Pension scheme funding in a recession - the Regulator's new message

Seminars in Bristol and London on 22nd and 24th September 2009

The Pensions Regulator's message on scheme funding is clear - the triggers it set three years ago when the economy was stronger should not strictly govern how you negotiate funding arrangements. We will be running two seminars in the autumn on what this means in practice (see below), including insights from working at and with TPR.

In a series of national workshops and in a new statement on its website the Regulator has explained its approach to funding defined benefit schemes during the recession. If technical provisions are genuinely prudent after full allowance for any weakness in the employer's covenant, the length and shape of the recovery plan are more widely open for agreement between the trustees and the employer.

How the basis for technical provisions stands up against the Regulator's trigger range of PPF to FRS17 should no longer be viewed as decisive. And the Regulator says that whether a recovery plan is acceptable depends on the all facts, not whether it exceeds 10 years or is significantly back-end loaded. Indeed the Regulator has accepted plans of 20 years.

At the same time there is a firm core to the message. There is flexibility over the recovery plan only if technical provisions really are robust given the state of the employer.

Advisers can now add value during funding negotiations by knowing what interests the Regulator as it balances the protection of members with the survival of employers. Having been a senior member of the scheme funding team during his five years with the Regulator, partner Clive Pugh has the experience to judge what funding packages the Regulator is likely to accept under its new and unwritten rules.

Main points from the Regulator's statement:

- many employers have little cash now and face an uncertain longer term future. The new regulatory approach is flexible enough to cope;
- prudent technical provisions allow flexibility over the recovery plan e.g. its length is open to negotiation, back-end loading is allowed and contingent assets and agreements can be used in support;
- any risk margin in the basis for technical provisions must be justified by the covenant;
- FRS 17 on its own is unlikely to be prudent enough at the moment; and
- a recovery plan should be set according to what the employer can reasonably afford.

Seminars

We will be holding two seminars in the autumn to help spread the Regulator's message and to explain how to put it into practice. Clive Pugh, who worked at the Regulator before joining Burges Salmon, will be the speaker and will also cover PPF entry issues and the Regulator's new powers.

We will be circulating further details of the seminar but if you would like to register your interest at this stage, please email Abi Smith (abigail.smith@burges-salmon.com) and say whether you are interested in attending the Bristol seminar on 22nd September or the London event on 24th September.

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