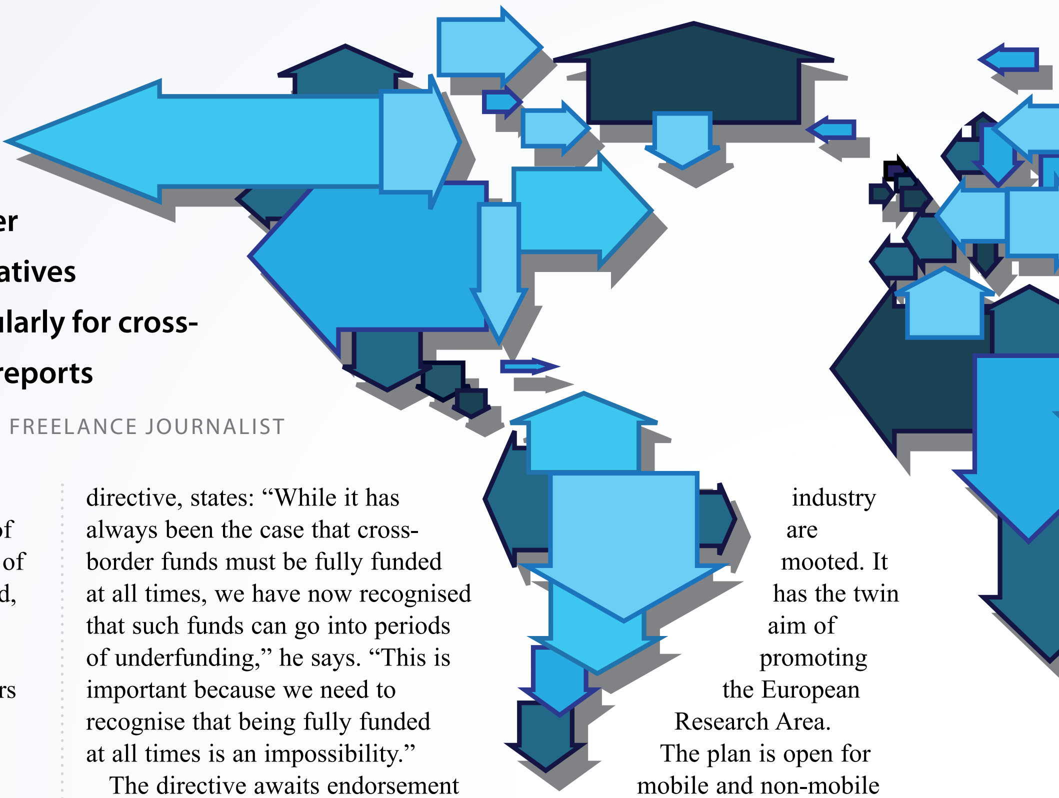
REGULATION

Crossing thresholds



Brexit, home country bias and weariness with EU legislation all count against cross-border schemes, but several initiatives could change this, particularly for cross-border DC. David Rowley **reports**

WRITTEN BY DAVID ROWLEY, A FREELANCE JOURNALIST

Pension plans are complex to run and intangible to most of their members, so if a layer of international bureaucracy is added, then they can become simply impossible to conceive.

For this reason, many employers have baulked at the prospect of setting up cross-border pension schemes that are fully compliant with EU rules and at the last point of counting by European Insurance and Occupational Pensions Authority (EIOPA) in 2015 there were only 76 active schemes.

The new European pensions directive is designed to change that. Speaking to the Pensions Europe Conference on 23 June (the same day as the Brexit referendum was held), commissioner Jonathan Hill heralded what will become IORP II as a measure to "clarify the rules and simplify the procedures". The directive will make transfers between IORPs possible, give exemptions to small to medium sized employers and it will also allow, with caveats, defined benefit funds to be in deficit.

On this latter issue, Irish MEP Brian Hayes, who acted as lead negotiator on the new European directive, states: "While it has always been the case that cross-border funds must be fully funded at all times, we have now recognised that such funds can go into periods of underfunding," he says. "This is important because we need to recognise that being fully funded at all times is an impossibility."

The directive awaits endorsement by the European Parliament, but the signs are good.

The European Commission has also promised to explore how cross-border personal pension products can be set up, so that consumers can benefit from a wider range of products as providers are free to compete across borders.

To add to the bright new picture, the creation of Europe's first multi-employer defined contribution pension scheme has gone live. The Brussels-based Resaver is designed for researchers who move between European universities working on one- to two-year projects. Kick-started with €4 million of funding from the European Commission, the scheme is hoped to help encourage other multi-employer cross border schemes – schemes for musicians, the hotel industry and the airline industry are mooted. It has the twin aim of promoting the European Research Area.

