



# A voyage of discovery

Lessons on pension protection from the UK

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# AGENDA

- Background
  - Insolvency Directive
  - Robins / Hogan
- Pension protection in the UK: A short history
  - (Scheme funding) / employer debt regime
  - The PPF & FAS
  - Role of the Pensions Regulator
- Lessons from the UK: Are we there yet?

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# EU Insolvency Directive

- Member States required to “*ensure that the necessary measures are taken to protect the interests*” of pension scheme members
- Applies:
  - to occupational pension scheme members
  - on insolvency of sponsoring employer

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## *Robins v Secretary of State for Work and Pensions*

- Collapse of Allied Steel & Wire (ASW) in 2003
- >800 job losses
- Deficit of £131 million
- Statutory priority order
  - security for pensioners
  - significant losses for actives & deferreds
- Insufficient protection on insolvency

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## *Robins*

- Analysis of Article 8
- **“Protect”**: = provide at least half
- **“Necessary measures”**: Member States don't have to foot the bill themselves
- UK hadn't properly implemented Directive

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## *Hogan v Minister for Social and Family Affairs*

- Receiver appointed to Waterford Crystal in 2009
- Deficit of €110 million
- Former employees set to receive 18-28% of their benefits
- Limited pension protection

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## *Hogan*

- Further analysis of Article 8
- Following *Robins*:
  - insufficient protection
  - failure to implement the Directive
- Current economic situation does not justify a lower level of protection

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## Employer debt regime (UK)

- Debt on the employer
  - on wind-up; or
  - employer insolvency
- Difference between assets v liabilities

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# Employer debt regime

- Introduced in 1994
- Numerous amendments
  - from “MFR” to buyout
  - multi-employer schemes
- Legal “workarounds”

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# The Pension Protection Fund (PPF)

- 6 April 2005
- Lifeboat for DB schemes
- Schemes in wind-up after 5 April 2005
- NOT money purchase or “other prescribed” schemes

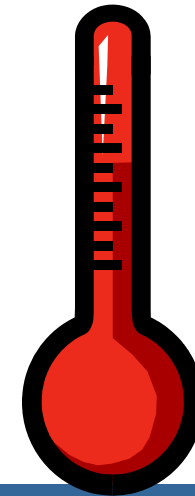
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# PPF Compensation

- What do members receive?
  - members who have reached NPA and ill-health early retirees
  - dependants' pensions in payment

Benefits payable 100%



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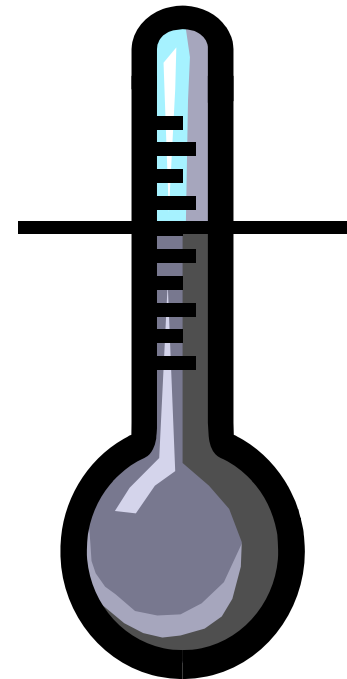
# PPF Compensation

- What do members receive?

90% For members  
under NPA



Subject to cap of  
£31,380.34 (at 65)



