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PPF Plus Compromises

What to do when the road runs out

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Introductions

Contact us

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Michael Bushnell

Director

- Has over 7 years' experience in providing employer covenant advice
- Advises many of Lincoln's largest and highest profile trustee clients
- Previously at Zolfo Cooper (now AlixPartners)

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What Are We Covering?

- Separating schemes from their employers
- What are PPF plus compromise agreements?
- Practical considerations for the end of the road
- Looking ahead

Separating Schemes from Employers

- The UK pensions regime is designed to make separation of schemes from employers regulated and complex
- However, there are occasions where separation may be in everyone's interest – where maximum value is only achievable through separation

Below PPF Compromises

- PPF may enter a compromise agreement with a pension scheme sponsor
- PPF will accept a scheme without a qualifying insolvency event
- Aimed at avoiding insolvency – insolvency must be unavoidable if no deal is agreed **and** amount payable to PPF on compromise has to be materially better than insolvency outcome
- PPF usually requires an equity share in the company and shareholder agreements - typically we would expect a 15% to 35% share
- BMI one such example
- But beware, the PPF's conditions are stringent and time may be limited

PPF Plus Compromises

- Many schemes banking on asset gains to remove deficits – where covenant is not sufficient to support these risks, what options are available?
  - Short term prioritisation of contributions
  - External funding
  - Reduction in increases and/or other contributors to deficits
  - Compromise of benefits
- Compromising a scheme's s75 debt in this way will usually result in the loss of PPF eligibility
- Trustees may determine that it is in members' interests to secure benefits at current levels, despite this loss of PPF protection – with advice

Why Compromise?

- Trustees may consider a compromise worthwhile for a number of reasons:
  - Could be only way of securing cash into the scheme (e.g. acquisition, restructuring settlement)
  - May be ‘unfair’ transfer of value between member groups over time
  - May be concerned about risk in investments or buyout market volatility
  - May not be able to satisfy TPR regarding valuation and recovery plan

Practicalities of a PPF Plus Compromise

- Trustees will need to know this is the ‘best deal’ – i.e. that insolvency and/or the status quo will not result in a better outcome for members
- Time is likely to be limited and agreement from all parties may be needed in short order
- Organisation and cooperation between employers and trustees is usually critical, particularly if there are any ‘blockers’ to a transaction
- Any scheme debt compromise will be a Type A event and require notifying TPR – and potentially clearance

Practicalities of a PPF Plus Compromise (2)

- Practically, the trustees will need to:
  - Run a process to identify appropriate insurance providers – this should include consideration of pricing, practicality and counterparty risk
  - Cleanse scheme data – the sooner the better
  - Initiate scheme wind up (or have it initiated by the employers)
  - Secure benefits for members – initially in the statutory priority order (i.e. PPF benefits first), then with reference to the scheme rules
- Given complexities involved in interpreting priorities, GMP equalisation, etc. trustees may wish to secure PPF level funding **first**
- This will remove market risk before trustees finalising additional priorities

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Examples of Above PPF Settlements

UNIQ

Sea Containers Ltd.

Kodak

MIRA

Drivers of PPF Plus Compromises

What might drive increases in PPF plus compromises?

Active M&A markets
- Cheap debt results in higher valuations
- “Bargain hunting” drives appetite for complex transactions

Deterioration in macro-economy
- Low growth rates in UK and abroad
- Drives downturn in employer performance and cash flow

Increases in scheme deficits
- Continued low interest rate environment
- Asset declines
- TPR stance on valuations

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What We Have Covered

- A history of separating schemes from their employers
- What are PPF plus compromise agreements?
- Practical considerations for the end of the road
- Looking ahead

Questions?

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