

Pensions Issues in Mergers and Acquisitions Paul Cuff & Simon Weinberger



The Advisor's View

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A big deal!

"Boots Trustees demand millions from KKR"

"Pensions scuppers Sainsbury's takeover"

"Iberia make merger conditional on BA's pensions deal"

"Capita workers could strike over pensions cuts"

Types of Deal Situation

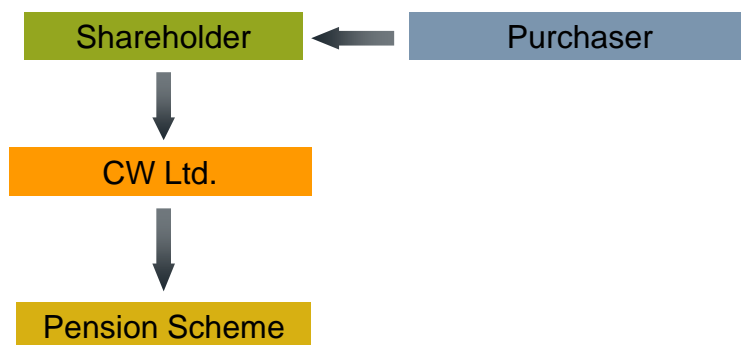
- Asset or Share Deal
- Public to private – hostile and non-hostile
- Trade deals/friendly mergers
- Disposals of company in a multi-employer structure
- Auctions, secondary PE buyouts
- IPOs
- Joint ventures

Key Principles

- Who are we advising?
- Who else is on my side?
- Who is going to be relying on my advice?
- What drives business valuation?
- What is the deal timeline? Can a purchase price be adjusted?

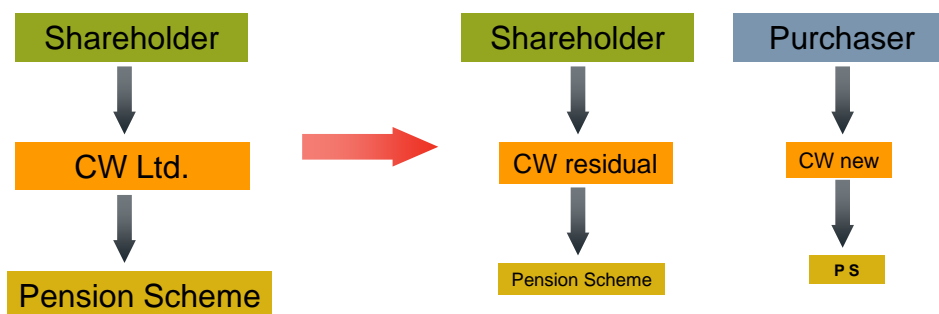
Ask as many questions as possible

Scenario 1



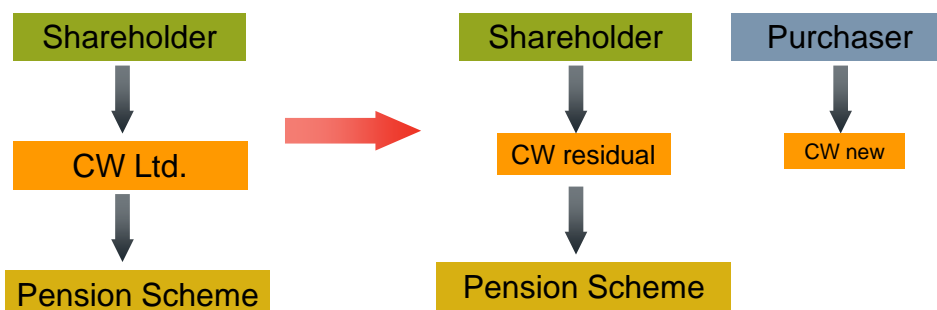
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Scenario 2



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Scenario 3



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Pensions valuation within the deal

Example:

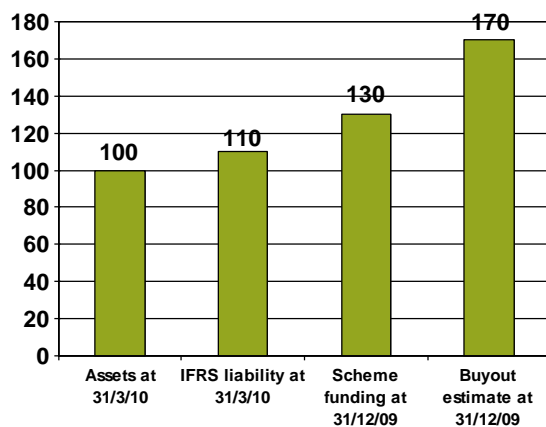
“the value of Widgets ‘r us is assessed as: 6 x EBITDA less net debt”

- What is the economic impact of the pension liabilities?
 - Past service
 - Debt like in nature
 - Future service
 - Impact on profitability
 - Cashflow

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Simple example

- Widgets 'R Us is worth £100m **before** pensions



- Where do you begin?

