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Pensions Newsletter No 9

tPR : REGULATING THE FUNDING OF DEFINED BENEFITS

In Newsletter No 7 we commented on the proposals the Pensions Regulator (tPR) had issued for consultation on how it intended to regulate the funding of defined benefits under Part 3 of the Pensions Act 2004. The Regulator has now issued its formal statement of how it will exercise its regulatory role. This can be found at http://www.thepensionsregulator.gov.uk/schemeFunding/statement/.

The statement confirms tPR's approach of using a trigger system for regulatory intervention, although this does not preclude intervention in other circumstances. The triggers are defined for

1. technical provisions and
2. the recovery plan

The principles underlying the final statement are unchanged from the consultation paper. However there have been some significant changes in the actual triggers compared to the original proposals. The final statement sets the triggers as follows:

Technical provisions – by reference to how these compare with a range between the FRS17 and PPF levy valuation liabilities. In some cases the FRS17 liability will be higher than the PPF levy liability. In other cases the converse will be true. The relative size depends on the strength of the FRS17 basis, a scheme's maturity and design (in particular its level of pension increase). The trigger point is not based on the higher of the two but will lie somewhere between the two for each particular scheme depending on that scheme and its sponsor's specific characteristics (ie maturity and strength respectively). tPR intend to apply a 'sense check' to the liability range by using other available information such as buy out funding.

tPR stress that the definition of this trigger should not imply that either element should be used as a funding target. Nor should this trigger be taken to imply that a particular investment strategy should be adopted.

Recovery plan – trigger points will be where the recovery plan is over 10 years long, the plan is significantly back-end loaded, or the assumptions underlying the recovery plan, in particular the investment assumptions, appear inappropriate. tPR have also indicated that they may investigate schemes where they have reason to believe the shortfall could be paid off more quickly, but tPR's resources will be concentrated on employers with a weak or worsening covenant. These triggers have been set to tie in with tPR's code of practice which expects the recovery plan to allow the funding position to be corrected as quickly as the employer can reasonably afford.

tPR's underlying concern is to meet their long term objective of strengthening scheme funding thus reducing risks to members, the PPF and reducing the costs of PPF levy payers. Many employers will see higher contribution demands as a result of the Pensions Act provisions. Not least because recovery periods might be expected to be shorter than those often used at present.

Unfunded public service pension schemes are not directly affected.