

April 2008

This update summarizes recent legislative developments and trends related to retirement and financial management and highlights recently passed and pending legislation that may require employers to take action to comply with new rules or review existing plans.

Action May Be Required

Ireland—Administrators of occupational pension plans or trust-based Retirement Annuity Contracts must be registered with the Pensions Board by November 1, 2008 or face fines and/or imprisonment. Also, multinational employers using overseas administrators are required to register with the Pensions Board. The new registration requirements and definition of “core administrative functions,” as well as new trustee training provisions, were included in the *Social Welfare and Pensions Act 2008*.

United Kingdom—Effective April 6, 2008, employers with 50 or more employees are required to consult with members before making changes to an occupational or individual pension plan. For an occupational pension plan, the changes that trigger the obligation to consult include the imposition of member contributions; an increase in the age at which benefits are payable; and the exclusion of new members. For an individual pension plan, the changes include a reduction, an increase, or the elimination of employer contributions. Employers may wish to consult with pension or legal experts for guidance on the consultation requirements.

Recent Developments

Americas

The **U. S.** Supreme Court ruled that individuals may sue for breach of fiduciary duty. In the case of *LaRue v. DeWolff, Boberg & Associates, Inc.*, the court ruled that the Employee Retirement Security Act (ERISA) Section 502(a)(2) authorizes a lawsuit by an individual plan participant for fiduciary breaches that affect the value of plan assets in a participant’s account. This decision vacates a Court of Appeals decision which held that ERISA remedies were available only for plan losses. Also, in the **United States**, the Pension Benefit Guaranty Corporation issued a proposed rule providing guidance on Annual Financial and Actuarial Information Reporting for certain underfunded plans.

In **Argentina**, social security contributions and pension benefits are increasing in two phases. Effective March 1, 2008, the contribution ceiling increased from ARS 6,750 to ARS 7,256; effective July 1, 2008, it will increase again to ARS 7,800. The minimum monthly pension is increasing by a total of 15%, almost double the official rate of inflation for 2007 (8.8%). Effective March 1, 2008, employers’ payroll taxes will be reduced by 5% under the **Mexican** government’s Program of Economic Support. The contribution reduction is being distributed over employers’ sickness, medical, and maternity contributions; survivors’ and disability contributions; and workers’ compensation and day care contributions. The reduction will remain in effect until December 31, 2008. Effective March 1, 2008, monthly social security contribution brackets were adjusted in **Brazil**.

In **Peru**, the Constitutional Court ruled that common law partners are entitled to a survivors’ pension under the public pay-as-you-go (PAYGO) system. This ruling aligns the rights of common law partners in the public system with the rights of survivors in the private pension system.

As of March 1, 2008, the **Canadian-Japanese** social security totalization agreement is effective.

Asia

Singapore's 2008 budget includes enhanced incentives for retirement savings. Individuals would be able to claim tax relief for top-ups that they or their employer make to their Minimum Sum. Also, employers would be able to deduct contributions to employees' Supplementary Retirement Scheme accounts. Under the **Hong Kong** government's latest budget proposal, Mandatory Provident Fund members earning less than HKD 10,000 per month would receive a one-time HKD 6,000 bonus paid into their account. Participants in Occupational Retirement Schemes would receive the same benefit.

Europe

Under a recent ruling by the European Court of Justice (ECJ), same-sex partners are entitled to their deceased partner's pension in all **European Union** Member States that treat homosexual partnerships similarly to marriages. Currently, Belgium, Spain, and the Netherlands recognize full same-sex marriages, while Denmark, Germany, Hungary, Slovenia, Sweden, the Czech Republic, and the United Kingdom allow legal partnerships. France and Luxembourg have established civil contracts. In its comments on the judgment, the European Commission stressed that family law was exclusively in the hands of Member States and "the right to a survivor's pension exists only if the two regimes (marriage and same-sex partnership) are analogous."

In **Germany**, the cabinet has approved a 1.1% increase in state pensions for 2008 and a 2% increase for 2009. If passed, the first increase would be effective July 1, 2008. The **Dutch** government may introduce legislation that would increase pension benefits for employees who defer retirement; the AOW benefit could increase by as much as 5% for every additional year of work. The normal retirement age is age 65; the average retirement age is age 62.

The **Greek** government has introduced a social security reform bill to parliament. Among other things, the proposed reform would: 1) raise the minimum retirement age to age 60; 2) harmonize the retirement age for men and women at age 62; and 3) provide a supplemental benefit for each year retirement is deferred for up to three years. Under a pending social security reform bill in **Turkey**, employees would be subject to stricter eligibility requirements for benefits, and employers' contributions would decrease by 5%. The minimum age for retirement would increase from age 60 (males) and age 58 (females) to age 65, and the minimum period of covered service would increase from 7,000 to 9,000 work days. Under other pending legislation, employers would be required to prefund their severance obligations.

International

In March 2008, the International Accounting Standards Board (IASB) released a discussion paper, "Preliminary Views on Amendments to IAS 19 Employee Benefits." The paper's key points include:

- Immediate recognition of all gains and losses. This includes asset gains and losses (i.e., the actual return on assets would be recognized rather than an expected return). However, which gains and losses would be recognized in profit and loss statements and which would be recognized in the statement of recognized income and expense have not yet been decided;
- Introduction of a new type of benefit promise, a "contribution-based promise," which includes defined contribution plans. Contribution-based promises would be measured at fair value (i.e., using a risk-free discount rate) and include career average plans; and
- Valuation of some defined benefit plans using a risk-free discount rate (i.e., at fair value).

If adopted, these changes are likely to result in a revised IAS 19 in 2011, implemented from 2013.