Global Legislative Update

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Frenkel Benefits is a member of three networks of worldwide independent insurance and benefits brokers: Assurex Global, GBN Worldwide and the International Benefits Network. This global legislative update summarizes recent legislative developments and trends in employee benefits across the world that our global partners have shared with us which may affect employers. This includes recently passed or pending legislation that may require employers to take action to comply with new rules.

Australia	Earnings generated by Transition to Retirement Pensions will be taxed at 15% instead of being tax free.
Brazil	Employers should review their benefit designs for medical and dental cover, as they are now liable for group leaver premiums.
Canada	Companies (except in Quebec) should review their workplace pension arrangements in order to integrate higher benefits from the state-sponsored Canada Pension Plan (CPP).
China	Income-tax payers in 31 cities in mainland China will enjoy income tax exemption from 1 January 2017 when they buy commercial health insurance.
Germany	Employers should monitor the latest pension updates as the German government has signaled support for auto-enrollment.
Greece	Employers should be aware of recent increases in a number of different taxes.
India	Companies should review their maternity leave policy as the Indian government is set to enhance maternity benefit from 12 weeks to 26 weeks through an executive order.
Israel	Minimum employer and employee contribution rates for retirement plans have increased.
Italy	Companies looking to use new flexibilities in the taxation of benefits should take note of the clarifications made by a recent government circular.
Japan	Effective from 1 January 2017, companies should note a simplified multiemployer DC plan will be introduced to enable small-sized employers to offer a DC plans to their employees. Plus, employers offering corporate DC plans will face stricter governance requirements.
Netherlands	Companies with insured pension plans or any existing company pension funds should be aware there is a new pension solution introduced by the government that may resolve balance sheet issues for existing DB pension plans, particular for multinationals using the USGAAP accounting standards.

Russia	Companies should note the minor changes to the requirement for travel policies for non-resident workers in Russia.
Saudi Arabia	Employers should review their health insurance plan to make sure it is compliant with the Unified Employer Insurance Policy.
Singapore	Companies should note the monthly qualifying salary for foreigners applying for an Employment Pass to work in Singapore has been raised.
Switzerland	The confederate AHV/IV commission has suggested, for the first time, not to adjust the Old Age and Disability Annuity for inflation as of 2017.
United Arab Emirates	Individual sponsors who fail to provide health insurance for themselves, their employees and dependents by 30 June 2016 will have a grace period of six months.
United Kingdom	Implications following the United Kingdom's vote to leave the European Union are discussed.
United States	On 17 May 2016, final rules on wellness programs were released by the Equal Employment Opportunity Commission. As of 21 June 2016, the HHS began sending letters to employers listing the employees who enrolled in exchange coverage and received subsidies. Deadlines for Issuing statements to employees/covered individuals under Sections 6055 and 6056 of the ACA have passed.

Americas

Brazil

Since the beginning of 2016, employers are now responsible for collecting terminated employees' monthly premiums, as carriers are no longer obliged to issue individual invoices.

Employers who are sharing medical and dental cost with employees should review the benefit structure and decide if they should stop their contribution to this, as employees have the right to extend the medical / dental plan for a minimum of 6 months and a maximum of 24 months after termination, dependent on the length of the period of contributions.

As a result, if employees do not pay for their contribution, the burden of costs and claims will be placed on the employer. Employers should also review their administration and budgeting processes for this change.

Canada

Workplace pension plans will likely be revamped to integrate a larger CPP

An agreement was reached by all provinces (except Quebec) to expand the Canada Pension Plan (CPP), the social security scheme that covers Canadians outside Quebec. Quebec has its own social security plan called the Quebec Pension Plan (QPP).

Once it is fully phased in, the enhanced CPP benefit will be up to 50%bigger than the current maximum benefit.This will have a number of implications in the mid- to long-term and allows governments and pension plan sponsors to make changes to workplace pension plans.

Workplace pension plans will likely be revamped to integrate a larger CPP, even if they are not currently integrated and will eventually close the pension income gap that currently exists for middle- income Canadians.

United States

Final rules on wellness programs were released by the Equal Employment Opportunity Commission

On 17 May 2016, the Equal Employment Opportunity Commission (EEOC) released two sets of final rules relating to wellness program compliance under the Americans with Disabilities Act (ADA) and the Genetic Information Non-discrimination Act (GINA).

Significant changes were made which includes extending the incentive limitations and notice requirements to all wellness programs that fall under ADA or GINA, regardless of whether they are tied to a group health plan, in addition to adjusting the calculations for the 30% maximum incentive limitations.

