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Revised Pension Scheme SORP

The Statement of Recommended Practice (SORP) 'Financial Reports of Pension Schemes' has been revised by the Pensions Research Accountants Group (PRAG) and is effective for accounting periods commencing on or after 6 April 2007.

This revision takes account of the relevant presentation requirements of FRS 25 (IAS 32) "Financial Instruments disclosure and presentation" and some elements of FRS 26 (IAS 39) "Financial Instruments recognition and measurement".

The key changes to the SORP include:

- Valuing investments at bid value rather than mid value, in line with the changes for valuing investments under FRS 17: Retirement benefits
- Valuing futures contracts and other derivatives on a fair value basis
- Additional disclosures in respect of derivatives contracts
- Disclosing direct transaction costs separately in the notes to accounts - this requirement does not extend to indirect transaction costs included within pooled investment vehicles.

In addition PRAG encourages trustees to include the Summary Funding Statement or extracts thereof in the Annual Report, so as to provide information about the actuarial liabilities of schemes.

Half Yearly Financial Reports

The ASB has issued a Statement "Half Yearly Reports" which updates its 1997 Statement "Interim Reports" to take account of the EU Transparency Directive and FSA's Disclosure & Transparency Rules ("DTR"). The Statement applies to listed and other entities preparing Interim Accounts and is mandatory for 30 June 2007 and later Half Yearly Financial Reports.

The DTR require Half Yearly Financial Reports to give a true and fair view and the FSA has confirmed that this can be satisfied by giving a statement that they have been prepared in accordance with pronouncements by the ASB (i.e. in accordance with this Statement).

Other than the changes relating to the DTR, in updating the 1997 Statement the ASB have made a number of minor changes, mostly related to changes in terminology.

The APB has also issued a Statement of Standards for Reporting Accountants ISRE (UK & Ireland) 2410 "Review of Interim Financial Information Performed by the Independent Auditor of the Entity". The new statement replaces Bulletin 1999/4 "Review of Interim Financial Information" for accounting periods ending on or after 20 September 2007 (i.e. for 31 March 2008 year ends) although earlier adoption is permitted.

The approach set out in the Standard is broadly similar to Bulletin 1999/4 and should not result in significantly more work. However, it may be necessary to advance in time certain year-end planning procedures for example in relation to updating our understanding of the entity and its environment, including its internal control.

Draft Updated Guidance on Bank Confirmations

The APB have issued a consultation draft of a revision of Practice Note 18 "Bank Reports for Audit Purposes". The consultation period ends on 20 September 2007 and it is proposed that the updated guidance will apply to accounting periods ending on or after 26 December 2008 with earlier adoption strongly encouraged.

The consultation draft has been approved by the British Bankers Association and is unlikely to change much in principle following the consultation period.

The Guidance was last updated in October 2005 and the additional changes proposed are as follows. The changes take account of risk and the need to target the request based on our knowledge of banking arrangements that exist (or are likely to exist); the fact that most audit requests are now actioned by specialist teams based in banks' regional service centres, rather than at branch level; and the fact that banks' information systems are not designed to facilitate the production of bank reports since they are account number based:

- add guidance to put the decision as to whether to obtain a bank report and, if so, what information to be covered by it, into the context of a risk based approach to the audit and to encourage reference to the annual facilities letter sent by the banks to many of their clients in making the risk assessments.
- introduce new bank report templates for:
 - a Standard Request (including the option of additional information on trade finance and derivative and commodity trading) thereby allowing the bank to respond within its normal timeframe,
 - a Fast-Track Request thereby requesting the bank to respond within an accelerated timeframe, and
 - an Incomplete Information Request to be used when the auditor is not able to provide all of the information required for the Standard Request in relation to main account sort code and account numbers and, where additional information is requested, a sample reference to facility account numbers.
- explain that the banks have agreed:
 - to publish addresses for the centres to which requests for audit information are to be addressed on the BBA website;
 - either to acknowledge auditor requests for bank reports and provide bank contact details, or where an acknowledgement will not be given to publish where contact can be made, by giving details on the BBA website of their preferred methodology. This will facilitate the auditor in following up late or missing bank reports, or question information in reports that were received.
 - clarify that, with a few exceptions, banks do not need a new authority to disclose information every time that auditors ask for confirmation of bank details.
- request auditors using the Standard Request to provide the main account sort code and account number for each legal entity named in the request and, where additional information is requested, a sample facility account number for trade finance or derivative and commodity trading information. This helps banks identify the appropriate information;
- remove custodian arrangements from the categories of additional information listed in the Standard Request. The existence and location of the assets held for safe keeping by banks is

unlikely to be readily identified from account number details and banks are likely to have to conduct extensive searches which often result in a 'nil return'. If the auditor wishes to confirm the existence and nature of specific assets held for safe keeping or suspects that the entity is concealing assets they need to make separate arrangements to confirm these or carry out a physical inspection; and

- remove the statement requesting the bank to advise the auditor if the authority is insufficient to allow the bank to provide full disclosure of the information requested, as banks have not been doing this because of data protection regulations. Auditors have been taking unwarranted comfort from the existence of this requirement that they are being informed of all details of a banking relationship.

These changes acknowledge the existence of the problems we have been having with obtaining sensible responses from banks.

Payment in Lieu of Notice ("PILON")

A recent appeal case (Morrish v NTL Group Ltd) has confirmed that there is no implied term in an employment contract to make a PILON. The case emphasises the importance of having express PILON clauses in employment contracts if employers want to be able to get out of a contract by paying, for example, fixed salary in lieu of notice.

Such clauses should be carefully drafted to set out a clear formula for what is payable, otherwise they will be useless.

Enforcement of Restrictive Covenants in Employment Contracts

A recent Court of Appeal case, Beckett Investment Management Group v Hall, contains three key messages re restrictive covenants:

- A restriction of 12 months may be enforceable in the case of senior management, but may be too long to be effective for more junior personnel.
- The clauses should be precise but not over complicated to ensure the meaning to both parties is unambiguous.
- It may be possible to ignore unreasonable provisions leaving the others enforceable provided the unenforceable provision can be removed without affecting what remains; and what remains is in the spirit of the intention of the original contract; and the remaining terms continue to be supported by adequate consideration. It is obviously best to not include unreasonable provisions in the first place.

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