# Sea Containers Limited – the first Financial Support Direction

## Summary

The Pensions Regulator ("**TPR**") announced on 18 June 2007 that it intends to issue a Financial Support Direction ("**FSD**") against Sea Containers Limited ("**SCL**"). This would be the first FSD issued by TPR.

The FSD will relate to the two defined benefit pension schemes of SCL's UK subsidiary, Sea Containers Services Limited ("**SCSL**"). TPR believes that SCL, as parent company, must provide financial support in relation to SCSL's pension schemes.

## Sea Containers Limited

The FSD will require SCL to take responsibility for that part of SCSL's liabilities in relation to the two schemes which may become due under s75 Pensions Act 1995 ("**s75 Debt**"). The most recent estimate of the s75 Debt in relation to the two schemes is over £90 million.

SCL, a Bermudan company, and SCSL are currently the subject of Chapter 11 insolvency protection in the United States in order to achieve a financial restructuring. SCL has said this may make it difficult to comply with the FSD.

## Financial Support Directions

Under the Pensions Act 2004, an FSD may be issued where TPR concludes that the sponsoring employer of a pension scheme is either a "service company" or is "insufficiently resourced" and it is reasonable to issue an FSD in the circumstances. An FSD requires a company within a group of companies to support a scheme sponsored by another group company.

If an FSD is ignored, TPR has powers to issue a contribution notice for a specified sum, which can be pursued through the civil courts.



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## What next?

TPR's decision was made following a Determinations Panel hearing and the Panel's reasoning will be issued on 25 June 2007.

The FSD will be issued in mid-July. In the meantime, SCL can appeal to the Pensions Regulator Tribunal.

## Pensions Regulator's approach

Chief Executive, Tony Hobman said that TPR would use its anti-avoidance powers proportionately and where reasonable. TPR considers that the issuance of an FSD in this case was "appropriate and justified".



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