International Focus - *Dubai*

Carl Hansen
carl.hansen@bwcigroup.com

> *another approach for employers wanting more flexibility*

The Dubai Financial Services Authority (DFSA) recently released some revised rules covering employee benefit provision in the Dubai International Finance Centre (DIFC). These changes relate to the DIFC Employee Workplace Savings Plan (DEWS). Corresponding changes are expected to the DIFC Employment Regulations governing DEWS. The revisions aim to clarify some points raised by employers and outside practitioners. Many employers have expressed interest in having alternatives to DEWS – for example, if they want to use their own investments or if they want to have more control over their employees' retirement savings. For other employers, DEWS may be appropriate but they want to offer an opportunity for additional savings to top up the DEWS benefits.

Qualifying Schemes

The revised rules clarify that a "Qualifying Scheme", which would allow an employer to opt out of DEWS, must both use a DIFC Trust and have an administrator regulated by the DFSA. This eliminates international plans based elsewhere from consideration as Qualifying Schemes.

Exempt Schemes

The revised rules offer another approach for employers wanting more flexibility than is offered by DEWS. This can be achieved with an Exempt Scheme. This is aimed at employers with employees in multiple jurisdictions, including people working in the DIFC. An Exempt Scheme may be based (or administered) outside of Dubai.

Two types of plans can be Exempt Schemes:

1. Where an employer has a statutory duty in another jurisdiction to make end-of-service payments for the DIFC employees, or
2. Where an employer has a broad-based group plan that includes DIFC employees

This second type of plan must be exclusively for employees of the employer and include countries other than the UAE. It must also require contributions for the DIFC employees exceeding those for DEWS (5.83% of basic wages for the first 5 years of service, and 8.33% thereafter).

Employers wishing to take advantage of Exempt Schemes must make an application for an Exemption Certificate under the DIFC Employment Regulations (once revised).

Commentary

The new rules clarify certain points about Qualifying Schemes, as well as introducing some additional flexibility around international plans.

The fact that Qualifying Schemes must be run from Dubai will limit their appeal in the immediate future, due to the current lack of retirement providers there. Most of the providers with a Dubai presence are already playing a role in DEWS to some extent, which may cause some conflicts when also offering services to opt out arrangements; some current Qualifying Schemes may find that they have lost their status.

The introduction of the Exempt Scheme concept is a welcome addition for broad-based multinationals. Many may already have an international plan in place that meets the Exempt Scheme requirements. Regardless of whether or not a plan satisfies the Exempt Scheme conditions, it can be used for additional contributions to top up benefits provided by DEWS. Providers in well-established and regulated international finance centres, such as Guernsey or Jersey, can assist with implementing an Exempt Scheme (or a DEWS top up arrangement) using a flexible International Savings Plan (ISP). In addition, the ISP can also be used to prefund or top up end-of-service payments in other jurisdictions.

DIFC employers should take this opportunity, brought about by this new flexibility in Dubai, to evaluate whether or not DEWS meets their current and future needs. If not, one of the alternatives available may be worth exploring in more detail.

Jargon Buster

DEWS	DIFC Employee Workplace Savings Plan
DFSA	The Dubai Financial Services Authority
DIFC	Dubai International Finance Centre
ISP	International Savings Plan

BWCI