

March 2008

## Section 75 changes confirmed

When an employer ceases to participate in a multi-employer defined benefit pension scheme a debt on the exiting employer (known as a Section 75 debt) is triggered. The debt is effectively the exiting employer's share of the buyout deficit. This can, however, include a share of debt that truly belongs to employers no longer associated with the scheme in question, so called "orphan debt".

The prospect of triggering a Section 75 debt can often be a deal breaker. In many cases the calculated debts can be significantly out of proportion with the event that is taking place creating a barrier to an otherwise viable deal or corporate restructure. However, the long awaited amendments to the Employer Debt Regulations were finally laid before Parliament on Friday 14<sup>th</sup> March and are intended to give Trustees and companies more flexibility in dealing with debts that arise.

The new regulations provide a variety of options under which a company and Trustees can agree that an amount lower than the true Section 75 amount is paid. These include:

- Scheme Apportionment Arrangements – where the Trustees agree that an exiting employer can pay less than their default debt. Certain conditions have to be met for this option and the Trustees have to be reasonably satisfied that the remaining employers (to whom the underpayment is allocated) can cover the technical provisions and meet the obligations under the schedule of contributions.
- Regulated Apportionment Arrangements – where the Trustees agree that an exiting employer can pay less than their default share of the buyout deficit in a situation

where they think it likely that the scheme will enter a Pension Protection Fund assessment period in the near future (or it already has done).

- Withdrawal Arrangement – where a reduced debt, based on the scheme's funding basis, is paid by the exiting employer but the underpayment is guaranteed by another employer in the scheme or a third party.
- Approved Withdrawal Arrangement - where a reduced debt (which can be even lower than that based on the scheme's funding basis) is paid by the exiting employer but the underpayment is guaranteed by another employer in the scheme or a third party. The Pensions Regulator's approval is needed for this option.

As ever the regulations are complex and the most appropriate way forward will vary by situation.

The regulations will come into force on 6<sup>th</sup> April 2008.

If you have any questions on the new regulations or would like to discuss their impact on any corporate activity please feel free to contact either [Jacqui Woodward](mailto:Jacqui.Woodward@pstransactions.co.uk) (020 7117 0423) or [Lesley-Anne Cameron](mailto:Lesley-Anne.Cameron@pstransactions.co.uk) (020 7533 6966).

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