The Department of Health and Human Services releases discrimination rule affecting transgender benefits

On 18 May 2016, the Department of Health and Human Services released the Final Rule implementing Section 1557 of the ACA which prohibits certain types of entities from discriminating in health programs on the basis of race, colour, national origin, age, disability, or sex. The new rules include significant requirements related to health coverage for transgender individuals that may force changes to current benefits.

Deadline for issuing statements to employees/covered individuals under Sections 6055 and 6056 of the ACA has passed

The deadline under Sections 6055 and 6056 for issuing statements to employees/covered individuals has passed, and employers can now identify errors in the statements issued. The IRS may too identify errors or information that does not match its records once these statements are filed.

In either case, employers must address these errors or inconsistences (or demonstrate reasonable cause) if they wish to avoid potential penalties under Code 6721 and 6722.

Asia Pacific

Australia

Earnings generated by Transition to Retirement Pensions will be taxed at 15%, rather than being tax free

Superannuation is a retirement saving plan funded by the employer and topped up by employees' salary with tax entitlements. Employees are able to keep working while drawing down some of their *Super* benefits. Transition to Retirement Pensions enable individuals over the age of 55 to access their Super while they are still working. Employees can sacrifice a portion of their income to a tax-free transition pension, which means they can keep contributing to their Super and pay just 15% Super contribution tax. To supplement their take home pay, individuals draw down income from their Transition to Retirement Pension account. High income earners who don't need the extra cash can withdraw the money from their pension and pump it straight back in.

Under the new rules, earnings generated by Transition to Retirement Pensions will be taxed at 15% rather than being tax free. High income earners who inject the money they withdraw from the transition accounts straight back in will now be subject to the $500,000 lifetime limit on after-tax contributions.

Tax is applied for individuals aged 56 and 59 upon withdrawal of money out of transition to retirement pensions; tax free withdrawals apply to savers over aged 60.

Under the Coalition's proposed regime, Transition to Retirement Pensions would only be useful for people who need extra cash while they reduce the number of working hours, or who are able to make larger contributions to their Super than they might otherwise would.

It is expected that savers on higher incomes would either turn off Transition to Retirement Pensions or stop working and convert them to a full pension, as full private pensions are tax free.

China

Income tax exemption for buying commercial health insurance

Income tax payers in 31 cities, including the 4 municipalities, capitals of the 22 provinces and 5 autonomous regions in mainland China will enjoy an income tax exemption from 1 January 2017 when they buy commercial health insurance, as the authorities aim to promote medical insurance to supplement the government-run basic health insurance scheme.

In addition, China will introduce a new policy to promote the buying of personal tax-deferred retirement insurance from commercial insurers this year with the timeline for approval to be confirmed.

India

The Indian government is set to enhance maternity benefit.

The government is set to enhance maternity benefit from 12 weeks to 26 weeks through an executive order. Currently, there is already a provision of 26-week maternity leave for government employees, but most private sector firms offer a maximum of three months and maternity benefits are not provided at all in many smaller establishments.

The regulator places pressure on insurance companies to comply with the 'burning cost' pricing method.

As per the circular issued by the Insurance Regulatory and Development Authority (IRDA), the burning cost of method of insurance pricing should be have been applied to all general insurance companies from 1 Jan 2015 for new/existing business, with a particular emphasis on health insurance. The burning cost formula means no insurance company will quote anything less than the claims outgoing for the current year during renewals. Due to intense price competition insurance companies have been very slow to adopt this method, and the IRDA has lodged a number of complaints against companies. Health insurance premiums may rise as a result of this pressure from the regulator.

Japan

Amendments to DC law will enable small employers to implement DC plans more easily. In addition, stricter requirements are to be imposed for corporate DC plans.

Effective from 1 January 2017, individual DC plans will be available to all Japanese citizens including employees working in the private sector who have already got corporate DC plans in place. A simplified multi-employer DC plan will be introduced to enable small-sized employers to offer a DC plan to their employees. Employer matching contributions to individual DC plans will be allowed, with timing yet to be specified.

Employers offering corporate DC plans will face more requirements for governance including continuous investment education, review of DC administrators every 5 years, investment performance monitoring, default investment and keeping the number of investment products within the prescribed cap.. The details and timing of the implementation of these changes are forthcoming.

