

养老金：来英投资你需要知道这几件事

Pension: what you need to know when investing in the UK

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来英投资的海外投资者，无论经验如何丰富，都难免遇到一些充满“英国特色”的财务问题。这类问题，除了本身颇具技术复杂性外，还往往深植于英国独特的制度规范土壤中，令海外投资者摸不着头脑。倘若放任，则风险不容小觑。

英国的待遇确定型(defined benefit)养老金就是一个很好的例子。这是一种英国特有的财务安排，海外投资者大多对此知之甚少。回顾过往案例，不少海外投资者曾因收购之初没有处理好这一风险，而在收购完成多年后依然陷于处理巨额亏损的泥沼、或在后续出售公司时遭遇瓶颈。

英国议会近期通过的《2021年养老金法案》将扩大养老金监管机构(the Pensions Regulator)的权力、强化公司向养老金监管机构报告公司活动的义务(并加大对不履行报告义务行为的处罚力度)、并将个人对养老金造成不利影响的行为纳入刑法规制范围(有“合理借口”者除外)。对于英国养老金不甚了解的海外投资者而言，这无疑更增添了法律风险。

然而，倘若处理得当，则风险也能化为机遇，甚至为投资者赚取额外的回报。

那么，这类养老金究竟是何面目？风险如何化解？机遇又如何把握？下面我们就一起来看看来英投资的你关于养老金需要知道的几件事。

Even the most seasoned overseas investors may find themselves wrestling with “UK specific” financial issues when investing in the UK. In addition to their technical complexity, these issues also tend to pose challenges due to their links to the UK’s unique regulatory practice. Significant risks could arise from these issues if they are not appropriately considered and addressed.

UK defined benefit (“DB”) pension schemes are a good case in point. It is a financial arrangement specific to the UK and lesser known to most overseas investors. Looking at transactions that have happened in the market where overseas investors were involved, it is not uncommon to find cases where this risk was not appropriately understood at the time of acquisition. This has often led to the company paying off large deficits many years after the acquisition, or investors facing difficulties when they later try to crystallise their investment and sell the target.

Furthermore, the recently enacted Pension Schemes Act 2021 gives the Pensions Regulator (“TPR”) new powers, strengthens the obligations on companies to report corporate activity to TPR - and increases the fines for failure to do so - and introduces new criminal offences where action has been taken which has negative consequences for a pension scheme unless the relevant people had a “reasonable excuse”. This adds to the legal risks for overseas investors who may have limited knowledge of UK pension.

However, if investors take the time to properly understand how the pension scheme works then these risks can often be turned into opportunities to generate extra value for investors.

So what are DB pension schemes, how should you manage the risks and how can you capture the opportunity? We will discuss what you need to know when investing in the UK from a pension perspective on the following pages.

什么是待遇确定型养老金？

What are DB pension schemes?

待遇确定型养老金，顾名思义，就是说员工退休后，每月需要付给员工的养老金待遇是确定的。在这种养老金方案中，员工的退休工资标准与其退休前工资、工龄等挂钩，但与其在职时缴费多少无关。

养老金基金有义务确保足额发放退休工资直至员工去世。然而，如果当前及以往员工所缴费用不足以支付全部的退休工资，那么养老金基金就会出现缺口。这一缺口可能数额巨大，且需企业在合理时间范围内补足。

这意味着企业要承担巨大的财务风险。目前全英有五千多个此类养老金方案，三分之二存在缺口，且主要集中在传统大企业中，广泛分布于中国资本青睐的基础设施、能源、教育、零售等领域。

As its name would suggest, a DB pension scheme is one where the monthly amount that needs to be paid to a pensioner is defined. Under these schemes, a member's pension is linked to such factors as their final salary and years of service, regardless of how much they have paid into the scheme while in employment.

It is the scheme's responsibility to ensure the full benefits are paid until the member passes away. However, if the liabilities relating to the payments due to current and former employees is greater than what those employees have put into the scheme then the scheme will have a deficit. This deficit could be substantial and it is the employer's responsibility to eliminate the deficit over a reasonable timeframe.

