be raised to the same amount for all investors (regardless of age) from April 6th, 2010. ■

SPC responds to draft: The Financial Assistance Scheme (Miscellaneous Provisions) Regulations

We have responded to the DWP consultation on the draft Financial Assistance Scheme (Miscellaneous Provisions) Regulations 2009.

For a copy of our response, please click here. For a copy of the draft regulations please click here. ■

BUDGET 2009

Limiting tax relief for high earners

In the Chancellor's 2009 Budget, the much trailed restriction on higher rate tax relief was not quite as expected. The announcement was that, with effect from April 6th, 2011 tax relief on contributions will be restricted for those on incomes over £150,000. From that level of income, the value of tax relief will be tapered down until it is 20% for those on incomes over £180,000 (making it worth the same as basic rate tax relief). The government is to consult on those changes.

However, to avoid people making large tax-relieved contributions in anticipation of this change, the government has introduced new measures, which have immediate effect. These measures mostly take the form of a new special annual allowance (which is additional to the existing annual allowance) which will apply to contributions made by the individual and employer. Salary sacrifice arrangements (in return for pension benefits or contributions), which reduce income, will not be recognised for the purposes of judging whether the person has earned over £150,000, if the arrangement was entered into after April 22nd 2009.

Anyone with income of less than £150,000 for the tax year, and for both of the preceding two tax years ("the relevant tax years") will not be affected.

For people with income of £150,000 or more in any of the relevant tax years, those who continue as normal with their 'existing pattern of regular pension savings', and who do not make any additional pensions savings, will not be affected.

In the case of money purchase arrangements, 'existing pattern of regular pension savings' means the continuation of contributions paid under agreements made before April 22nd 2009, paid quarterly or more frequently, and at a rate which does not increase (unless the increase to regular contributions was agreed before April 22nd 2009).

For defined benefit schemes, 'existing pattern of regular pension savings' includes any increases in pension benefits which arise under the existing scheme rules as at April 22nd 2009. Defined benefits are valued for this purpose in the same way as for the annual allowance test (generally the increase in the value of accrued rights multiplied by 10).

Individuals who do increase their pension savings will be affected only if their total savings in that year exceed £20,000.

For the purpose of testing increases in regular pension saving, and the £20,000 limit, the contributions include those paid by the individual, their employer or a third party.

The new tax charge has the effect of restricting tax relief on the additional savings to basic rate. It will be collected via the self-assessment tax return.

SPC has hosted an HMRC seminar on the technical aspects of these "anti-forestalling" measures and aims to suggest a number of modifications arising from the seminar. ■

SPC responds to draft Pensions Regulator Code of Practice 12: Application of the Material Detriment Test

We have responded to draft Pensions Regulator Code of Practice 12: application of the material detriment test.

For a copy of the response, please click here.

We reported the publication of the draft in **SPC News No. 1, 2009**. The Regulator has now laid the final draft of the code before Parliament. For a copy, please click here. ■

SPC responds to draft Pensions Regulator Regulations

We have responded to the draft Pensions Regulator (Miscellaneous Amendments) Regulations 2009.

For a copy of our response please click here.

We reported the publication of the draft in **SPC News No. 1, 2009**. ■

Draft Contracting-out Amendment Regulations 2009

DWP has published its response to consultation on the draft Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009.

For a copy please click here.

We reported SPC's response to the draft regulations in **SPC News No. 1, 2009**. ■

Government response to consultation on draft Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009

The government has published its response to consultation on the draft Financial Assistance Scheme and Incapacity Benefit (Miscellaneous Amendments) Regulations 2009.

For a copy of the response please click here.

We reported SPC's response to the draft regulations in **SPC News No. 1, 2009**. ■

Government response to consultation on PPF (Miscellaneous Amendments) Regulations 2009

The government has responded to its consultation on the draft PPF (Miscellaneous Amendments) Regulations, 2009.

For a copy please click here.

We reported SPC's response to the draft regulations in **SPC News No. 1, 2009**. ■

SPC invited to comment on the draft Pensions (Automatic Enrolment) Regulations 2009 and the draft Pensions Regulator (Delegation of Powers) Regulations

We have been invited to comment on the draft Pensions (Automatic Enrolment) Regulations 2009 and the draft Pensions Regulator (Delegation of Powers) Regulations 2009.

As part of the preparation of our response, we have met the DWP officials with lead responsibility for the regulations.