A new corporate pension called Risk Sharing Pension Plan (a hybrid of DB and DC) is being considered by the government. The scheme allows sponsoring employers to fund the risk buffer in advance and the participants' benefits will increase / decrease depending on the funded status of the scheme. Assets will be pooled and invested by the employer and the decision making for the investment strategies must involve an employee representative. Where the risk buffer contributions are fixed and do not change to incur additional contributions to the employer, the scheme can be treated as a DC plan from an accounting perspective. A similar risk buffer approach will also be mandated to the existing DB plans and it will enable sponsoring employers to pre-fund the future risk by "risk buffer contributions" as desired (but the benefits level will be intact). The Risk Sharing Pension Plan and risk buffer approach will be enacted shortly after the public comments are closed.

Singapore

Qualifying monthly salary to apply for an Employment Pass (EP) in Singapore will be raised from 1 January 2017.

From 1 January 2017, the qualifying monthly salary for foreigners applying for an Employment Pass (EP) to work in Singapore will be raised from S$3,300 to S$3,600. This change is part of the Ministry of Manpower's (MOM) regular updating of the EP qualifying salary to keep pace with rising local wages, maintain the quality of the foreign workforce and enhance the employability of the local workforce.

Employers should provide the following instructions to those employees whose EP is due to expire:

- Before 1 January 2017: the EP can be renewed for duration of up to three years, based on existing criteria.
- Between 1 January 2017 and 30 June 2017 (both dates inclusive): the EP can be renewed, for duration of one year, based on the existing criteria.
- 1 July 2017 onwards: the EP will have to meet the new criteria for renewal, for the duration of up to three years.

Europe

Germany

The Government has signaled support for pension auto-enrollment

The German government has shown support for the idea of introducing auto-enrolment for occupational pensions, weeks after an independent report by the Federal Ministry of Labour and Social Affairs (BMAS) proposed its use within industry-wide bargaining agreements.

Currently there is a wide-ranging political debate on the interplay between the state pension (pay-as- you-go scheme), occupational pension and voluntary savings through third-pillar arrangements. One of the questions is how far politics should go in offering an occupational pension that employees do not have to join, but which they have to leave if they do not wish to be in it. It is not yet predictable whether a decision will be made before the end of the current parliamentary term which ends in late 2017.

Employers are advised to pay attention to developments, which will feature regularly in this publication.

Greece

As the Greek Government continues to address the issues facing their economy, several revenue increasing initiatives have been introduced

- Increase on Insurance Premium Tax (IPT) - as of July 2015 from 10% to 15%. Insurance Premium Tax is applicable on all insurance classes except ‘Life Insurance’ (previous exemptions are abolished).
- Increase in the advance corporation tax payment from 80% of current year tax payable to 100% as of November 2015.
- Increase on corporation tax from 26% to 29% as of 1 January 2016.
- Increase on VAT - as of July 2016 – from 23% to 24%. VAT is applicable to several goods and services including hospitalization costs.
- Increase of dividend distribution tax from 10% to 15% as of 1 January 2017.
- Leasing cars: As of 1 January 2016 (retroactively) 80% of the total annual cost of leasing cars will be considered as benefit in kind this amount is added to each employee’s individual income tax return.

Italy

Clarification of scope of applicability for flexible benefits following the publication of "Circolare n.28/E del 15/06/2016"

The aforementioned Circular clarified the criteria for applying for Productivity Incentives and Welfare status:

- Employees working for companies with welfare initiative in place will be able to reimburse education expenses, the cost of tuition and babysitting. Rules and conditions apply.
- The scope of applicability for the assistance service for elderly and non-self-sufficient family members has been clarified: "the elderly" means family members of over 75 years old.
- "Vouchers" can only be provided as one single benefit within goods and services according to article 100 of the Italian fiscal law.

The Netherlands

The newly introduced General Pension Fund could resolve Dutch pension challenges for US companies

APF (Algemeen Pensioenfonds) is a newly introduced pension pooling vehicle that enables the separate financial administration of multiple pension plans (so-called 'ring-fencing'). One type of APF will have professional expert boards that will manage the fund's administration and investments.

Most APF rings will be constructed as Collective Defined Contribution (CDC) plans. CDC plans have a fixed contribution and all actuarial and investment risks fall on the individual participant. Furthermore, a ring with a number of other employers could be constructed within an APF in such a way that the plan will qualify as a multi-employer plan under US Generally Accepted Accounting Principles (USGAAP). This would result in DC accounting, which means stable pension contributions as P&L charge, no liabilities on the balance sheet and less disclosure requirements.

The APF facilitates DB pension schemes, but qualifies for DC accounting under USGAAP and thus may resolve Dutch USGAAP pension challenges.