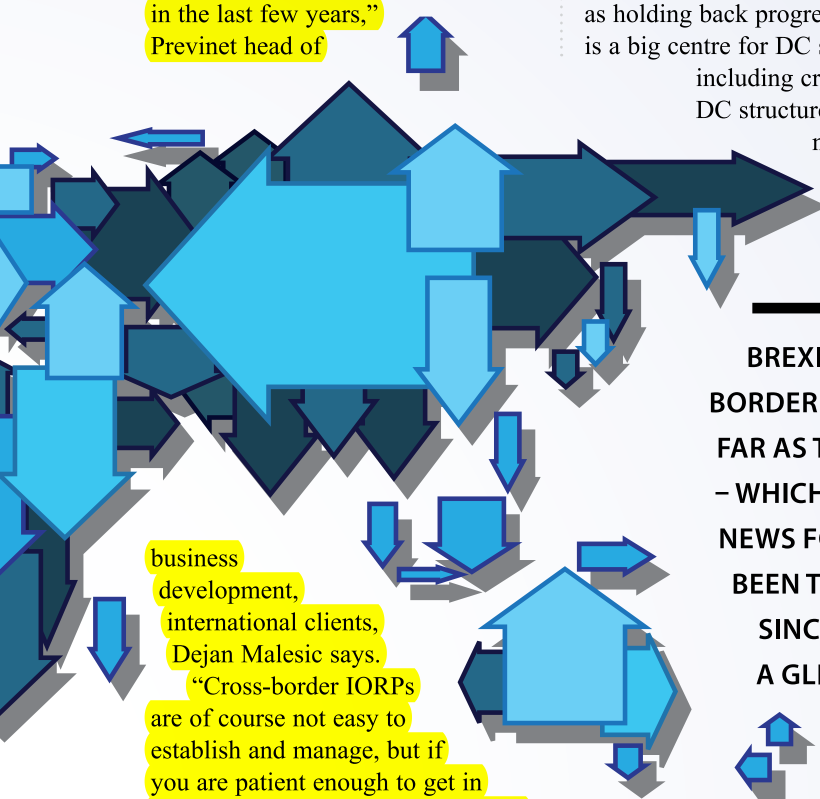
The plan is open for mobile and non-mobile employees and designed to capture enough scale to purchase asset management, administration and insurance at cheap prices, thereby making it appealing for employers and members alike. It will also offer a side scheme for researchers who work in the EU, but who are nationals of non-EU countries.

So far there are 650 employees across 280 employers registered for the plan, which has been set up under the guidance of Aon Hewitt in Brussels.

Previnet, the Italian-based technology and administration provider, has been appointed to operate the member service centre for Resaver and to administrate the plan, and it sees a future for more cross-border schemes, particularly those that use smart technology.

"There has been some lack of

commitment from sponsors/multinationals in the last few years,” Previnet head of business development, international clients, Dejan Malesic says.



“Cross-border IORPs are of course not easy to establish and manage, but if you are patient enough to get in three to four year to the break-even, and if the administration is strong and technology driven, then IORPs can surely pay off.”

This is all positive talk, but there is still much residual weariness about the additional complexity of EU legislation and the initial relative failure of the first European pensions directive to encourage many cross-border schemes, particularly DB schemes.

Eversheds Irish Pensions Group lawyer and head Peter Fahy cites the complexity of complying with social and labour laws of different EU countries as one stumbling block to growth. There are also cultural and political differences. He cites the current move to consolidate DC schemes in order to obtain scale in Ireland led by the Irish Pensions Authority, as likely to take precedence over any cross-border initiatives in DC or even the creation of one single super-European scheme.

He also sees an impending Brexit, as holding back progress. “London is a big centre for DC solutions including cross-border DC structures, so if it is no longer part of the IORPs system that could have a negative impact on the development of the market.”

BREXIT WILL SINK CROSS-BORDER PENSION SCHEMES SO FAR AS THE UK IS CONCERNED – WHICH WILL COME AS GOOD NEWS FOR HMRC, WHICH HAS BEEN TRYING TO SINK THEM SINCE THEY WERE FIRST A GLINT IN THE EU’S EYE

The impact of Brexit will further reduce the number of EU cross-border schemes, as a considerable number were created to facilitate the movement of employees between UK and Irish schemes. EIOPA counts 76 active cross border schemes with 26 of these based in Ireland and 25 in the UK.

Even though the British government and the EU will negotiate on what priviliges and obligations of EU membership will be retained and which will not, Fahy is pessimistic that cross-border schemes that include the UK will survive, not least as it is unlikely that countries such as Ireland and the UK will be able to negotiate special tax deals.

PwC director of international pensions Tim Reay agrees. “I would doubt whether the pension directive will apply if the UK leaves. EU countries are not obliged to offer tax relief to non-EU countries.”

A leading pensions lawyer sees the UK tax authorities as not helping either.

Pinsent Masons head of strategic development for pensions Robin Ellison says: “Brexit will sink cross-border pension schemes so far as the UK is concerned – which will come as good news for HMRC, which has been trying to sink them since they were first a glint in the EU’s eye.”

Post-Brexit UK plans

UK pension experts do not seem down heartened by the potential exclusion of UK employers from EU approved cross-border schemes.

Reay states the UK Pensions Act 2004, which allows employees anywhere in the world to take part in a UK scheme, will take precedence and that it will be less restrictive than current EU rules.

“At the moment if you want to include anyone in a UK pension plan who is in the EU you have got to apply the provisions of the pensions directive, which means you have got to register with the regulator,” he says. “You have to show you understand the labour law of the country in question. All that legislation will fall away, so a UK pension scheme will be able to accommodate anyone from anywhere.”

While Ellison believes Brexit will lead to a resurgence of book-reserve schemes in the UK. “They are simple, cheap to manage, don’t need tax neutrality, and are inherently cross-border because they don’t usually need local approvals,” he says. ■