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Initial thoughts

- You need to update the numbers to today!
- You need to advise which is the appropriate measure in the deal

Be careful: what is your role?

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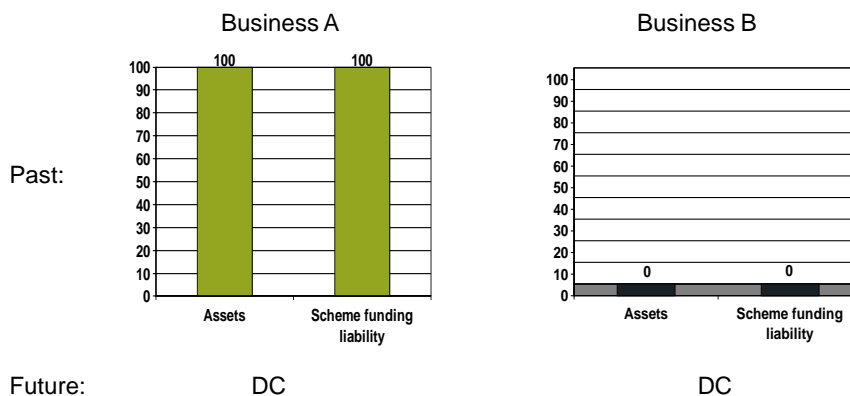
What's the correct measure?

- Accounting?
- Cash funding?
- "Risk adjusted" / "economic value"?
- Buyout?

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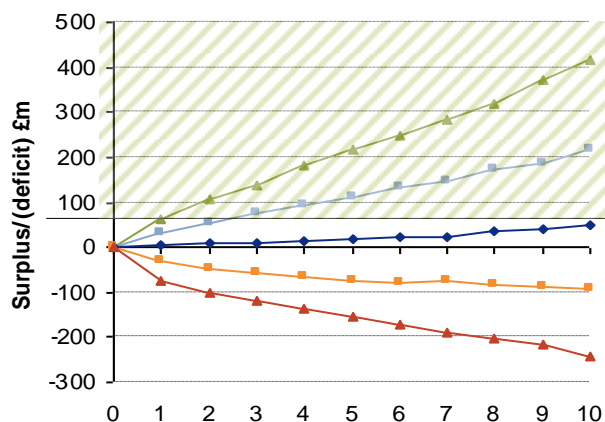
Arguments for and against Scheme Funding

"It's prudent" – shouldn't that satisfy a purchaser?



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What about risk?



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Other stakeholders

The Trustees

- Media misconception: trustees can block deals
- But they are very important
- Approach pre-deal?
- What can you agree in the timeframe?
- Does the trustee discussion change your approach to pricing anyway?

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Other stakeholders

tPR

- Clearance – what does it do?
- Should you ask for it?
- What is the “cost of clearance”?

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Other stakeholders

- Trustees of another plan (e.g. Purchaser's own plan)?
- Employees
 - Transferring
 - Non-Transferring
- Lawyers
- Unions
- Economic Regulators (e.g. OFGEM, OFWAT etc.)

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Separation

- Leaving liabilities behind
- Will the salary link be broken?
- Who gets benefit of new benefit structure?
- Beckmann issues
- Section 75

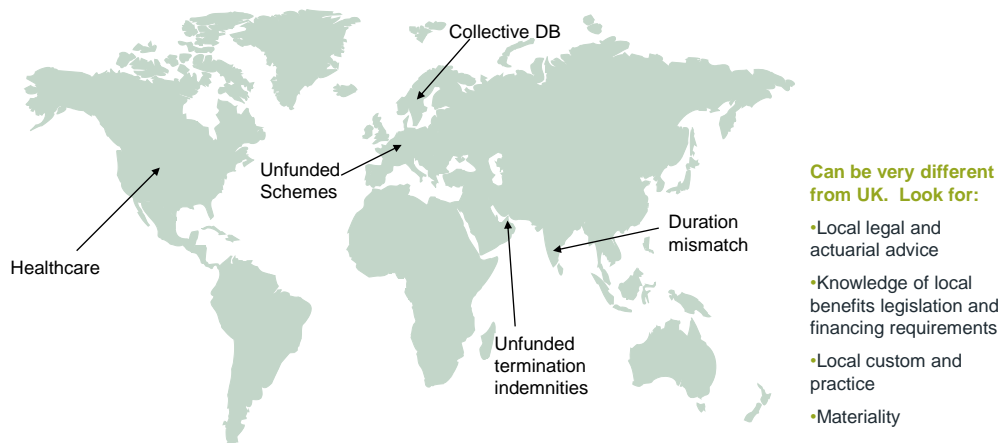
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SPA negotiations

- Legal document – again, take care on your role!
- Be careful how pensions work within the pricing mechanisms
- Actuaries' letter

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Non UK Arrangements



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Questions or comments?

"It's far better to buy a wonderful company at a fair price than a fair company at a wonderful price"

- Warren Buffett

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