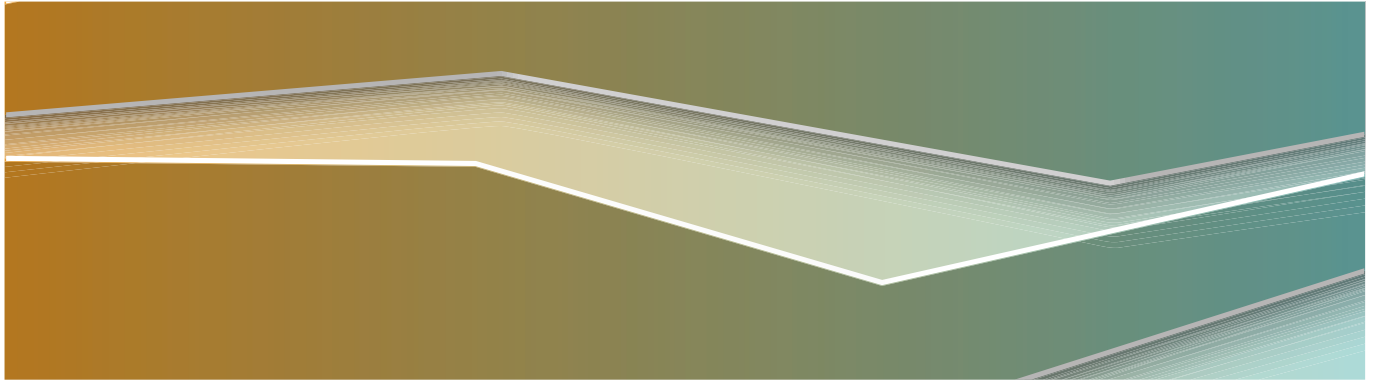


## PENSIONS REGULATOR TAKES NEW TOUGHER APPROACH IN WAKE OF BHS



It is now clear that the Pensions Regulator will take a much tougher approach in future towards employers and scheme funding. The new approach comes after a select committee of MPs looking into the BHS collapse criticised the Regulator for being reactive, slow-moving and reluctant to exercise its powers.

The two key areas where we expect the Regulator to be more aggressive are scheme funding and “moral hazard” powers.

On funding the Regulator has said it will be much quicker to take action where the funding plan submitted is late or inadequate, particularly if the plan allows more than 10 years to clear the deficit. The Regulator can impose funding plans on employers, and has recently issued its first notice to an employer warning of its intention to use this power, as well as confirming that other potential cases are in the pipeline.

The Regulator’s “moral hazard” powers allow it to require extra funds from employers or even directors personally if they have been party to an act or omission that increases the risk of members not receiving their benefits in full. These powers can catch a wide range of scenarios including prioritising dividend payments over pension contributions, or entering into corporate transactions or re-financings which leave the pension scheme reliant on a weaker employer or in a weaker position if the employer goes bust.

So what can employers do to avoid ending up at the sharp end of the Regulator’s powers? Our key recommendations are:

- ▶ Don’t submit scheme funding plans late!
- ▶ Remember that plans which allow a long time to make good the deficit (particularly more than 10 years) are likely to attract the Regulator’s attention.
- ▶ Always consider whether your actions could carry a “moral hazard” risk for the pension scheme!
- ▶ Consider all options for dealing with funding deficits and reducing moral hazard risk, eg could a parent company give a guarantee or security?
- ▶ Always make sure you have a paper trail in place to show you’ve considered pensions issues properly. If the Regulator does come calling, you’ll be glad you did!

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