Work and Pensions Committee
[redacted]
Tel 020 7219 5831 Email workpencom@parliament.uk Website www.parliament.uk/workpencom

From the Chair

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Lesley Titcomb
Chief Executive
The Pensions Regulator
Napier House
Trafalgar Place
Brighton BN1 4DW

Defined benefit pension regulation

In December 2016 we published a report on defined benefit (DB) pension schemes, which drew on our inquiry into BHS and subsequent work on the wider sector.[1] Since we reported, concerned about what we heard about the efficacy of regulation, we have, primarily through detailed correspondence, maintained a watching brief on problematic major schemes. Some key themes have arisen from that work:

- the long-term under-funding of pension schemes apparent in cases such as BHS, Palmer and Harvey, Monarch and Carillion;
- the suitability of buyers with short investment horizons, including some private equity firms, to assume responsibility for long term pensions liabilities, in cases such as GKN, Bernard Matthews and Toys R Us; and
- the potential risk to pension scheme covenants from corporate transactions, in cases such as BHS, Barclays, Trinity Mirror, Palmer and Harvey, and Arcadia.[2]

As you know, in our December 2016 report we argued that the Pensions Regulator (TPR) would benefit from enhanced powers in areas such as deterrent fines, mandatory clearance of corporate transactions in restricted circumstances, and the approval of the consolidation and restructuring of schemes. We hope that the Government will adopt our proposals in their forthcoming White Paper.

We were clear, however, that additional powers alone were not sufficient for TPR to turn around its performance. In our BHS report were found that TPR had been "reactive" and "slow moving".[3] In our subsequent report we concluded that regulatory intervention tended to be "concentrated at stages when a scheme is in severe stress

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[1] Sixth report of session 2016-17
[2] See http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/pension-schemes/parliament-2017/pension-schemes-17-19/
[3] First report of session 2016-17

of has already collapsed". I am sure I do not need to draw your attention to how apposite this is in the case of Carillion.

Defending TPR's approach to the Carillion schemes, you argued that the threat of using your powers under section 231 of the Pensions Act 2004 may have contributed to the sponsor and trustees finally agreeing a deficit recovery plan well after the statutory 15 month deadline. However, that plan was back-loaded and followed the sponsor's wishes for the crucial first few years before it would be superseded by a subsequent triennial valuation. I struggle to see how a power that has only been deployed once in 13 years can possibly act as a credible deterrent to wilful scheme underfunding. Similarly, while TPR heralded its recent first use of section 10 of the Pensions Act 1995 to fine four trustees of Pakistan International Airlines' scheme £500 each for repeatedly failing to get their accounts audited as an example of your "clearer, quicker and tougher approach", I fear this only served to advertise quite how tentative TPR is.[4]

The defensive and under-prepared performance you and your senior colleagues gave before the joint committee certainly gave me no assurance that the TPR leadership is equipped to bring about the necessary cultural change. It would hardly have scheme sponsors quaking in their boots and it is difficult to imagine TPR emerging victorious from negotiations with a ruthless American private equity firm.

I note that TPR's Corporate Plan 2017-18 included the welcome, if overdue, addition of (a) key performance indicators (KPIs) relating to quicker intervention in more DB schemes where they are underfunded or avoidance is suspected; and (b) key outcome indicators (KOIs) relating to the proportion of scheme members receiving reduced compensation and scheme funding ratios.[5] In preparation for our work on the forthcoming white paper would be grateful if you could please provide:

1. a mid-year update of your performance against 2017-18 KPIs and KOIs;

2. benchmarks against which to compare 2017-18 performance:
    a. for KPIs 2.1 and 2.2, the comparative percentages for 2016-17;
    b. for KPI 2.3 and each element of 2.4, the numbers of instances in 2016-17 against which the increase in 2017-18 will be assessed; and

3. an update of your plans for setting KPIs and KOIs for the 2018-19 year.

With best wishes and I look forward to hearing from you.

Rt Hon Frank Field MP
Chair

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[4] TPR press release PN18-07, Trustees of airline's pension scheme fined for failing to get accounts audited for two years, 7 February 2018
[5] TPR Corporate Plan 2017-2020