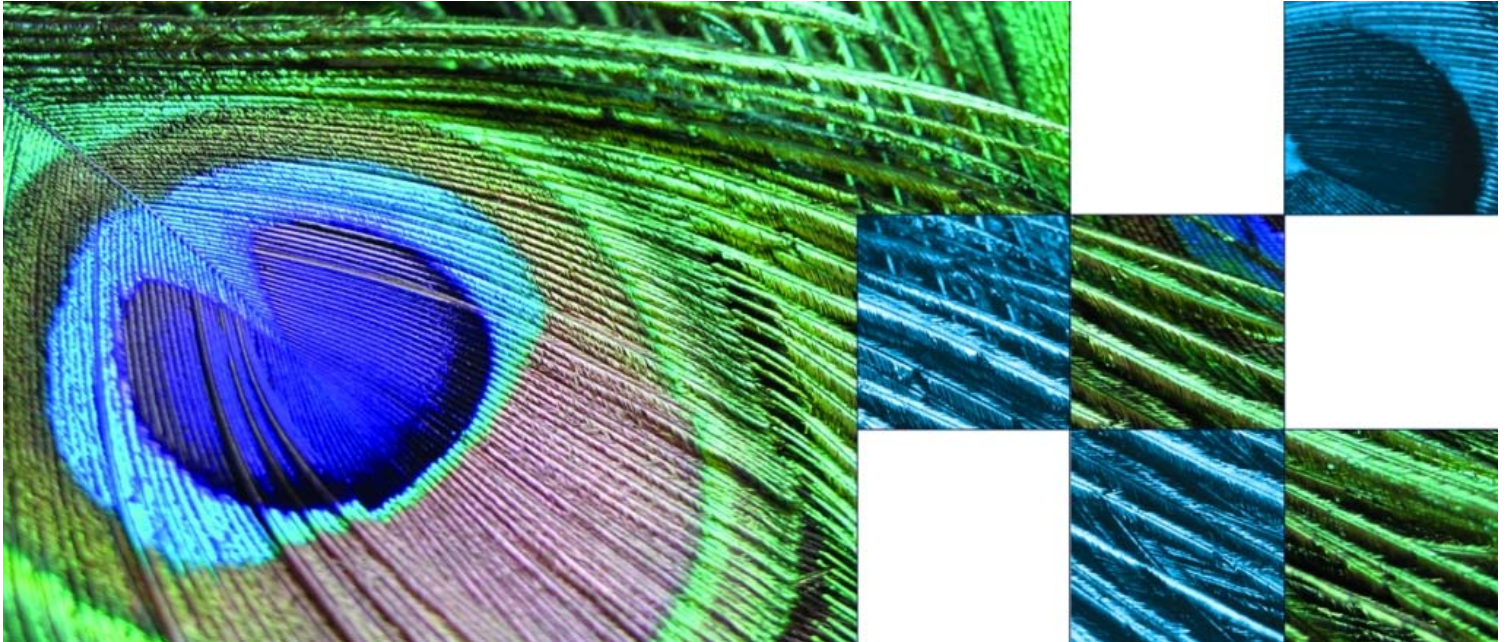


Trustee awareness

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RSPA has recently launched its General Statement of Administration Standards (GSAS)



Current issues

Clearance applications and employer covenants

The Regulator has recently issued a consultation document on revised clearance procedures. One of the main reasons for this is that the Regulator considers that certain applicants and advisers are interpreting the original guidance more restrictively than intended. The Regulator wants to encourage a move towards a more principled based approach. It wants employers and trustees to consider whether employer or scheme related events could have a detrimental effect on the ability of a scheme to meet its pension liabilities.

The Regulator expects clearance to be sought only in relation to events that are materially detrimental and where the scheme has a relevant deficit. These events are classified as Type A events.

Examples of possible Type A events are:

- a change in priority
- a return of capital
- a change to group structure, including a change of control
- a change to the employer in relation to the scheme
- sale and leaseback transactions
- the granting or repayment of inter company loans
- phoenix events – arrangement whereby an employer reemerges substantially the same entity following an insolvency
- business and asset sales
- a corporate event that would reduce sustainable cash flow cover.

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The guidance stresses that these are only examples and that this is not a complete list of employer related events that could be Type A events.

The draft guidance clarifies that clearance is a voluntary procedure. Also, that application is expected to be made by employers or connected parties or potential acquirers of an employer. The Regulator, however, expects trustees to be involved and will ask trustees whether they support the application or not. The Regulator also expects trustees to negotiate with the employer and to look for appropriate mitigation. This could take the form of:

- additional contributions of cash or other assets
- an improvement in priority

- escrow accounts whereby the employer pays funds into an account that passed the scheme under certain conditions
- standby letters of credit, guarantees or insurance
- negative pledges – a commitment by the company that something will not be done
- parental and inter group guarantees
- joint and several liability
- performance thresholds
- changes to scheme rules.

If clearance is not being considered and trustees are concerned that

mitigation is not being offered or is inadequate, they should consider contacting the Regulator.

The document also contains guidance for trustees on keeping the employer covenant under review and stresses the importance of processes in place to do this.

Comment

The document recognises that clearance is a voluntary procedure and applies to employers or potential acquirers of employers. It has also become clear that the Regulator's powers in respect of employer related events are retrospective and limited to contribution notices and financial

support directives.

The Regulator is understandably disinclined to use these unless absolutely necessary.

"The document also contains guidance for trustees on keeping the employer covenant under review..."