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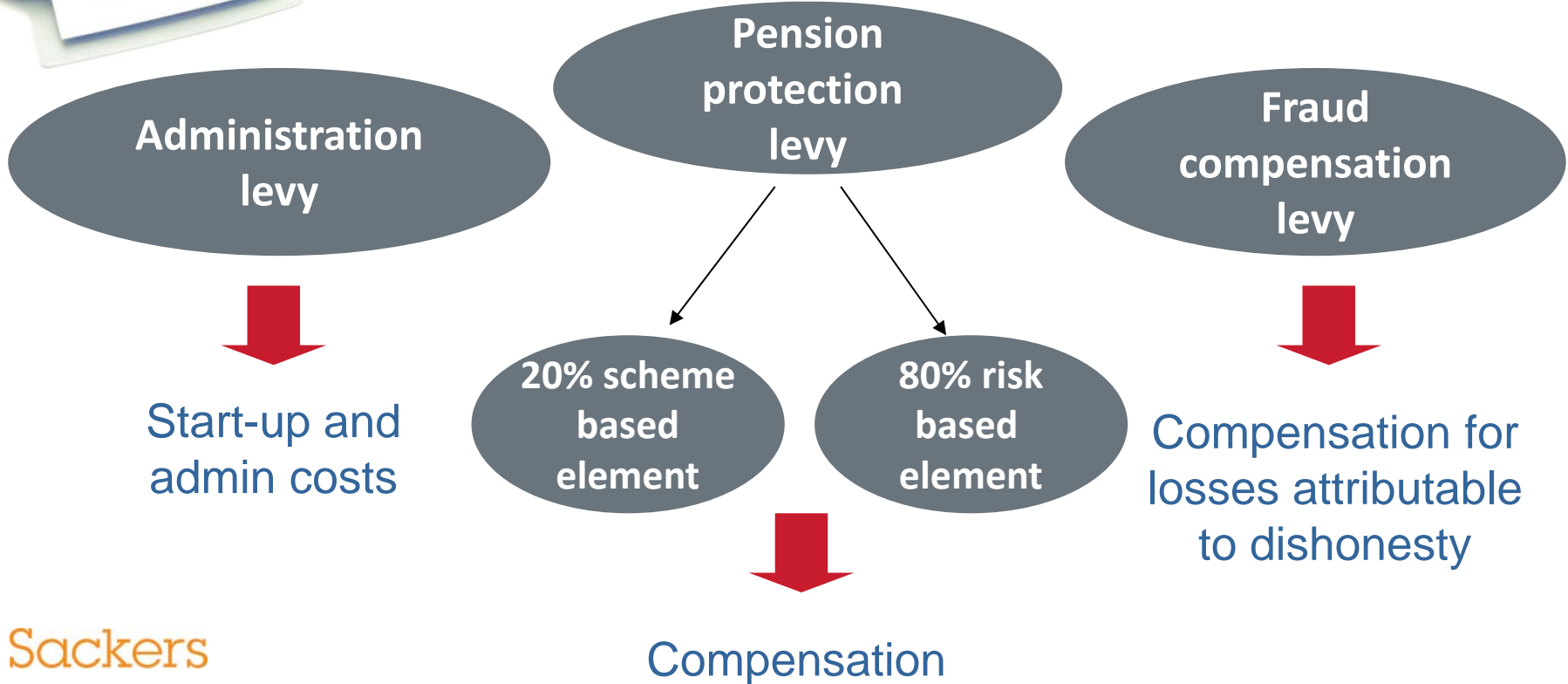
# Funding the PPF

- Scheme assets (transferred schemes)
- Investment returns
- Recoveries from insolvent employers
- The PPF levy

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# PPF: Levies



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# PPF Assessment

Employer insolvency



Valuation of assets and liabilities



Scheme accepted / rejected



PPF takes on scheme



Wind-up or run as closed scheme

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## PPF & priority order

- Impact on scheme winding-up priority order
  - pre-1997 Insurance Contracts
  - liability for PPF benefits
  - defined benefit AVCs
  - remaining benefits

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## The Financial Assistance Scheme (FAS)

- Scheme started to wind-up between 1 January 1997 and 5 April 2005
- Scheme started to wind-up after 5 April 2005 but ineligible for PPF help (sponsor insolvent before that date)

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# Financial Assistance Scheme

- Top-up to scheme pension
  - 90% of scheme pension (capped)
  - payable from scheme's NRA (subject to age 60 minimum)
- Various extensions

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# The role of the Pensions Regulator

- Statutory objectives include:
  - protecting members' benefits
  - reducing risk of situations that may lead to PPF compensation

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# TPR: Anti-avoidance

- Contribution notice
  - on avoidance of employer debt
- Financial support direction
  - scheme “insufficiently resourced”
- Clearance
  - voluntary procedure

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## Lessons from the UK?

- Danger of “overzealous regulation”?
- Focus on governance
- Communication between TPR & PPF
- Patience!

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# Any questions?

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