



An Bord Pinsean -
The Pensions Board

Authority for Pensions

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Mr. Philip Smith
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14 March 2006

Re: New Regulations

Dear Philip,

Thank you for your letter of 10 February 2006 referring to Pensions Regulations brought in during 2005. I would comment on the points made by you as follows: -

1. **Disclosure Regulations (SI 633/2005)**
 - 1.1 The Pensions Boards' note is inaccurate in this respect. Article 16(2)(c)(ii) of the Disclosure Regulations requires only the information set out in Paragraphs 7 – 12 of Schedule E to be provided.
 - 1.2 The consultants tasked with preparing Guidance Notes on the Disclosure Regulations have been asked to provide further guidance on the content of the statement required by Paragraph 17 of Schedule B "concerning the financial, technical and other risks associated with the scheme and the nature and distribution of those risks".
 - 1.3 Article 16(3) of the Disclosure Regulations is effective as of 1st January 2007. This corresponds with the effective date as mentioned in the Pension Board's Guidance Notes. Perhaps the APLI is considering an earlier version of the Guidance Notes which was modified slightly in the week after publication.
2. **One Member Arrangements (SI 594/2005)**
 - 2.1 The Board notes your concerns. It will give the issues raised by you further consideration after the Social Welfare Law Reform and Pensions Bill has been enacted.
 - 2.2

3. **Investment Regulations (SI 593/2005)**

3.1 **Article 2 – Definition of “one member arrangement” / Article 5.**

The “member” in “one-member schemes” means “member” as defined in the Pensions Act. The Board’s view is that a one member arrangement means that the scheme must only be capable of having one member. The scheme is not precluded from having a number of potential beneficiaries. Where a scheme has been set up as a group scheme but only has one member then provided the scheme closes to new members while only having one member, that will satisfy the requirements of the Investment Regulations.

3.2 **Article 6(d) – Statement of investment policy principles for DC schemes –**

Article 12 of Directive 2003/41EC states that “Member States shall provide that the statement contains at least, such matters as the strategic asset allocation with respect to the nature and duration of pension liabilities”.

Article 12 does not merely cite example content, it cites minimum content.

It is not possible to exempt DC schemes from mandatory Directive requirements.

The Statement of investment policy principles is relevant to setting out the available options and deciding what funds are available to members.

3.3 **Article 7(3) – Investment Duty**

This article transposes the mandatory provisions of Article 18 of the Directive. The Board does not see any possibility of qualifying the Directive requirements.

4 **Cross-border Regulations (SI 592/2005)**

4.1 Article 6(b) only applies to schemes which are already in existence. Article 6(b) requires in respect of a scheme whose most recent annual report does not contain a statement from the actuary that it satisfies the funding standard that an actuarial funding certificate be supplied stating that it satisfies the funding standard at a date not later than 12 months from the application for authorisation to the Board to engage in cross-border activities.

Where an existing scheme’s most recent annual report states that the scheme does satisfy the funding standard, there will be no need to supply an actuarial funding certificate in that case for the scheme to apply for authorisation. The actuarial funding certificate will continue to be required in normal course i.e. every three years.

Yours sincerely,



 **Sylvia McNeece**
Legal Advisor