This means employers are exposed to significant financial risks. Currently, there are over 5,000 defined benefit schemes in the UK, two thirds of which are in deficit. These are mainly associated with large established companies, and in such areas as infrastructure, energy, education and retail – all much favoured by Chinese investors.

养老金缺口能从公司账目上看出来吗？

Can you tell if a scheme is in deficit from its employer's accounts?

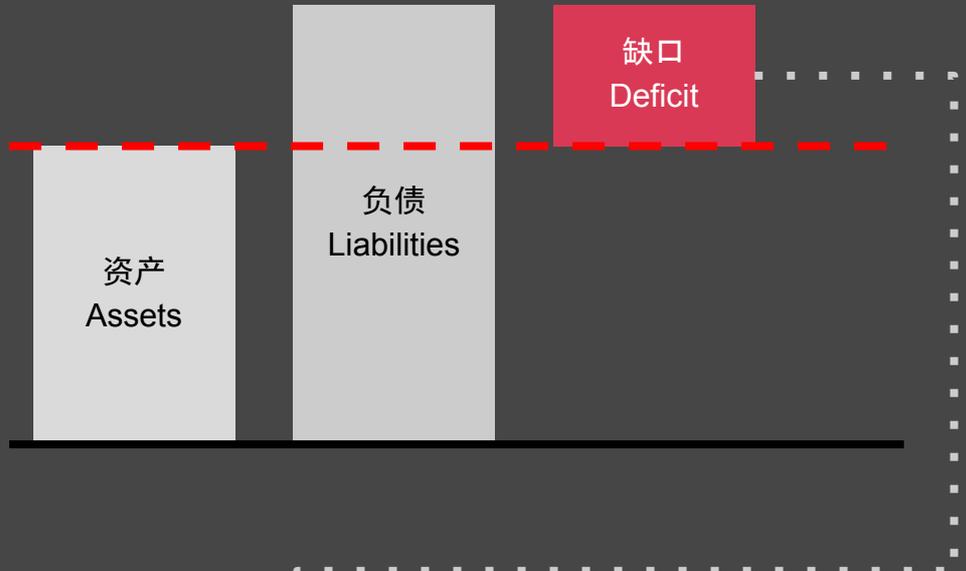
由于会计准则的局限，这类养老金的现金缺口在公司账目上并不能完全看出来。即使公司账目显示其养老金并无明显缺口，公司也很可能依然需要每年向养老金注入大笔资金。因此，在并购交易过程中，常规的尽职调查并不能使企业充分了解此类养老在资金缺口、现金需求等方面的全貌，及其在收购完成后对母公司的潜在影响。此时，企业则需要通过获取养老金方面的专业建议来充分了解相关问题。

此外，企业还可能面临一系列法律上及名誉上的风险。近年来，由于一些重大企业破产案中均涉及养老金亏空问题（导致员工养老待遇受到损失），英国政府及养老金监管机构均加大了对养老金相关问题，尤其是企业对养老金责任问题的监管力度。英国议会近期通过的《2021年养老金法案》将进一步强化监管机构在对企业进行处罚或强制其注资填补养老金缺口等方面的权力，并将有关个人在没有“合理借口”情况下致使养老金权益受到损害的行为纳入刑法规制范围。

Due to the specifics of accounting standards, the cash required to fund the deficit of DB schemes is not always visible from a company's statutory accounts. Even if no deficit is shown in a company's accounts, the company may still be liable to pay significant amounts each year into the scheme. As a result, a standard due diligence process may not be sufficient to show the full magnitude of the deficit or the cash requirements of a scheme, and the potential impact it may have on the buyer once the deal is complete. Often it is necessary to get specialist pensions input as part of the due diligence process in order to fully understand the position.