The first set of draft regulations propose deadlines, which would require an employer to provide certain information and establish active membership for an employee within 14 days of that employee becoming eligible for being auto enrolled. There would be slightly different requirements for trust based and contract based schemes.

Contributions would have to be deducted from the employee on the first occasion, on which they are paid, even if payday falls before their active membership has been established.

Once an employee has been auto-enrolled they would have 30 days to opt-out, if they so wish. Opt-out must be in a prescribed format, using a form obtained from the scheme, into which the employee has been auto enrolled – employers would be prohibited from providing the forms. The employee must send the form to the employer in the first instance (or arrangements made for the employer to receive it at the same time as the scheme) in order to enable them to stop deducting contributions as quickly as possible. There would also be deadlines for the employer to pass the form on to the scheme (seven days) or to inform the employee that their opt-out was not successful.

Following an opt-out, the employer would have to refund the employee's contributions by the second pay day (or 21 days if later) and the scheme would have to refund both the employer's and employee's contributions to the employer within 21 days.

The draft regulations set out the option for automatic enrolment to be postponed for 90 days; however this option is only available to qualifying defined benefit schemes, or defined contribution schemes with a minimum total contribution of 11% of qualifying earnings, of which at least 6% is from the employer. Following postponement there must be a minimum period of membership of 90 days.

For a copy of the drafts please click here.

At the time of preparing this issue of SPC News, we had the draft regulations under consideration. ■

Flexible retirement and pension provision

We have responded to DWP's further consultation on flexible retirement and pensions provision.

For a copy of our response please click here.

We commented that flexible retirement, at least in terms of the current draft regulations, seems to be regarded as the facility to work beyond a scheme's normal pension age or beyond state pension age, while drawing retirement benefits.

There seems to be no appetite in the draft regulations to accommodate the concept of winding down employment before normal pension age and beginning to draw retirement benefits, which is the desired course in some situations.

It seems implicit that the current consultation is aimed at defined benefit schemes only and is not intended to have an impact on money purchase schemes. If this is the policy intention, it would be helpful to have it confirmed. It is important to avoid the regulations unintentionally applying in respect of schemes to which they were never meant to apply. ■

SPC invited to comment on DWP consultation: Review of Disclosure Requirements for Occupational, Personal and Stakeholder Schemes

We have been invited to comment on DWP's consultation on its review of disclosure requirements for occupational, personal and stakeholder schemes.

For a copy of the consultation document, please click here.

At the time of preparing this issue of SPC News, we were preparing our response.

DWP's consultation follows up the deliberations of a working party comprising government officials and representatives of the pensions industry, including SPC. ■

Legislative changes affecting pension schemes from April 6th 2009

A number of pieces of legislation, with implications for pension schemes, take effect from April 6th 2009. This short note provides a summary of the changes.

Transitional Protection of the Lifetime Allowance: The deadline for registration for primary or enhanced protection was April 6th 2009, so it will no longer be possible to apply after this date

Changes to S2P and contracting-out - National Insurance Contributions Act, 2008: April 6th, 2009 was the start date for flat-rating of S2P, by introducing an Upper Accruals Point, with knock-on effects for contracted-out schemes.

Safeguarded rights no longer compulsory - The Pensions Act 2008 (Commencement No 2) Order 2009: Shared rights which derive from contracted-out rights, on divorce or dissolution of a civil partnership, are now treated in the same way as other shared rights.

Revaluation of deferred pension - The Pensions Act 2008 (Commencement No 2) Order 2009: Statutory revaluation of accrued benefits arising from pensionable service on or after April 6th, 2009 changes to 2.5% or RPI if less (previously 5% or RPI if less). Employers/ trustees need to have decided whether to reflect the cap reduction in scheme rules. A statutory override is also being introduced by The Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations 2009, to assist those schemes with restrictive rules.

Conversion of GMP liabilities - The Pensions Act 2007 (Commencement No 3) Order, 2009 and The Occupational Pension Schemes (Contracting-out) (Amendment) Regulations 2009: Trustees will be able to convert their GMP liabilities into scheme pension, according to an 'actuarial equivalent'.

