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Collapse in applications to Pensions Regulator for clearance puts more responsibility on trustees

- **Clearance applications down 23%**
- **M&A activity continues at high level**
- **Draft new guidance may make trustees' reporting requirements more taxing**

The collapse in the number of applications to the Pensions Regulator for clearance before corporate events occur is putting added pressure on trustees to keep the Regulator informed of events which may materially affect schemes, says Trustee GAAPS, the pension fund trustee search and selection firm.

David Johnson, a former Mercer director and now Consulting Director of Trustee GAAPS, says the decline in applications to the Pension Regulator at a time when mergers and acquisitions (M&A) activity has remained steady suggests that companies are becoming too complacent about the risks to schemes by neglecting to get clearance from the Pension Regulator for corporate events when they should.

Figures published by the Pensions Regulator show that the number of applications for clearance has fallen by 23%, from 269 applications in 2005/06 to 207 applications in 2006/07. The number of M&A deals has declined just 3.8% over the same period.

David Johnson also points out that conditions in the corporate debt market have declined significantly since the credit crisis making these deals much harder to finance.

Trustee GAAPS says that this puts additional pressure on trustees to whistle-blow on companies and inform the Pensions Regulator of events which may have a detrimental impact on schemes.

David Johnson comments: "If applications for clearance are falling, but corporate activity is relatively stable, it suggests companies are not always notifying the Regulator when they should."

"The responsibilities on trustees are growing all the time. If companies are not applying to the Regulator because they are complacent or do not understand the reporting process, trustees will have to step in and bridge that information gap."

He adds: "For part-time trustees, who are often under-qualified and over-worked, knowing when they should whistle-blow is a difficult judgement call to make."

According to Trustee GAAPS, the new draft guidance, rather than giving specific examples of events that should trigger applications for clearance, simply states that companies should notify the Regulator of any event, which is '*materially detrimental to the ability of the scheme to meet its pension liabilities.*'

David Johnson says: "The new draft guidance could potentially make the clearance process even more problematic, as it does away with the tick box approach and asks companies to use their discretion. This could lead to fewer clearance applications, which trustees will have to be alert to, but knowing when to step in and inform the Regulator will demand even more of trustees."

ENDS

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