In addition, companies may also face legal and reputational risks. In recent years, due to pensions deficits featuring in a number of high-profile insolvency cases (where pension scheme members ended up losing part of the pension), the UK government and TPR have become tougher on pension-related issues, especially on an employer's responsibilities in relation to pensions. The UK Parliament recently passed the Pension Schemes Act 2021 which, among other things, strengthens TPR's powers to impose fines and to demand payments to make good the deficit, and introduces criminal offences if people act in a way that put the pension scheme in a worse position without a "reasonable excuse".

- 养老金基金运作资不抵债，无法支付已承诺的退休工资时，养老金便出现缺口。
- 养老金基金负债的估值可运用不同计算口径。在不同计算假设基础上，缺口大小亦有区别。
- A DB pension scheme will be in deficit when its assets are insufficient to support the payment of its promised benefits.
- The deficit of a pension scheme varies depending on the valuation basis used.



- 公司账目中显示的一般是依照会计准则计算的养老金缺口，这一口径的计算结果往往较低。
- 而实际影响公司注资金额、及养老金在公司破产重整等情景中享有的债权主张的计算口径，则往往会给出较高的缺口金额计算结果。
- 计算采用的具体假设会受到一系列因素的影响，并非一成不变。
- The deficit shown in the employer's statutory accounts is usually calculated on the accounting basis. This basis tends to result in a smaller deficit than some of the other bases.
- The valuation bases which will be used in determining the cash contribution required by the employer or the pension scheme's legal claim in an employer restructuring or insolvency scenario are different. These bases tend to yield larger deficit numbers.
- Assumptions used in valuations are impacted by a number of factors and are subject to change.



最新政策走向

Latest policy trend

近年来，英国养老金监管机构在其政策文件及监管行动中均持续展现出“更明确、更迅速、更强硬”的监管手段。新近颁行的《养老金法案 2021》也为该监管方向的持续贯彻进行背书。

其中，监管机构特别强调公司要对所有股权人、债权人一视同仁。这意味着，公司倘若在未对养老金缺口给予充分考虑的情况下向持有人发放大额分红或向其他债权人清偿债务，则其受到的监管审查会大大增加。公司在面对重组、并购等交易时，也必须审慎考虑养老金方面的相关利益。监管机构的介入会提升养老金基金在谈判桌上的地位，令交易各方比以往更加关注养老金基金的诉求。

此外，面对新冠疫情发生后已经或可能出现的企业财务困难情况，监管机构也为养老金信托受托人给出了政策引导。引导要求养老金有关各方在面临复杂决策时充分听取专业建议，提前做好综合风险管理和应急预案，尽早与企业及其他债权人沟通，切实保护好员工利益。

TPR has consistently demonstrated its “clearer, faster, tougher” approach through its recent regulatory documentation and actions. The newly enacted Pension Schemes Act 2021 endorses the continuation of this regulatory direction.

In particular, TPR asks companies to treat all shareholders and creditors equitably. This means a company will come under significant additional scrutiny if they pay material dividends or paying off its other creditors/debts, without giving due consideration to its pension deficit. Employers will also have to give careful consideration to the pension stakeholders’ interest if corporate transactions such as restructurings and acquisitions take place. The intervention of TPR could enhance the pension scheme’s position and so this means that other stakeholders are taking the pension scheme’s position and views a lot more seriously than they have done historically.

Additionally, with regards to existing or potential corporate distress in the wake of the COVID-19 pandemic, TPR issued regulatory guidance for pension trustees. The guidance recommends that pension stakeholders seek professional advice when dealing with complex decisions involving the scheme, practise integrated risk management and contingency planning early on, and engage with the company and other creditors early on, in order to protect members’ interest.

如何化危为机？

How to turn a risk into an opportunity?

