Summary
- The rise of fines sweeping through the pensions industry can be attributed to the various changes that have been implemented to the sector in recent years, such as auto-enrolment coming into play and the additional requirements on some trustees, such as annual chair statements.
- Assigning fines can be a good way of enforcing minimum standards of practice in any sector.
- One area that has resulted in a surge in auto-enrolment fines is poor payments infrastructure. Automation will look to improve this.
- Between April and June 2017, the trustees of 20 pension schemes received a mandatory fine for not preparing a chair's statement. A large proportion of those who did not produce a statement were schemes with less than 100 members. In the same quarter, 45 trustees were fined for failing to submit scheme returns.
- In July, the FCA fines FGS McClure Watters and Lanyon Astor Buller compliance oversight officer David Watters £75,000 for breaching regulatory standards on pension transfer advice.

Paying the price

Fines are sweeping through the pensions sector as regulatory authorities clamp down on non-compliance and poor governance. Adam Cadle looks at the reasons for this and whether this is set to continue

The rise of fines sweeping through the pensions industry can be attributed to the various changes that have been implemented to the sector in recent years. We have seen auto-enrolment coming into play, along with additional requirements on some trustees such as annual chair statements.

For Technical Connection head of pensions strategy Claire Trott, the increase in the number of fines is not an "indication of poor regulation", but "a sign that the regulator is doing its job to monitor schemes and employers to ensure that they are fulfilling their duties correctly".

This point is echoed by CII director of policy and public relations Matthew Connell. "Assigning fines," he says, "can be a good way of enforcing minimum standards of practice in any sector, especially when people are refusing to cooperate with the regulator."

The payment problem

One area that has resulted in a surge in auto-enrolment fines is poor payments infrastructure. The auto-enrolment process is without doubt a significant administrative overhead and where manual input is involved, this inevitably can lead to issues arising.

"The manual nature of exporting CSV files from the payroll system, handling opt-out requests and additional voluntary contribution (AVC) changes tends to encourage human error, which can lead to subsequent fines," Modulr chief executive Myles Stephenson explains.

"Payroll processing is particularly prone to error when it relies on manually-compiled batch files. These Bacs transfers get bundled up to all go at the same time, leading to intense periods of activity followed by significant lulls. Payment errors, when they occur cannot be rectified quickly, as it can take up to five days to be notified of a payment, which then has to be resubmitted, taking another three days.

"UK service, Faster Payments, helps reduce the lag time, but does not solve the problem of manually processing and generating batch files. Once the batch file has been processed, the administrator needs to log into their online banking facility to load the files and authorise the payments. These manual processes bring a greater risk of errors, which can not only lead to penalties, but also additional losses. PwC has estimated that the average FTSE 100 company loses as

much as £30 million every year due to payroll mistakes."

The payments industry is going through a period of unprecedented change however. New regulations – including the EU Payment Services Directive 2 (PSD2) and the UK's Open Banking Initiative – have driven a fresh wave of competition, generating far faster, more intelligent and cheaper payment capabilities. Innovations include the support of complex payment flows, which allows the automated splitting of outbound payments between the employee or contractor, HMRC and a pension provider.

"Automation can also take care of payment initiation, reporting and reconciliation – resulting in fewer errors, less time spent fixing errors and consequently reduced fines for failing to meet compliance," Stephenson adds.

"With employers' minimum contribution rates set to rise in April 2018 and 2019, and the requirement to re-enrol eligible staff and re-declare compliance with The Pensions Regulator every three years, automation will become even more valuable."

The FCA and TPR

The Pensions Regulator is one body that has really clamped down on regulatory compliance. Between April and June 2017, the trustees of 20 pension schemes received a mandatory fine for not preparing a chair's statement. TPR noted that a large proportion of those who did not produce a statement were schemes with less than 100 members. In the same quarter, 45 trustees were fined for failing to submit scheme returns, even after being issued a warning from the regulator. TPR also issued 4,794 fixed penalty notices of £400 for auto-enrolment non compliance to employers in the quarter, up from 4,673 the previous quarter.

Furthermore, the London Borough of Barnet Pension Fund recently became the first public sector pension fund to be issued a fine. The fine, valued at £1,000, was for failing to submit the 2016 scheme return.

TPR executive director of frontline regulation Nicola Parish said at the time: "Good scheme governance is a key factor to achieving positive outcomes for members. The action we took in this case demonstrates our commitment to this. We have shown that where managers and trustees are failing with their basic duties, including in large public service pension schemes such as this one, we will use our powers to intervene."

Pension transfers have also risen up the list in terms of the potential for fines, and the FCA has been particularly involved in this.

In July, it fined FGS McClure Watters (FGS) and Lanyon Astor Buller (LAB) compliance oversight officer David Watters £75,000 for breaching regulatory standards on pension transfer advice.

Watters, who served in the role at FGS and then LAB, failed to take reasonable steps to ensure advice on enhanced transfer value pension transfers were adequate and met official standards. As a result, consumers were left at considerable risk of unsuitable advice about the benefits of transferring their pension from a defined benefit to a defined contribution scheme, the FCA noted.

An estimated 500 customers that received advice from FGS or LAB transferred their pensions from a DB scheme to a DC scheme, with an overall value of approximately £12.7 million.

"In many cases, it may have been unnecessary for customers to leave their DB schemes, thereby losing their guaranteed benefits," the FCA said.

The regulator found that Watters had not given sufficient consideration to "whether the advice process was compliant" and did not take "reasonable steps to gain a sufficient understanding of the relevant regulatory requirements".

The complete answer?

But are fines the complete answer to improving industry practice, one might ask?

"For individuals and organisations to achieve a higher standard of practice geared specifically around consumer needs, fine alone cannot achieve this," Connell states.

"This will require training and development to instil a culture of professionalism and higher business standards so that all employees understand the commercial and ethical value of designing products and processes that focus on consumer interests. Only then can individuals and organisations maintain consumer trust in what they do."

Dolan believes that the number of fines in the pensions industry will eventually fall.

"Once auto-enrolment changes and additional requirements on some trustees have been fully imbedded in the industry I can see that the number of fines will start to fall again," she concludes.

Written by Adam Cadle