Pension Corporation memorandum included in House of Commons Insolvency Service report

London, 8 May, 2009 - The level of attention given to pension schemes during a pre-pack insolvency should be raised, Pension Corporation, a leading provider of risk management solutions to defined benefit pension funds, has highlighted in a memorandum to a House of Commons enquiry.

Pension Corporation's written memorandum was to the House of Commons Business and Enterprise Committee, and is published in its latest report, "The Insolvency Service, Sixth Report of Session 2008-09".

Whilst the increasingly used pre-packaged administration complies with the Enterprise Act requirement to achieve the best possible results for creditors, the result is often the admission of the pension scheme to the PPF and the reduction of member benefits.

Pension Corporation believes that this is unfair and that if the scheme does not have sufficient assets, equity or debt in the new business could be given to the scheme prior to an insolvency event. At a minimum, a statutory duty to consider securing benefits above PPF levels before an insolvency event should be considered.

Edmund Truell, Group Chief Executive of Pension Corporation, commented:
"In insolvency, pension schemes are usually the largest unsecured creditors and by that point it is generally too late for them to make any significant recoveries from the business.

"Insolvency can be both shocking and frightening for pension fund members, given the likelihood of a resultant reduction in their pension. We believe that it is vital to protect pension fund members during this process. With pre-pack administrations in particular, the level of attention given to pension schemes should be raised and a statutory duty to consider securing benefits above PPF levels before an insolvency event should be considered."

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Notes to Editors:

1) The text of the submission by Pension Corporation is below

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About Pension Corporation

Pension Corporation removes pension risks from the trustees and sponsors of defined benefit pension funds. As a market leader it is the counterparty to risks ranging from full pension insurance buyout to longevity risk insurance, sponsor stewardship and asset-liability management. Established in 2006 by the Truell Charitable Foundation, the Group now provides increased levels of security and stability for fund members through Pension Insurance Corporation Ltd ("PIC"), an FSA authorised and regulated insurance company; and Pension Corporation Investments LP Inc. ("PCI"). For further information please visit www.pensioncorporation.com

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Overview

1. In the current economic environment we are seeing an increasing number of insolvencies and as a result of this, the increasing number of cases of pre-packaged administration.

2. An increasing number of insolvencies inevitably leads to a rise in the number and size of the pension schemes going into the Pension Protection Fund's assessment period, without necessarily going into the fund at the end of this process.

3. This is an uncertain period for scheme members during which they receive lower pensions than those to which they may be entitled, depending on the funding levels in the scheme.

4. It is vital to protect what is usually the largest unsecured creditor and consider whether the pension scheme debt can be secured above the PPF level, protecting members and reducing the cost for other levy payers.

Pension Corporation and the Market

5. Pension Corporation is a major participant in the UK pension insurance industry, specialising in pension risk transfer solutions for defined benefit pension funds in the UK. Since its inception, Pension Corporation has developed innovative, affordable solutions for pension schemes and had a 22% market share in 2008.

6. Pension Corporation underwrites pension risk management solutions for defined benefit pension funds including: Pension insurance buy-outs, Longevity risk insurance, Pension fund stewardship, Asset and Liability Management.

7. The pension insurance market is a large, fast growing and dynamic market, which exceeded £8 billion in 2008, more than double the business written in 2007. This figure is less than 1% of the potential market of DB pension schemes, which is estimated at £1 trillion.

8. The market is being driven by increasing numbers of sponsors looking to remove risk from their balance sheets, and Trustees looking to secure their members' benefits for the very long-term.

Defined Benefit Pensions.

9. Defined benefit pension funds remain a live and worryingly important issue for many companies.

10. From a corporate perspective, being a scheme sponsor means maintaining an open-ended commitment for a very long period. This can have dramatic effects on its share price, limit strategic options including refinancing and debt restructuring, and ultimately damage the very security of the commitments it is pledged to maintain.

11. The security which the members are seeking, by paying into a pension fund, can in some cases act as a corporate straightjacket when companies are looking at takeovers, mergers or other re-structuring.

12. This can have immediate consequences for the survival of a company. It can also impact adversely the security and level of retirement benefits available to members.

13. In a recent survey by PWC, 90% of Finance Directors stated that they are concerned about the risks their pension scheme poses to the business; 30% intend to use contingent assets to offer trustees security, while enabling the company to limit cash contributions.

14. Given the level of concern with which pensions are viewed by many companies, it is not surprising that an insolvency event, with the ability to "dump" the scheme on the PPF, is often seen by struggling companies and their advisors as the only option.

15. This results in members receiving lower benefits—even if the scheme is funded above the PPF level, during the PPF assessment period only PPF level benefits are paid. It also has a knock-on impact for all other companies with a DB scheme, in that the PPF levy increases.

16. The PPF levels, for pension scheme members who have not yet reached normal pension age will, on reaching it, receive 90% of their pension, capped at around £28,000.

Pre-packaged Administration and Defined Benefit Pensions

17. In insolvency, pension schemes are usually the largest unsecured creditors. Unsecured creditors rarely make any recoveries from the business. Members are often shocked and frightened by the insolvency of the scheme sponsor and the resultant reduction in their pension.

18. This was recognised in the Pensions Act 2004, which established the PPF and gave them the ability to take on the creditors' rights the scheme has, in order to best protect members and levy payers. However, by the time an insolvency event occurs it is usually too late for the unsecured creditors to make any significant recoveries.

19. The increasingly used pre-packaged administration, which allows companies to be sold on quickly, gives the insolvency practitioner and the directors of the company time to pre-arrange the value and terms of any sale.

20. Whilst this complies with the Enterprise Act requirement to achieve the best possible results for creditors, whilst keeping the business as a going concern, the result is often the dumping of the pension scheme on the PPF.

21. Consideration should be given to making it a statutory requirement that before any insolvency event, consideration should be given to ways to secure the PPF level of benefits other than via sending the scheme to the PPF. For example, if the scheme does not have sufficient assets, equity or debt in the new business (sometimes given to the scheme but only when the scheme enters the PPF assessment period eg Heath Lambert) could be given to the scheme prior to an insolvency event.

22. The scheme's assets may then be sufficient to allow the scheme to compromise its debt above the PPF level and purchase an annuity for members.

23. This would have a number of advantages:

1. There would be no additional calls on the PPF and no resultant levy increases.
2. would not enter the PPF assessment period, members' benefits would not have to be reduced and the costs associated with this would not fall on the scheme.
3. Members would receive benefits from an FSA regulated insurance company, at least and usually above the PPF level of benefits.

24. The PPF's own figures show that 30 schemes which had previously entered into the PPF's assessment period have now come out of it due, in the main, to their funding levels allowing for greater benefits than those which would be paid under the PPF. The PPF currently has 291 schemes in the assessment period, with a total of 122,622 members.

25. The PPF assessment process lasts for around two years, during which, irrespective of the actual level of funding in the pension fund, the scheme members have their benefits cut to the levels of the PPF. During this process there is a great deal of anxiety placed on the scheme members as they wait to find out what their levels of benefits are. The administration burden and cost of reducing benefits is also high.

26. In volatile market conditions when asset valuations are constantly changing, this two year period could mean the scheme missing out on options to secure the members' benefits for the long term.

27. The level of attention given to pension schemes during the pre-pack insolvency should be raised and a statutory duty to consider securing benefits above the PPF level before an insolvency event should be imposed.

16 February 2009