

The PPF Rocket Launch

Key Tips for Entry and Re-entry

An unfortunate consequence of the recession is that more trustees, members and employers alike are looking to the Pension Protection Fund (PPF) to protect pensions. Getting into the PPF for assessment isn't always a straightforward matter for trustees.

Don't assume you have a qualifying event

Some of the issues we have seen include advising a UK based scheme where the sponsoring employer went into administration in Italy. The qualifying insolvency events for entering PPF assessment do not include non-UK insolvency triggers. This meant that the Trustees had to bring a separate wind-up petition in the UK in order to enable the scheme to enter assessment.

Life before PPF – getting ready

Validation for the PPF has similarities with the early stages of wind-up and is one of the few times when all the "drains are up" as the PPF consider the scheme's eligibility. One of the first problems can be the review of the scheme documentation. The PPF will need to ensure there is an audit trail of deeds and rules documenting the scheme from inception to date. Issues arising include the basis problem so many schemes face, of missing deeds and other documentation, to queries whether the benefit structure is defined benefit due to incorrect adoption of final salary rules and bulk transfers not done correctly. All these matters can cause delays and concerns for both trustees and members.

The PPF rebound

Even after the scheme has successfully entered the PPF, issues can arise at the other end of the process if a scheme needs to get back in. Once trustees have obtained the PPF valuation, if the funding level is such that the scheme should be able to transfer out of the PPF and wind-up with an insurance company, further issues can arise. Our experience, especially with smaller schemes, is that insurance companies can be reluctant to provide quotations as they need to be on the PPF basis which adds

an additional layer of complexity for some companies. If the trustees cannot get a quotation which will secure benefits above PPF levels they will need to turn their minds to getting back into the PPF. The principle is sound, if the scheme cannot do better for members in the outside world they have the chance to reapply to get the protection of the PPF. Reapplication has its own difficulties and is a highly regulated area with tight time limits. There is a list of requirements in the Pensions Act but the one which in our experience causes the most difficulty is the requirement to have a quotation from an insurance company on the PPF basis which shows the trustees cannot buy out above PPF levels. We know that many trustees have resorted to paying for quotes in order to meet this hurdle due to the lack of interest from insurance companies.

PPF – clearance

We have also worked on a number of clearance applications involving the PPF. Our experience is that a fully transparent application showing the challenges that the sponsoring employer faces maximises the prospect of the PPF entering into a dialogue to explore options for the scheme and ensure that the PPF are supportive of the clearance application or perhaps seeking an equity stake in any new company.

Summary

In summary to smooth the trajectory of any scheme heading towards the PPF we would suggest:

- checking in detail early on that the scheme satisfies the entry requirements;
- having all deeds and data in good order to accelerate the process;
- consider the likelihood of needing to re-enter the PPF after assessment and what steps you should take;
- for clearance applications a full and transparent application is commonly the best option.

Disclaimer: This briefing gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

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