ANNUAL FUNDING STATEMENT REFLECTS PENSIONS REGULATOR'S TOUGHER APPROACH, SAYS HERBERT SMITH FREEHILLS

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News

Responding to news that the Regulator has today issued its 2019 annual funding statement, Samantha Brown, pensions partner at Herbert Smith Freehills, says:

"The statement reflects the Regulator's tougher approach to funding matters. It shows that the Regulator is focused on reducing the length of recovery plans for pension deficits and requiring schemes to set a long term funding target. This could ultimately increase the scheme funding burden on employers."

Her comments come as the Regulator expresses its views on how schemes should approach forthcoming valuations.

The statement also sets out the Regulator's expectations when it comes to dividend payments, making clear that:

- where dividends and other shareholder distributions exceed deficit contributions, the Regulator expects a scheme to have a strong funding target and a relatively short recovery plan
- for financially weak employers, the Regulator expects deficit recovery contributions to be larger than dividend payments unless a scheme's recovery plan is short and its funding

target is strong, and

- if an employer is financially very weak and unable to support its scheme, the Regulator expects the payment of dividends to have ceased.

Commenting on this aspect of the statement, Brown continues, "This demonstrates the Regulator's determination to ensure that defined benefit schemes are treated fairly alongside a company's shareholders. The Regulator has clearly been stung by the recent examples of high profile corporate failures hot on the heels of large dividend payments and it does not want to see this repeated."

The statement confirms that the Regulator will consult on a new funding Code of Practice for defined benefit schemes later this year, and Brown adds, "the statement signals the tougher approach that we that we can expect to see followed in the new funding Code."

The statement provides no further guidance for schemes with valuations that may be affected by market turmoil caused by Brexit, despite the risks posed to schemes with valuations that have effective dates at the end of March 2019.

Brown concludes, "It seems odd that the statement fails to address the risks for schemes with valuation dates at the end of March, given the impact that short-term market volatility caused by Brexit could have on valuation results and, consequently, the level of deficit payments. However, the Regulator has left open the option of issuing further guidance should this be needed."

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