



Reform and simplification of supplementary funded private pensions

Consultation document issued by the Pensions Authority

18 July 2016

Contents

1. Foreword	3
2. Background to reform	5
3. Overview of proposals for reform	12
4. Related matters	29
5. Transition	34
6. Consultation summary.....	37

1. Foreword

This document sets out proposals by the Pensions Authority (the Authority) to reform and simplify the landscape for the provision of supplementary funded private pensions in Ireland with a view to improving outcomes for pension savers and increasing public confidence and understanding.

The preparation of these proposals relates to serious concerns about the efficiency of Irish defined contribution (DC) pension provision. They are in response to a request from the Minister for Social Protection to the Authority in 2015 to bring forward proposals to reform and simplify the wider pensions landscape to make pension rules easier to understand and to remove duplications and anomalies in the current system. The Authority's objective is a pension system which is fit for purpose, reliable and well managed, and which participants understand and trust. Such a system will greatly contribute to policy initiatives to encourage broader retirement savings such as universal pensions and is arguably a foundation for the success of such initiatives.

The Authority is now formally consulting on proposals for significant changes to the framework for supplementary private pensions in Ireland. Accordingly, this consultation document sets out a package of reform proposals related to issues which the Authority believes need to be addressed in order to meet the reform objectives. Issues in relation to social welfare and public sector pensions are outside the scope of this consultation document.

The remainder of this paper is structured as follows:

- Section 2 describes the current state of pension provision in Ireland and sets out the challenges within the current system;
- Section 3 sets out detailed proposals for change;
- Section 4 identifies other issues relevant to pension reform, some of which are the subject of separate discussion;
- Section 5 examines the issue of transition from the current system;
- Finally, section 6 summarises the recommendations and the consultation questions.

There is an emphasis on DC pension provision in these proposals as it is expected that most new pension provision will be of this type. However, the reform proposals are intended to apply equally to defined benefit (DB) provision to ensure that those

charged with running DB schemes do so in a manner which provides greater security for their members.

The Authority's final proposals, which will take account of responses to this consultation, will be submitted to the Minister for Social Protection. Any consequential proposals for amendments to primary legislation will require the approval of the Minister for Social Protection and the Government.

If it is decided by Government to adopt the Authority's recommendations, considerable work will be needed to translate the overarching proposals into specific legislative provisions. Therefore, it is likely that there will be further consultation on specific aspects of implementation in the future.

Consultation process

Submissions are invited from all stakeholders and interested parties on the Authority's proposals as set out in this document. Specific questions have been included to which we would welcome responses. However if you prefer to include more general comments, they would also be welcome.

How to respond

A submission document in Microsoft Word format is available on the Authority's website where you can insert your responses to the consultation directly: click [here](#) to access this document. Otherwise, you may send your submissions on a separate sheet.

Please send responses by Monday 3 October 2016 by email to policy@pensionsauthority.ie or by post to:

The Policy Unit
The Pensions Authority
Verschoyle House
28-30 Lower Mount Street
Dublin 2

An information event to highlight the issues raised in the consultation will be held during the consultation period and details will be published on our website through the email alert system.

2. Background to reform

This section will provide a review of the current Irish pension system and explain the context for the proposed reform of supplementary private pensions.

The current Irish pension system

The State Pension (contributory or non-contributory) is the main source of income for most people in retirement, and is expected to remain as the primary element of Irish retirement provision. The Authority is not making any proposals for change to the State Pension and it is not considered further in this document.

Many people are eligible for and are contributing to pension arrangements to supplement the State pension. These arrangements are of three types:

1. Funded occupational pension schemes usually involve both employee and employer contributions. These schemes are mostly private sector but include funded schemes set up by commercial State entities and agencies.
2. Personal pensions are individual savings contracts specifically designed to provide retirement benefits, which comprise Personal Retirement Savings Accounts (PRSAs), Retirement Annuity Contracts (RACs) and Buy-Out Bonds (BOBs).
3. Public service pensions run on a pay-as-you-go basis (PAYG). These provide pensions for civil and public servants.