The Occupational, Personal and Stakeholder Pensions (Miscellaneous Amendments) Regulations, 2009: Numerous amendments, the most notable being:-

- a statutory override, allowing schemes with restrictive rules to introduce the lower statutory revaluation and indexation caps by resolution;
- the introduction of a process for the Pensions Regulator to fine employers who fail to comply with the statutory consultation requirement;
- implementation of requirements in the Pensions Directive, relating to pension schemes' investments in the sponsoring employer and ending existing exemptions; and
- modification of the circumstances in which a scheme actuary has to certify the rate of employer contributions.

Look back period for Financial Support Directions - The Pensions Regulator (Miscellaneous Amendment) Regulations, 2009: The Regulator's "look back" period for issuing financial support directions is being extended to 24 months (currently 12 months). The extension is to be staged from the current 12 months to 24 months, until the transition date of April 6th 2010, when the full 24 months will apply.

Removal of three events from the notifiable events regime - The Pensions Regulator (Miscellaneous Amendment) Regulations, 2009: It will no longer be necessary to report the occurrence of the following events to the Regulator:-

- two or more changes in key scheme posts
- two or more changes in key employer posts
- a change in credit rating ■

The Pensions Regulator issues statement and its Corporate Plan

The Pensions Regulator issued its Corporate Plan for 2009-2012 on April 17th 2009. The Regulator also issued a statement entitled "Alert to risks in the economic downturn" on April 20th 2009.

The new statement reiterates the themes of the Regulator's statements to trustees (October 2008) and employers (February 2009), regarding funding of defined benefit schemes in the economic downturn, confirming its view that the current scheme funding regime and the Regulator's operational processes are sufficiently flexible to cope with the prevailing conditions.

The statement also highlights the potential increased vulnerability of pension schemes to "unacceptable behaviour" in the recession, under the following headings:

- Dishonesty and fraud – for example, trust-busting or pension liberation activities, which encourage members to access their benefits illegally.
- "Behaviours which unacceptably increase risks" – including avoidance of employer debt, inappropriate individual transfers, employer-related self-investment and poor practice associated with transfer incentive exercises. The Regulator refers to the variety of powers it has to act against and penalise such behaviour, including its anti-avoidance (or "moral hazard") powers.

The Regulator reminds those involved in the running of pension schemes, including employers, trustees, advisers, managers and administrators, of their statutory duty to report any materially significant breach of law (this means trust law and common law as well as pensions legislation). The Regulator considers that any breaches, which involve dishonesty, are likely to be of material significance and should be reported. The Regulator's Code of Practice "Reporting Breaches of the Law" provides further guidance. The Regulator also makes it clear that employees and pension scheme members should also report any concerns. ■

SPC responds to PADA discussion paper on Securing a Retirement Income

We have responded to PADA's discussion paper on securing a retirement income. A copy of the response is available by clicking here.

We referred to the discussion paper in **SPC News No. 1, 2009** ■

SPC responds to BAS consultation paper on modelling

We have responded to the Board for Actuarial Standards consultation paper on modelling and a copy of the response is available here.

The consultation paper seeks views on whether the proposed actuarial standard will help to ensure that users of actuarial information can place a high degree of reliance on its relevance, transparency of assumptions, completeness and comprehensibility.

We suggested that it generally would, although it is important that the standard does not unintentionally require models to be presented and explained in such a way as to limit their practical value to clients.

We do have significant doubts about whether it is appropriate to bring documentation of models within a standard, particularly since, in itself, documentation has no bearing on whether a model is fit for purpose. ■

SPC invited to comment on BAS Exposure Draft: Reporting Actuarial Information

We have been invited to comment on the Board for Actuarial Standards exposure draft: Reporting Actuarial Information.

For a copy please click here.

At the time of preparing this issue of SPC News we had the exposure draft under consideration. ■

The Society of Pension Consultants

St Bartholomew House
92 Fleet Street
London EC4Y 1DG
TELEPHONE: **020 7353 1688**
FACSIMILE: **020 7353 9296**
EMAIL: **john.mortimer@spc.uk.com**
WEB: **http://www.spc.uk.com**

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About SPC

SPC is the representative body for the providers of advice and services needed to establish and operate occupational and personal pension schemes and related benefit provision. Our Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and external pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services. We have no remit to represent any particular type of provision.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members. Many thousands of individuals and smaller funds also do so. SPC's growing membership collectively employ some 15,000 people providing pension-related advice and services.

SPC's fundamental aims are:

(a) to draw upon the knowledge and experience of Members, so as to contribute to legislation and other general developments affecting pensions and related benefits, and

(b) to provide Members with services useful to their business.