Russia

Minor changes to the requirement for travel policies for non-resident workers

According to a Central Bank statement effective from 30 May 2016, minimum requirements for travel policies for non-resident workers in Russia are to be applied. These amendments are:

- Providers should issue each policy on a special form with a thread-mark;

- The policy period should be equal to the employees' work permission period;
- Changes in minimum requirements of scope of cover, mean that the minimum insured limit should be Rub100, 000 (approximately USD 1,500 / GBP 1,200)+

These changes only apply to policies set up on or after 30 May 2016.

Switzerland

Proposal of no adjustments to Old Age and Disability Annuity as per 2017

The Swiss federal council reviews the old age, survivors and disability annuity (AHV / IV) within the first pillar every two year and adjust them to inflation. The confederate AHV/IV commission has suggested, for the first time, not to adjust the Old Age and Disability Annuity as of 2017. The decision on this will be announced within the next month.

Correction to the last legislative update

Please note that any references to 401k plans in the previous legislative update for Switzerland should be replaced with "Pension Reform 2020 Plan". Please find updated content below:

Elimination of minimum guarantees for Pension Reform 2020 Plan

Parliament agreed to the "Motion Stahl" to eliminate minimum guarantees in Pension Reform 2020 Plan (Art. 15 and 17 FZG). If an employee leaves their employer, they will only receive the liquidation amount of their Pension Reform 2020 fund. The implementation date of the new provision is expected to be 1 January 2017. Once minimum guarantees are removed it is expected that Pension Reform 2020 Plans will become more popular as contingencies under IAS/USGAAP/IFRS can be reduced.

United Kingdom

Implications of Brexit

On 23 June 2016, the United Kingdom held a referendum on whether it should remain in or leave the European Union (EU), the so called 'Brexit' and the result of the referendum was to leave EU.

It is too early to tell what the result will mean. Much will depend first upon when/if the UK Government will trigger Article 50 under the Treaty of European Union to notify the European Council of the UK's intention to exit the EU. If the UK Government decides to invoke Article 50 then a withdrawal agreement would need to be negotiated between the EU and the UK. In this event, many of the implications of a potential Brexit will hinge significantly on the terms of the exit with various options on the table, and on future discussions and negotiations on trade agreements. The potential implications for pensions and employment in the future if Article 50 is invoked by the UK Government are discussed and outlined below.

Pension

- **Legislation**

  If Article 50 is invoked, any impact on pension law is likely to be felt over the medium and longer term. There are three broad areas of legislation which may be impacted differently.

  Firstly, there is a wealth of home-grown legislation in the UK which would include UK trust and contract law, rights for early leavers; i.e. preservation, and the tax framework for pensions.

  Secondly, the legislation that has been driven by the EU via Directives and adopted into UK law would remain part of UK law unless it was repealed by amending legislation. In the event of Article 50 being invoked, it would be the decision of the future Government whether to repeal any of the legislation that has implications for pension scheme members.

  Thirdly, there are some pieces of legislation such as the complex regulations concerning schemes operating cross-border where members are subject to the social and labour laws of another European Economic Area (EEA) state.

- **Financial Markets**

  There was some volatility in financial markets initially and it will be weeks or months before it is known whether these financial market movements are the beginning of a trend, stabilise at these levels, or simply a short term blip.

  The overall impact on a specific DB pension scheme will depend heavily on the asset allocation. Trustees are longer-term investors and so short-term volatility can be seen as 'noise' (avoid knee- jerk reactions) or potentially an opportunity (if the funding level improves materially).

  If Article 50 is triggered, DB trustees may wish to consider whether this has an impact on the sponsoring employer and their covenant, especially for those that have large export exposure to the EU.

  Similarly DC trustees/managers should not panic as volatility in the markets is nothing new and they have a legal duty to review their investment options. However, some DC members may think otherwise about their current investment choices and clear communications from the scheme are recommended.

- **State Pensions**

  Currently, former UK citizens who live abroad will receive increases on their UK state pensions if they live in an EU country or the country in which they live has a reciprocal social security agreement with the UK.

  If Article 50 is invoked and the country works towards Brexit, it will be the decision of the UK Government as to whether they amend legislation on state pension increases to those living in EU countries.

Employment

Similar to pensions, employment law and protection of rights for UK workers have been enshrined in domestic law via EU Directives. A huge number of separate pieces of legislation would need to be reviewed and repealed as appropriate and in the event of Brexit it will be up to the UK Government as to whether to remove safeguards for employees which are now deeply embedded in business practices across the UK.

Any changes a post-Brexit UK Government decides to make may focus on areas where some commentators think the UK has gone further than expected of an EU Directive, removing complex provisions and red-tape to help employers, but without diluting protection of employees' rights.

