

Current Issues in Pensions Seminar

21 February 2008, London
7 March 2008, Bristol
27 March 2008, Edinburgh
4 April 2008, London

The Impact of pension schemes on M&A in the UK
Adam Rosenberg - Mercer

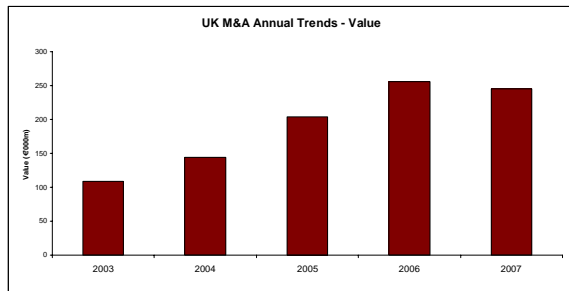
Introduction

- Deal process
- M&A trends
- The new clearance
- Revised debt regulations
- Transactions in general
- Case studies

Typical deal process

- Initial approaches
- Information Memorandum - IM
 - (Revised) initial bids
 - Public information
- Due diligence - DD
 - Access to more information – vendor due diligence (VDD)
 - Revised bids
 - Exclusivity
- Strategy and negotiation
- Sale and purchase agreement - SPA

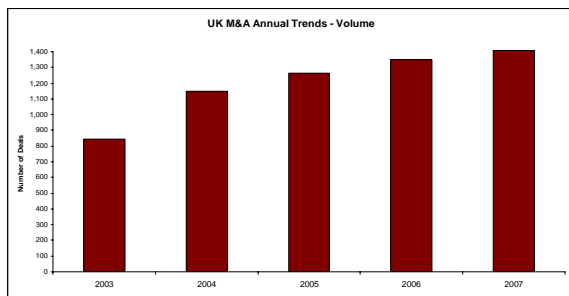
M&A activity in the UK - Value



Source - mergemarket

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M&A activity in the UK - number



Source - mergemarket

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The legislative environment

- Clearance
 - Requested by UK business
 - Profound impact
 - Are the benefits worth the costs?
 - May 3rd announcement
 - "materially enhanced level of mitigation in excess of FRS17/IAS19"
 - Revised guidance – watch this space

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The legislative environment

Section 75 debts

- Withdrawal of participating employer
- Approved withdrawal arrangement or "AWA"
- Reallocation
- Debt regulations
 - Do make or break deals
 - Indemnities
 - Initial uncertainty over AWAs
 - Welcome the spirit of the new AWAs....
 -but await the final detail.

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Pensions in deals

- A buyer's view
 - Why take on pension risk?
 - If you do then how is it priced?
 - Balance sheet and P&L
 - Cash
 - End game
 - How do we get the trustees on board?
 - What about TPR?

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Pensions in deals

- TUPE transfers
 - Only asset deals
 - 6% minimum
 - Watch early retirement "Beckmann" liabilities

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Where are we now

- Clearance
 - Half the deficit now and half in 3-5 years
 - See case study
- AWAs
 - Challenges over “more likely” test

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Where are we headed

- The future for pensions in M&A
 - Better funded schemes
 - More buyers accepting transfers of schemes/liabilities?
 - Bought out schemes
 - Full
 - Partial
 - ASB comments

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Where are we headed

- More FSDs and CNs issued?
 - More clearance applications?
- New AWAs
 - Apportionment
 - Cessation
 - Withdrawal

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Case study 1

- Underfunded scheme
- Sale of principal employer
- FRS17 deficit £50m, buyout deficit £200m
- Covenant advice
 - Increased leverage
 - Good profit and cashflow forecasts
- Proposal to pay off FRS17 deficit
 - Agreed by trustees, rejected by TPR
 - Solution was £60m cash

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Case study 2

- Healthy holding company with substantial assets
- Sale of loss making participating employers
- In balance on FRS17
 - S75 triggered on sale of £50m
 - Withdrawing employers assets insufficient
- AWA proposed
 - S75 guarantee by *principal employer*
 - Improved covenant
 - No pension scheme benefit
- Agreed position
 - £10m cash spread over 5 years
 - Guarantee by holding company

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Case study 3

- £30m section 75 debt payable on sale of a participating employer.
- Approved withdrawal arrangement proposed
 - £25m immediate cash payment
 - Additional contributions of £25m over the next 7 years
 - Exit debt would have been paid off over c18 months
- Lengthy conversations with TPR indicated that this will not be approved.
 - "more likely" test
- Company subsequently proposed to pay £30m debt and fund remainder of deficit over 10 years.
- Major shareholder now accepts pension scheme is no longer cheap capital.

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