Brexit Untangled
The pensions impact

If the UK votes to leave the EU, the pensions industry will try to maintain business as usual in the face of unusual market volatility. In the short-term, there will be few legislative or regulatory impacts. In the longer term, it is likely that the UK's pensions system will slowly evolve away from the current European regulatory and legal framework.

If you are opposed to Brexit but want a silver lining in case the vote goes that way, leaving the EU is likely to mean that the pensions industry won't have to equalise GMPs!

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Brexit and pensions

In the small hours of 24 June 2016 it should become clear whether the UK has voted to remain as a member of the European Union.

Later in the day, thousands of people working in the UK pensions industry will go to work. Later in the month, millions of pensioners will receive their benefits and millions of savers will make their regular pension contributions. Will any of these people notice a change if the UK votes to leave the EU? And what, if any, long-term impacts could we see as a result of Brexit?

Keep calm and carry on?

There will be no immediate change to the legislative or regulatory environment following a vote to leave the UK. The biggest challenge for UK pension schemes and fund managers will be to manage investments against the expected high level of volatility in the markets.

Trustees may seek safer investment classes in the run up to and the aftermath of the vote. If Britain votes to leave the EU, Trustees of defined benefit pension schemes may need to reassess the covenant strength of their sponsoring employer(s). Certain industries and sectors will be more affected than others, and a vote for Brexit may result in some trustee boards asking for greater security in the form of guarantees or contingent assets.

Heavy fog in channel

The European Union has legal and regulatory competency over pensions. Policy is formulated by the European Commission's Directorate-General for Employment, Social Affairs and Inclusion. Europe-wide regulation and supervision is co-ordinated by bodies such as the European Systemic Risk Board and the European Insurance and Occupational Pensions Authority. They work with national regulators (in the UK, The Pensions Regulator, the Financial Conduct Authority and the Bank of England's Prudential Regulation Authority).

And, regardless of how the public vote on 23 June, the regulatory framework will remain in place. A substantial amount of pensions and equal treatment legislation originated in Europe. The bulk of it has been transposed into UK legislation and will therefore remain unless it is amended or repealed. It is unlikely that there will be substantial change to the status quo for pensions – if nothing else, the Government will be heavily distracted in negotiating the terms of the UK's exit.

The extent to which this changes will depend on how the UK leave the EU. It may retain elements of the pan-European financial system as a requirement for access to the EU's single market for financial services. Alternatively, a more comprehensive exit would see a separate UK regulatory regime evolve and gradually move away from the European legal and regulatory framework.

Could there be a radical shift in the longer term? Anything is possible, but it seems unlikely that the UK Government will move to massively deregulate pensions (people still remember Maxwell and the Mirror Group pension fund) or remove protections such as the Pension Protection Fund.

As the UK ages, the increasing importance of the pensioner vote is likely to influence retirement policy. This suggests a post-EU Britain would maintain pension protections rather than deregulation.

Do one, Thyssen?

Although the existing UK legislation is unlikely to change in the short to medium term, there will be an immediate impact of a vote to leave the EU. The EU is currently in the middle of implementing a raft of policies that will, subject to the UK's continued membership of the EU, impact on UK pension schemes.

A vote for Brexit may see UK pension schemes avoid additional regulation arising from the IORP II Directive, the new General Data Protection Regulation, development of EU single market for personal pension products (as part of the European Capital Markets Union) and pushes for further Europe-wide regulation of member communications and disclosure.

So, it doesn't have quite the impact of The Sun's infamous headline "Up Yours Delors", but we could be telling EU Commissioner Thyssen to "do one" on new European pensions regulation.

A silver lining

If you are opposed to Britain's exit from the European Union, you may be left searching for silver linings on 24 June.

In pensions, there is a clear candidate. GMP equalisation. The Government's view is that the only reason for equalising GMPs is European law. A vote for Brexit could therefore be a vote to avoid having to equalise GMPs.