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Insights

Next Steps in the Implementation of the New Pension Act – Implications of the NPRA Announcement of 29/10/2012

On 29/10/2012 the National Pensions Regulatory Authority issued a public statement in which it prescribed the steps to the commencement of operations of registered tier 2 pension schemes. In this article we discuss the next steps required of employers and employees for the successful commencement of their tier 2 schemes and for full compliance to the law.

ROADMAP FOR TRANSITION TO REGISTERED APPROVED TIER 2 SCHEMES

2012

November 30, 2012
All companies continue payment to SSNIT until December 2012

December 1, 2012
Commence payment of November pension contributions to approved schemes

December 14, 2012
Complete payment of November contributions to approved schemes

January 1, 2013
- All companies to have joined approved schemes. Penalties commence for non-compliance
- Commence distribution from Temporary Pension Fund Account (TPFA)

March 1, 2013
NPRA to take further action for non-compliance

2013

The month of first contribution to your registered scheme will be December 2012, for the November 2012 pay period (Payment must be made between December 1st and December 14th).

Employers who have joined a tier 2 scheme or registered a tier 2 scheme

For employers who have joined a scheme or applied to register their own scheme – congratulations! Please confirm that your scheme has been approved by checking the updated list of registered schemes on the NPRA website. If your scheme is listed as registered, you are ready to commence operations under the NPRA guidelines. The month of first contribution to your registered scheme will be December 2012, for the November 2012 pay period (Payment must be made between December 1st and December 14th). Any payments made after December 14th will be considered late and will incur a 3% penalty per each month of delay.

Payments for all contributions for pay periods prior to November 2012 must still be made to the temporary pension fund account through SSNIT.

If you joined a tier 2 master trust scheme that was not approved, please contact your trustee or join an approved master trust scheme.

Employers who have not joined a tier 2 scheme or registered a tier 2 scheme

The NPRA recognizes that a number of employers have not joined a tier 2 pension scheme or created one for their employees as per the regulator's previous directives. It therefore has set **a *final deadline of December 31, 2012***, by which time all employers must select and join an existing master trust pension scheme or register a pension scheme of their own (a standalone scheme). This provides an amnesty period for organizations that have not complied with the NPRA's previous directives to achieve compliance without penalty.

Employers who have not joined an existing master trust scheme or have not registered a scheme of their own by December 31, 2012 will be penalized with fines. These fines will continue through March 31st 2013, when the regulator will be forced to take steps to quell the delinquency of undecided employers. The general consensus within the industry is that the fine will be of the nature specified in the act for unpaid pension contributions – 3% of the outstanding amount per month. Additionally, the industry anticipates that the NPRA will select pension schemes for employers who have not selected a trustee by March 31, 2013.

Note: At all times, employers who have not joined a registered scheme must continue to pay their tier 2 pension contributions to SSNIT to avoid additional penalties.

Reconciliation of previous tier 2 contributions

The NPRA has stated that it will commence the transfer of tier 2 contributions from the Temporary Pension Fund (tier 2 contributions from January 2010 to October 2012) to the registered tier 2 schemes by January 1, 2013. Before this occurs, the employer's contributions must be reconciled against the NPRA's data to clear up any discrepancies. To smooth this potentially complicated process, trustees will represent the employer during the reconciliation process; thus, trustees will request the contribution data and evidence of payment from employers covering the period from January 2010 to October 2012 to serve as the basis for the reconciliation.

Contact your tier 2 scheme trustee for further information on how they plan to manage the reconciliation process.

Employees who have changed employers after January 2010

Individuals who have left the employment of companies that made Tier 2 contributions into the Temporary Pension Fund on their behalf during the transition period will have their funds transferred into a preservation account with their former employer's selected trustee awaiting their instruction. Such persons will have right to decide which pension scheme their funds are finally transferred to. These funds however are still under the Pensions Law and can only be transferred as authorized by the law.

Employers who have not joined an existing master trust scheme or have not registered a scheme of their own by December 31, 2012 will be penalized with fines.

This statement from the NPRA represents an important step in the implementation of the new pension law.

Employers who have joined or registered a tier 3 Provident Fund scheme

As with tier 2 schemes, employers should confirm that the scheme that they joined has been approved by the NPRA. If you joined a tier 3 master trust Provident Fund scheme that was not approved, please contact your trustee or join a registered master trust scheme.

Further directives on the operation of tier 3 provident fund schemes will be issued by the NPRA.

Conclusion

This statement from the NPRA represents an important step in the implementation of the new pension law. Trustees and scheme administrators will commence operations on the strength of this statement. It sets out clear guidelines for employers to take the necessary steps to safeguard their employees' pensions and ultimately aims to bring the formal sector in compliance with the law. Importantly, it requires a fairly quick response from employers in providing trustees with the data required to reconcile past contributions that have been paid to the Temporary Pension Fund.

We encourage all players to treat the statement with the appropriate level of urgency. Do not hesitate to contact Petra Trust or your tier 2 trustee with any questions or comments.

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