SQUIRE PATTON BOGGS

Protect Against Unmitigated Liabilities #meetPAUL #How2DoPensions

Campaign Overview

Earlier this year, we conducted a survey to assess how confident trustees and corporate sponsors felt about 10 fundamental areas of pensions risk. We focussed on areas not directly covered by the Integrated Risk Management Framework, and asked respondents to rank the risks in order of their "stay awake" factor. We have now produced a series of 10 factsheets, each one commenting on one of the survey risks. Our red risk flags highlight some key warning signs, and our mitigation tips are designed to supplement existing areas of risk mitigation. Each factsheet assumes there is an established risk management system on which additional measures can be built.

Risk 7: Inadequate Strategic Planning

Survey Result

This was the seventh highest-ranked risk in our survey. The views of our trustee respondents and corporate sponsor respondents differed significantly, with the former ranking it as their lowest risk overall and the latter ranking it in their top five. We were surprised to find that this risk is not recorded on the risk registers of 76% of our survey respondents.

Comment

Both the Department for Work and Pensions (DWP) and The Pensions Regulator (TPR) are turning their attention to strategic planning. We therefore suggest that all corporate and trustee risk registers contain this risk in the near future.

Trustees and corporate sponsors should set long-term pensions objectives, assess the associated risks and make contingency plans. The objectives and planning will depend on issues such as whether the scheme is expected to continue as an ongoing scheme for the foreseeable future; whether buy-out is a possibility in the long or short term; or whether consolidation (into a commercial vehicle or with another scheme within the corporate sponsor's group) is a consideration.

Trustees are required to set strategic objectives for their investment consultants by 10 December 2019. The scheme's investment strategy should be aligned with its objectives; one consideration should be investment liquidity and whether this matches the expected cashflows out of the scheme.

Red Risk Flags

- Trustees do not have long-term objectives or do not have a clear plan for achieving their objectives.
- The scheme's investment strategy does not adequately consider liquidity management as the scheme matures.
- Trustees do not have contingency plans in case of employer insolvency or material corporate re-structure.
- Trustees do not have a good understanding of the sponsoring employer's strategy and how this might influence their own strategic planning.

Mitigation Tips

- Review progress against the scheme's long-term objectives.
- Follow the Pension Protection Fund's (PPF) guidance on contingency planning for employer insolvency, even where this seems an unlikely scenario.
- Consider whether there should be further dialogue between corporate sponsors and trustees on strategic planning.
- Assess any barriers to liquidity (such as gating provisions) in investment agreements.
- Consider whether, and how, the employer's strategic issues should be incorporated into trustees' regular covenant monitoring.

A Word from The Pensions Regulator

"Paying the promised benefits is the key objective for all schemes. This requires schemes to look ahead and set clear plans for how the objective will be delivered."

From Annual Funding Statement 2019