It appears that the Regulator is looking to increase trustee involvement by stressing the need for formal processes to be in place to:

- identify events that could weaken the covenant
- assess and keep the covenant under review.

The Professional Pensions Show 2007

21-22 November 2007, Stand 41

ExCeL London, Docklands



"Why the management of risk is so crucial for effective governance"

Zahir Fazal, Head of Horwath Clark Whitehill's National Pensions Group is speaking at this year's Professional Pensions Show. Join him for Day One of the show where Zahir, along with HS Admin, will be speaking on Risk Management in a session to be chaired by Allan Course of Capital Cranfield. Zahir will take a detailed look at the importance of risk management within a governance framework as well as the Regulator's expectations and the practical process for achieving this.

Visit [Stand 41](#) at the show to meet our National Pensions Group and for your own personal demonstration of Magique, our proprietary software for risk management.

Guidance on accounting for derivatives

In recent years the use of derivatives in pension schemes has increased significantly. PRAG recognised that this is a complex area and that schemes involved in these types of contracts were in need of further guidance. In the light of these developments the Pensions Research Accountants Group published guidance 'Accounting For Derivatives in Pension Schemes' in August 2007.

The Statement of Recommended Practice (SORP) has recently been updated and one of the key changes introduced was to account for derivative contracts on a mark to market basis rather than on

an associated economic exposure basis and to recommend much more disclosure about the nature of derivative contracts, bringing pension schemes into line with other sectors. The SORP sets out the high level principles for accounting for derivative contracts and for disclosing the nature of the contracts while the guidance provides more detailed information about how the principles set out in the SORP should be applied.

The guidance also sets out some risks associated with derivative contracts and some of the controls that should be in place.

"The SORP sets out the high level principles while the guidance provides more detailed information about how the principles should be applied"

If your scheme involves derivative contracts we recommend that reference is made to the SORP and to this guidance document which can be obtained through www.prag.org.uk

How we can help you

With our significant involvement in the publication of this guidance and in the revision of the SORP we are ideally placed to provide assistance in the complex area of accounting for derivative contracts and considering risks associated with these derivative investments. We are already assisting a number of clients in these areas.



Raising standards of pensions administration

Following a period of consultation, Raising Standards of Pensions Administration (RSPA) has recently launched its General Statement of Administration Standards (GSAS).

The document shows trustees (or those who are responsible for the proper administration of a scheme) and administrators how they should work together to ensure the best possible service is provided to pension scheme members. The document includes a list of eight guiding principles to which RSPA believe all parties should adhere. There is also a checklist that trustees or advisers can use to assess compliance with the Standard.

RSPA believe that adoption of GSAS and participation in their Member Survey tool will help ensure that the level of service to members moves forward in the coming years.

Anyone who is looking to adopt GSAS or would like more information about how their scheme members can participate in the Member Survey can contact RSPA through their website at www.rspa.org



Current issues

HM Revenue & Customs (HMRC)

HMRC has issued a reminder urging scheme administrators to make sure they are ready for 16 October 2007, when they will have to submit certain information electronically, including registered pension scheme returns and scheme administrator's declarations. Their press release can be found at:

<http://www.gnn.gov.uk/content/detail.asp?ReleaseID=314216&NewsAreaID=2&NavigatedFromSearch=True>

The Pensions Regulator (TPR)

TPR has issued its second occupational pension scheme governance survey. The Regulator took comfort from improvement in three of the areas of governance on which it had focussed most heavily during the last year: trustee knowledge and understanding, management of conflicts of interest and monitoring the employer covenant. The survey report can be found at:

<http://www.thepensionsregulator.gov.uk/onlinePublications/factsandfigures.aspx>

TPR has issued an analysis of recovery plan data from plans submitted to them up to the end of July. Two key findings include: 1) around one-third of plans did not 'trigger' further action by the regulator. Of the 70% that did trigger, a large proportion needed only minimal action; 2) more than 80% of schemes are producing plans no longer than 10 years in length. This can be found at:

<http://www.thepensionsregulator.gov.uk/mediaCentre/pressReleases/pn07/pn07-14.aspx>

TPR has now completed its first review of the Reporting Breaches of the Law code of practice and concluded that the code was still fit for purpose and hence no changes were required, except for some updating for legislative changes etc.

Department of Work and Pensions (DWP)

The DWP's two independent reviewers have submitted their report on deregulation. They concluded on a number of areas including: return of surplus, changes to benefit design, risk-sharing, employer debt and trustee knowledge and understanding. The report can be found at:

<http://www.dwp.gov.uk/pensionsreform/pdfs/ReviewPaperJuly2007.pdf>

If you would like to contact the authors about any of the issues raised in *Trustee awareness*, please see the details below:

'Clearance applications and employer covenants' – contact Zahir Fazal, Head of Pensions. Tel: 020 7842 7275 or email zahir.fazal@horwath.co.uk

'Guidance on accounting for derivatives' – contact Shona Harvie, Director, Pensions Group. Tel: 020 7842 7105 or email shona.harvie@horwath.co.uk

'Raising standards of pensions administration' – contact Andrew Penketh, Partner, Pensions Group. Tel: 020 7842 7355 or email andrew.penketh@horwath.co.uk

We hope you find this newsletter of interest. If you have any questions about any of the topics covered, please call your regular Horwath Clark Whitehill contact. Alternatively please speak to Zahir Fazal on 020 7842 7275 or email him at zahir.fazal@horwath.co.uk

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