

### Insolvency Guidance

In April the Pension Protection Fund published detailed [guidance](#) to insolvency practitioners and official receivers – in my opinion a very comprehensive and helpful 24 pages worth. It is useful to reflect on exactly what the PPF is willing to countenance. As pension schemes pay the PPF levy we all have an interest in the process. Pension benefits (partial protection) can fall into the PPF if, amongst other things (see section 5) –

- Insolvency is inevitable (otherwise the discussion should be on funding, see Statement below).
- The pension scheme is significantly better off than on ordinary insolvency, where unsecured creditors will frequently get nothing after secured creditors are paid (and of course after expenses).
- All creditors are treated fairly.
- The pension scheme (via the PPF) gets an equity stake in the ongoing entity, 10% if future shareholders are not involved in the business and 33% if current shareholders continue to be involved.

More generally, the test of insolvency is very difficult; it contains several variables including future investment risks and returns, an affordable contribution (both now and in future), expenses and even potentially the PPF levy! (Future benefit accrual was hopefully previously tackled!) Underlying all this will be a balanced judgment reflecting just how crucial, attainable and realistic each assumption will be. Debt repayment represents a significant “first charge” on company revenues, competing with (1) capital expenditure and (2) management and shareholder reward. Sometimes this charge is only manageable as an equity holding rather than as debt.

### The Pensions Regulator (TPR) Funding Statement

Following on from the excellent Regulator seminars in June, TPR has issued a [Statement](#) summarising the current funding approach. The statement reflects the current economic situation and basically aims to avoid an impression of a “head in the sand”. Trustees and employers are therefore invited to recognise that –

- Target “technical provisions” should not be compromised. (I was particularly astonished to read one industry body suggesting that allowance for improving life expectancy should be deferred until after the current recession! Perhaps medical research and education would kindly stop for a year.)
- Current corporate bonds yields (as used for accounting purposes) are not prudent without adjustment. AA bond yields have an historically high margin (2%+) over risk free gilts.
- The employer covenant should be carefully and independently assessed, in particular to determine an affordable contribution, whilst conflicts of interest will be carefully scrutinized.
- Investment risks and returns must reflect the actual investments, the employer covenant and scheme profile.

### Free Advice

I am most grateful to an accounting friend for the opportunity to again use the above heading and to refer you to the Institute of Chartered Accountants of Scotland (ICAS) web site for some useful free consultancy advice for Pension Trustees; [Evaluating your Scheme Auditor](#).

The ICAS guide for trustees is unsurprisingly designed to help lay and professional trustees in managing and reviewing the service provided by their pension scheme auditor. Another bit of “trustee knowledge and understanding” (TKU) that could be minuted for the purposes of Regulator Internal Controls! Most usefully the ICAS guidance includes checklists for assessing the auditor and questions to consider during an audit tender process. Whilst on the subject of pension scheme audit process, may I just ask how many other trustees have recently been quizzed by their pension scheme auditor, on how their scheme is placed in respect of the documentation (or potentially the lack of documentation) in respect of the equalisation of retirement ages in the mid 1990s? Due diligence and audit questioning of this important risk or extra liability is increasingly common.

**And finally;** I'm grateful to HSBC for a reference to the Policy Exchange web site for an excellent [paper](#) outlining the UK's second national debt - our £1.1 trillion of unfunded public sector pension promises. This is around 78% of GDP, a pretty big additional mortgage for future generations of tax payers. This second national debt could however be locally and more colloquially referred to as “Your other National Debt”.

*As always, for further comment, assistance, advisory or trustee services, contact me on 07714 064964 or via [allan@acmca.co.uk](mailto:allan@acmca.co.uk) Feedback on Pension Snippets is always welcome. For further details, the full CV, occasional lecture notes and published articles and previous Snippets - visit the web site at [www.acmca.co.uk](http://www.acmca.co.uk)*