虽然传统待遇确定型养老金蕴藏着许多风险，但除了通过在投资前对含有此类养老金的标的公司开展尽职调查之外，投资者还能通过在收购后对养老金债务进行有效管理来降低甚至消除风险。此举不仅能降低投资者持有公司时的财务风险，更有可能使其在后续退出时获得更高回报。

管理待遇确定型养老金债务的手段有很多，需要综合考虑、对症下药。除了传统的养老金债务管理手段以外，目前市场上新兴的一些养老金产品和解决方案也为能投资者提供更多选择。

例如，资本支持的养老金终局方案(Capital Backed Journey Plans)即是英国市场上新近涌现的创新产品之一。该产品通过引入第三方资本支持来提升养老金投资回报的确定性，进而以此为跳板促进养老金实现全额保险买断、将养老金相关债务从公司资产负债表上移除。此举可以大幅降低公司买断养老金所需支付的现金，甚至在特定情形下将公司所需支付的现金降低为零。

待遇确定型超级养老金(DB superfunds)是英国市场创新的又一个例子。这类产品可帮助企业以较低的代价将其自有养老金转移至独立的超级养老金中，从而解除企业所承担的养老金财务风险，同时对员工养老金待遇给予较高程度的保护。截至发稿时，这类产品的开发工作已近尾声，后续还需通过养老金监管机构的审批。

When dealing with risks associated with traditional DB pension schemes, in addition to carrying out appropriate due diligence prior to investing in a business to which a DB pension scheme is attached, investors could also seek to reduce or even remove such risks by actively managing DB pension liabilities post acquisition. Not only could this reduce the financial risks for the acquired business on an ongoing basis, it could also generate higher rewards for the investors in subsequent exit events.

There are a number of measures which could be used to manage DB pension liabilities, and it is important to choose the right ones for the specific situation. In addition to conventional pension liability management measures, newer and emerging pension solutions entering the market could also provide more options.

For example, one recent and potentially exciting innovation in the UK market are so-called "Capital Backed Journey Plans". These involve the use of third-party capital backing to provide greater certainty around investment returns as a stepping stone to pension plans becoming fully insured and removed from the sponsor balance sheet. Such an approach can achieve a full buyout with considerably lower cash that would otherwise be required - in some cases, no cash is needed.

Another innovation in the UK market is the "DB superfunds". They could allow companies to transfer their individual DB pension schemes to an independent central superfund. This transfer could remove pension risks from companies at a lower cost than previously possible, whilst preserving scheme members' benefits with a high degree of security. At the time of writing, these models are in an advanced state of development and will be subject to TPR's approval process.

普华永道如何助您一臂之力？

How can PwC help?

普华永道在英国拥有专业的养老金团队，熟悉当地法规要求及政策走向，对处理收购及在英投资过程中的养老金问题有丰富的经验，既可帮助投资者在投资前对相关风险进行充分了解和管控，又可帮助企业处理经营中的养老金债务管理问题。此外，团队中不乏监管机构前主管等领域内资深人士，也有中文专家为您答疑解惑。

我们能为企业提供的服务有：

- 协助企业与养老金信托受托人沟通
- 为企业提供关于英国养老金监管法规的信息和建议
- 养老金尽职调查
- 养老金估值和精算服务
- 养老金债务管理
- 养老金投资策略
- 其他养老金相关服务

At PwC UK we have a team of experts specialising in pension-related issues. We understand the latest trends in the regulatory landscape. We are highly experienced in dealing with pension-related issues in a deals environment for overseas investors in UK assets/companies, be it pre-deal due diligence and risk control, or post-deal pension liability management. Our team also includes the former chief executive of TPR and a Mandarin-speaking expert.

Services we can provide include:

- **Trustee engagement**
- **Regulatory information and advice**
- **Pensions due diligence**
- **Pensions valuation and actuarial services**
- **Pensions liability management**
- **Investment strategy**
- **Other pensions related services**

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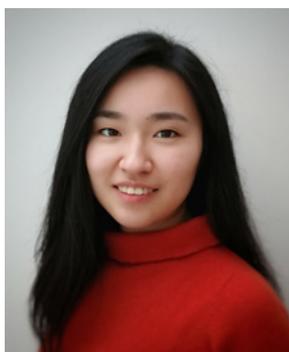
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