One of the statutory objectives of the Pensions Regulator (tPR) is to ensure all defined benefit (DB) pension schemes are supported by appropriately funded sponsoring employers. However, it is also recognised by tPR that there are some circumstances where providing support could impact on the long-term solvency of the sponsoring employer and it may be in the best interest of all key stakeholders for a consensual scheme restructuring to take place.

In these situations the options for dealing with the pension scheme must be considered as part of a wider review of the sponsoring employer's options for addressing the challenges and funding requirements it faces. Any restructuring that is designed to remove the sponsoring employer's responsibility for its pension scheme, whilst effectively increasing shareholder value and abandoning the scheme, will not be acceptable to either the trustees of the scheme or tPR.

However, a restructuring proposal that identifies the underlying issues facing the sponsoring employer and demonstrates an equitable outcome for all key stakeholders, including the pension scheme, can be persuasive in obtaining the support of the trustees of the scheme and tPR for a consensual restructuring of the scheme, which allows for its entry into the Pension Protection Fund (PPF). To obtain the necessary support of the trustees and tPR to a such a proposal, there are a number of conditions which must be addressed, including the provision of mitigation to the pension scheme or PPF.

What we can offer
We have advised the sponsoring employers of DB schemes on whether the necessary conditions can be addressed and the potential level of appropriate mitigation be sourced to allow various corporate restructurings to progress, including the DB scheme's consensual PPF entry, via the use of Regulated Apportionment Arrangements (RAA).

We have also advised sponsoring employers on options available to them for the restructuring of their respective DB schemes to address the level of on-going funding requirements arising therefrom, including:

- consideration of the options and impact of closing schemes to future accrual and/or new members
- risk analysis/stochastic asset liability modelling assessing a scheme's expected funding position and contribution requirements to ensure future scheme risks are understood and appropriate de-risking options investigated
- liability reduction options and risk mitigation exercises, including Enhanced Transfer Values, Pension Increase Exchanges, early retirement exercises etc.

Our work with the PPF and tPR
We have advised on innovative solutions, including RAAs and PPF Entry, for the Kodak, UK Coal plc, Building Design Partnership, ImageLink and Thomson Directories pension schemes, as well as schemes involving a listed international media group and a globally known UK manufacturing and retail business. We have also worked directly for the PPF on Uniq plc.

We have invested in secondment programmes at both the PPF and tPR, which gives us a unique insight into the key regulatory regimes, in particular in the context of Scheme Specific Funding (SSF) and recovery plans. We provided input into the PPF’s latest guidance with regard to the certification of Type A contingent assets by
trustees and also on a revised code of practice for scheme funding, new regulatory strategy and a revised funding policy for DB schemes.

We were selected by tPR to assist with the definition, implementation and organisation of its internal functions and processes required to administer SSF and determine if trustees have appropriately approached the assessment of their employer covenant.

Subsequent to this initial work, we designed and developed tPR’s internal business processes to provide a practical approach for the operation of SSF regulation in addition to preparing internal guidance for case workers. This included the development of a range of options available for intervention, taking account of all stakeholders, and demonstrating this through the rollout of case studies and training to tPR.

Key contacts

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Darren is a chartered accountant and an insolvency practitioner with over 20 years’ experience in corporate transactions and restructuring. He has led over 100 assignments flowing from the new legislation governing the stronger funding of defined benefit pension schemes advising on the impact for trustees, companies funding the schemes and their lenders.

Assignments have included changes in covenant as the result of a transaction, employer covenant in SSF valuations, contingent asset solutions, covenant monitoring, clearance applications and Moral Hazard investigations. In 2005 Darren led the team from Grant Thornton that designed and implemented tPR’s approach and intervention strategy to under-funded defined benefit pension schemes and their associated employers.

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Although he has been involved in a full range of corporate restructuring and review assignments, Phil has specialised since 2004 in providing employer covenant reviews for trustees and companies for SSF purposes and in assessing the impact of corporate transactions involving share and asset sales, refinancing and group restructurings.

He has been involved in assignments involving clearance applications and liaising with both tPR and the PPF on behalf of trustees and employers, supported by the experience gained while undertaking secondeaments at the PPF, and at tPR, acting as a business analyst in the Corporate Risk management team considering Clearance applications.