HERBERT SMITH FREEHILLS

TOUGHER REGULATORY ENVIRONMENT EXPECTED TO BE CHIEF PENSION CONCERN FOR CORPORATES IN 2019

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Firm news

The next 12 months herald a pivotal period for UK pensions as a range of factors combine to create a 'perfect storm' of uncertainty. Some reports suggest the UK pension deficit could increase by as much as £219 billion in the event of a hard Brexit*, others focus on the questions raised by the judgment on pensions equalisation in Lloyds Bank, which will also see scheme deficits rise, and yet more explore the potential impact of the Government's consultation on defined benefit scheme consolidators.

Against this backdrop Alison Brown, Global Head of Employment, Pensions and Incentives at Herbert Smith Freehills has reflected on the past 12 months and identified the core issues likely to be faced by pension scheme sponsors in 2019.

She says: "Pensions regulation never stands still. This year has seen proposals to strengthen the pension regulatory regime and clarify the investment duties of pension scheme trustees. A new dashboard is on the horizon, new de-risking and scheme design options are emerging and a series of landmark judgments** have also been handed down. As we edge closer to Brexit continued uncertainty means scheme sponsors should assess the likely impact of a no deal Brexit on their business and ensure contingency plans are in place as pension scheme trustees are increasingly seeking reassurances around this."

According to Brown, the top three pension issues in 2019 will be:

- tougher regulatory environment: following criticism in the wake of the failures of BHS and Carillion, the Pensions Regulator has signalled its intention to adopt a tougher approach to pensions regulation. With an 'enforcer' expected to be appointed to lead the Regulator from next February, scheme sponsors will need to adjust to a new regulatory climate.

- all things being equal: in the wake of the landmark ruling in *Lloyds Banking Group Pension Trustees v Lloyds Bank plc*, the cost of pensions equalisation is likely to hit company accounts, with trustees and scheme sponsors having to implement equalisation and many exploring options for simplifying the process and minimising the ongoing costs to their scheme.

- de-risking legacy liabilities: 2018 has seen records broken in the pensions buy-out market and these look set to be eclipsed again in 2019. With consolidation of defined benefit (DB) pension schemes emerging as a new de-risking option for some companies, there is likely to be a renewed focus on how legacy DB schemes are managed.

Alison Brown concludes: "Much of 2018 was dominated by de-risking activity as sponsors looked to take advantage of improved funding positions and increased market activity. This trend looks set to continue with increased market capacity and new de-risking options emerging. We are also likely to see changes to the regulatory regime for DB schemes and the cost of implementing GMP equalisation really focus the minds of company directors on their pension obligations."

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