European expatriate benefits

Currently British citizens living and working in Europe are able to enjoy the reciprocal healthcare agreement that exist amongst EU members, as are EU citizens coming to the UK. Depending on how future terms are negotiated, the access to healthcare may be impacted in the future. If the continuation of such provisions is no longer permitted, we will see employees, students and retirees and their families living in the EU turn to International Private Medical Insurance (IPMI).

However, the providers of such pan regional insurance products will also be looking to see how Brexit impacts the provision of these benefits, with many providers using European Freedom to Provide Services legislation to allow them to cover not only expatriates, but also local nationals. Changes in access to markets may require providers to underwrite outside of the UK or obtain regulatory recognition in each state.

In the short term, there is an inevitable period of uncertainty and much will depend on if the UK Government invokes Article 50 giving notice of its intention to leave the EU.

Middle East

Israel

Updates to minimum employer and employee contributions to individual retirement benefit plans.

Employers and employees are required to pay contributions to an individual retirement benefit plan at least equal to the rates described below:

Year	Salary Cap Mandatory minimum plan only	Employee contribution – retirement savings (I)	Employee contribution – retirement savings (I)	Company funding – severance pay	Long term disability	Aggregate contribution
2008	NAE	0.833%	0.833%	0.833%	0	2.500%
2009	NAE	1.660%	1.660%	1.660%	0	5.000%
2010	NAE	2.500%	2.500%	2.500%	0	7.500%
2011	NAE	3.300%	3.300%	3.300%	0	10.000%
2012	NAE	4.160%	4.160%	4.160%	0	12.500%
2013	NAE	5.000%	5.000%	5.000%	0	15.000%
2014-2015	NAE	5.500%	5.500%	5.500%	0	17.500%
2016	NAE**(III)**	5.750%	6.250%**(IV)**	6.000%	Up to 2.500%	18.000%
2017	NAE **(III)**	6.000%	6.500%**(IV)**	6.000%	Up to 2.500%	18.500%
Market level plan (II)	None	6.000% - 7.000%	6.000% - 7.500%	8.330%	Up to 2.500%	13.33% - 22.830%

(I) including life assurance premium
(II) included for comparison purpose only
(III) salary cap does not apply for market level plan
(IV) including disability

- Eligibility: 6 months service, payments beginning from the 7th month; or 3 months for an employee with pre-existing retirement benefit arrangement from prior employment, payment paid retroactively from date of hire.

- Company funding to severance pay is adherent to Section 14 of the Severance Pay Law where the mandatory minimum pension standard applies.

The Cooperative Council for Health Insurance issued the implementation procedure for the Unified Employer Insurance Policy to combat anti-selection in insurance

According to Decision No.103 - Unified Health Insurance Policy for Employers, the business owner / employer should have a single health policy that includes all employees and their families/ dependents that are covered in the Council of Corporate Health Insurance (CCHI) system.

There are two main procedural notes for this dated 13 April 2016.

- Employers are not allowed to have more than one insurance plan which must be insured with one insurance company
- Only one sponsor number is allowed to be entered for any policy.

The implementation of the unified policy project will be defined across four phases depending on the number of employees at the employer. The duration of each phase will be 3 months (quarterly), according to the following:

Phase	Date of implementation	Number of expat employees
One	10/07/2016	More than 100
Two	10/10/2016	From 50-99
Three	10/01/2017	From 25-49
Four	10/04/2017	Less than 25

The General Secretariat intends to electronically activate fines as provided for in Article 14 of the CCHI system. This will be done through a developed system where the employer will be fined for not renewing its employees' insurance on time. In case a violation remains unaddressed, this will be escalated to the Ministry of Labour, where the business owner will be banned from recruiting additional employees on a temporarily or permanent basis.

United Arab Emirates

The Dubai Health Authority (DHA) extends the deadline to comply with the new health compulsory insurance law for certain residents

Individual sponsors who fail to provide health insurance for themselves, their employees (such as cooks, drivers, gardeners, maids, etc.) and dependents by 30 June 2016, the deadline set by Dubai Health Authority will not face fines this year.

A grace period of six months has been offered by DHA, as it plans to enforce the final stage of its mandatory health insurance scheme for all residents.

Health insurance is now linked to Dubai residency visas in an effort to have widespread coverage for the 3.8 million people living in the emirate.

The plan is in its third phase, which covers companies with 100 or fewer employees and includes domestic workers and dependents of employees.

Please be aware that this does not represent legal or tax advice and is only Frenkel's interpretation of the laws, regulations and statutes. This list is not intended to be exhaustive. It is highly recommended that you seek the advice of your legal and tax professional as to the applicability of this information to your particular situation.