The Clerks to:
Business, Innovation and Skills Select Committee &
Work and Pensions Select Committee
House of Commons
London
SW1A 0AA

11 May 2016

BY EMAIL

Dear Sirs

BHS – Oral Evidence Session on 9 May 2016

I refer to the Oral Evidence Session on Monday 9 May 2016, and write to correct
certain evidence that was given to the Committees. In light of comments made by
members of the Committees during questioning, I also clarify some facts in relation to
the payment of Bhs Group Limited dividends.

The Pensions Regulator’s advance knowledge of the sale of Bhs

1. Ms Titcomb, the Chief Executive of the Pensions Regulator (TPR), told the
   Committees that TPR only became aware of the sale of Bhs from the
   newspapers after Bhs had been sold.

2. This evidence of Ms Titcomb has been widely reported in the press, but it is
   incorrect. The correct position is set out at 3 to 11 below.

3. Discussions involving the Arcadia group and the trustees of the Bhs pension
   schemes in relation to a possible pensions solution commenced in January
   2014. The TPR was involved in these discussions from at least July 2014,
   although the process was paused later that year.

4. On 6 February 2015, TPR was notified by email (copied to the trustees of the
   Bhs pension schemes) that (among other matters) a decision had been taken to
   market the Bhs business with a view to obtaining a solvent disposal and
   allowing new investors to seek to improve its performance and finance the
   pension benefits. The email also informed TPR that various parties had
   expressed an interest in the business, that two parties had expressed an
   interest in a solvent transaction and that negotiations were ongoing with both of
   them.
5. Later in February 2015 the Bhs pension scheme trustees and their advisers were made aware of the terms of the proposed sale and met the proposed purchaser. I also understand that the trustees had discussions about the sale with TPR at the beginning of March 2015.

6. TPR wrote to the Arcadia Group on 3 March 2015, referring to a communication with the trustees of the Bhs pension schemes, and asking for an urgent meeting in view of the fact that the proposed sale of Bhs was due to complete shortly. (The sale of Bhs signed and completed on 11 March 2015). In its letter, TPR stated, among other matters, that it was concerned to understand how the proposed sale could impact the Bhs pension schemes.

7. TPR then outlined its agenda and its proposed five attendees for the meeting in an email on 4 March 2015. The agenda was as follows:

"1. Details of proposed sale, including:
   a. Price
   b. Treatment of intra-group debt owed to and by the employer
   c. The provision of funding for ongoing trading
   d. The structure of proposed funding for ongoing trading and the purchase price

2. The identity of purchaser, their logic for the acquisition and their plans to ensure viability

3. The impact of items 1 and 2 on the pension schemes

4. The treatment of the schemes in the transaction

5. Will the buyer or seller be seeking clearance from the Regulator?

6. Information flows to trustee to enable them to understand the impact including:
   a. Visibility of the structure of the transaction
   b. Outstanding information requests in relation to moral hazard analysis"

8. The requested meeting took place on 4 March 2015. At this meeting Sir Philip Green explained to the TPR that he was keen to ensure that the Bhs business was a success going forward and that he was agreeing the sale terms in such a way as to give it the best possible prospects for the future. The TPR was informed of key terms of the proposed sale of Bhs, including as to the equity the purchaser was to inject, the existing debt to Arcadia that would be written off, the position of the Bhs pension schemes and the plan for the business. The sale consideration of £1 was expressly referred to.

9. Specifically, in relation to the Bhs pension schemes, Sir Philip expressed his strong wish to agree a sustainable solution and there was a discussion as to the possibility of implementing a restructuring with the approval of TPR. TPR made it clear at the meeting that it had policies to which it had to adhere and that it was not possible to depart from the policies even in the case of an urgent sale transaction. In particular, a restructuring could not be approved by TPR unless
the sponsoring employer faced imminent insolvency. It was clear from the discussion at the meeting that a restructuring could not be agreed with TPR in the timescales available, even though the TPR had been involved in discussions since at least July 2014.

10. The meeting was followed by a letter from TPR to Bhs Limited on 5 March 2015 (incorrectly dated 2014). TPR copied the letter to Chris Martin, Chairman of the trustees of the Bhs pension schemes (who had attended the meeting).

**The Davenbush Limited guarantee**

12. Mr Rubenstein, Chief Executive of the Pension Protection Fund (PPF) referred to a guarantee given by Davenbush Limited to the trustees of the Bhs pension schemes.

13. It is correct that on 30 March 2011 Davenbush Limited gave a continuing guarantee of certain liabilities to both of the Bhs pension schemes. For clarification, Davenbush was part of the Bhs group and had nothing to do with the Arcadia group. It was suggested at the session on Monday that Arcadia had given a guarantee. For the avoidance of doubt, no guarantee was ever provided by Arcadia. The Davenbush guarantee was discussed between Mr Rubenstein and Sir Philip in the context of the PPF proposed levy increase applicable to the two Bhs pension schemes: from £0.21m for levy year 2011/2012 to £3.55m for levy year 2012/2013.

15. Mr Rubenstein incorrectly stated that the Davenbush Limited guarantee had been withdrawn. The guarantee remained effective and was not withdrawn. It was simply not certified for the purposes of the PPF levy calculation in respect of the Bhs pension schemes for the levy year 2012/2013.

**Bhs Group Limited dividends**

16. Some Committee members raised questions about dividend policy and the removal of cash from an unspecified company.

17. There was a suggestion that Bhs had been paying dividends up until around 2012. This is wholly inaccurate. No dividends have been declared by the directors of Bhs Group Limited for the past 12 years. In relation to Bhs Group Limited, the directors declared dividends of £423m in respect of the years ending March 2002, 2003 and 2004, which reflected the significant profits of the business at that time. Bhs Group Limited made statutory EBITDA of £538m for the four and a half years to March 2004, and had net bank debt of £112m at the end of March 2004. From May 2000 to the acquisition by Taveta Investments (No. 2) Ltd in 2009, Bhs Group Limited invested £325m capital expenditure in the business and paid UK corporation tax of £167m. After the 2009 acquisition, Arcadia lent £256 million of its own cash to Bhs on an interest free basis, of which £216 million was written off on the sale in March 2015.

We hope that the above information will assist the Committees in their ongoing inquiries.

Yours sincerely

Adam Goldman
Company Secretary