

PREMIER PENSIONS MANAGEMENT

LEGISLATION UPDATE : 19/06

CONTINGENT ASSETS

The Regulator issued guidance on the use of contingent assets to help solve funding problems at the end of May.

Contingent assets can be used to: -

- a) justify a longer recovery plan than would otherwise be the case;
- b) underpin an investment strategy with high equity content;
- c) support employers continued viability, where the alternative would be unaffordable higher contributions.

Contingent assets will become part of the funding discussions at each Valuation.

Contingent assets are assets which become available to a scheme only on the happening of a specified event e.g. insolvency.

These would normally be:-

- Parent guarantee
- Other Company guarantee
- Bank guarantee
- Security over Company assets
- Escrow Account.

Trustees before accepting contingency assets are expected by the Regulator to have taken specified legal and actuarial advice.

It must be remembered that the Regulator would always prefer a cash injection. If the Trustees accept a contingent asset they must understand the Employers reasoning for the proposal before accepting it.

It is essential that the legal advice provided to the Trustees covers: -

- Is the agreement enforceable?
- Are the assets free of any other charge?
- Do any charged assets have headroom to provide further security?
- What safeguards are in place to prevent subsequent dilution of the Trustees security?

If the Trustees decide to go ahead the agreement must be legally documented.

The Regulator's guidance is not exhaustive. It is up to Trustees to assess the position of their own scheme to arrive at the appropriate decision.

Finally contingent assets may have an impact on the PPF levy and this ought to be reviewed and action agreed.

Summary

1. The Regulator has given guidance in how contingent assets can be used.
2. However, each case must be agreed on its individual circumstances.
3. The importance of professional advice cannot be underestimated.

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*This update includes general information and cannot be relied upon for individual schemes issues.
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