People who have savings outside the pension system are also likely to draw on those savings once they have stopped earning. However, what evidence there is shows that only a small proportion of the population have significant non-pension assets other than the value of their home.

The focus of this consultation is on funded private pensions, that is, pensions where assets are accumulated on behalf of contributors. This focus is a result of the Authority's concerns about the governance of those schemes, the management of the assets and the communication to the members, particularly in respect of the decisions they are required to make. The Authority wants to ensure that funded pension schemes are fit for purpose. In our view this means that schemes are well managed, cost efficient and understandable to their members.

Occupational pension design

Private pension arrangements can be designed as defined benefit (DB) or defined contribution (DC).

- DB arrangements have specific rules setting out entitlements to benefit under various circumstances (retirement, death etc.). Benefits are usually expressed in terms of “pensionable salary” and years of service. Almost all public service PAYG schemes and some funded occupational schemes are defined benefit.
- In DC arrangements, the amounts available for benefits at retirement or leaving service depend on the value of the investment fund accumulated for the member, and there is no guarantee of any minimum benefit. Most funded occupational schemes and all personal pensions are defined contribution.

Pension data

The total numbers of funded schemes and active members on the Authority’s Pensions Data Register at 1 June 2016 were as follows:

	Occupational schemes		AVC schemes		Death benefit schemes		Total	
	<i>Number of schemes</i>	<i>Active members</i>	<i>Number of schemes</i>	<i>Active members</i>	<i>Number of schemes</i>	<i>Active members</i>	<i>Number of schemes</i>	<i>Active members</i>
Frozen	80,654	N/A	1,294	N/A	1,520	N/A	83,468	N/A
Single member schemes	55,607	55,531	2,363	2,355	10,632	10,539	68,602	68,425
1-100 members	10,769	98,408	757	9,263	3,471	66,962	14,997	174,633
101-1000 members	491	139,695	35	8,996	322	82,163	848	230,854
1001+ members	54	142,724	9	34,057	9	19,321	72	196,102
Total	147,575	436,358	4,458	54,671	15,954	178,985	167,987	670,014

At the end of 2015 there were 237,608 PRSA contracts established. Of these, 176,784 were standard PRSA contracts and 60,824 were non-standard contracts.

Drivers of reform

The following are the reasons which have prompted the Authority to develop reform proposals:

- Low public confidence in pension outcomes and difficulty understanding pensions;
- More rigorous regulatory expectation and supervisory approach;
- The high costs borne by many members and contributors;
- The need for compliance and governance standards in the existing system to reflect the current environment;
- The need to rationalise the number of pension schemes;
- External drivers of reform (e.g. EU pensions legislation).

Public confidence and understanding

Research by the Authority and by others shows low levels of understanding of pensions by current and potential savers. This contributes to a lack of confidence in the system and it is likely that this plays a part in low levels of pension coverage and adequacy. In DC arrangements, it is an obstacle to contributors' understanding of the decisions they are required to make.

There are arguably many reasons for the lack of confidence in pensions. However, the Authority believes that the following are among the reasons:

- Reports of pensions losses and difficulties
- Poorly worded and structured communications
- Pension complexity and numbers of pension savings vehicles
- The obligation to make choices and decisions where the options are not understood.

Regulatory approach

The main elements of the supervision of occupational pensions have not changed since the enactment of the Pensions Act 1990 (the Act). However, in that time, the public expectations of regulators has changed, and in particular, there is now a common EU objective that pension oversight be prospective and risk-based.

The Act defines the responsibilities of scheme trustees, and complements and reaffirms the responsibilities already defined in trust law. The powers of the Authority as regulator are mainly concerned with identifying and pursuing breaches of responsibilities after the fact.

However, a prospective and risk-based regulatory framework requires the regulatory authority to intervene where it judges that there is a risk to the interests of the

members and beneficiaries. Such an approach would widen the responsibility of the Authority beyond that of investigating suspected breaches of pensions legislation into active oversight of the management of pension schemes from their commencement in order to prevent poor outcomes. Such a change would be consistent with the direction of European pensions and with supervision of other financial institutions. It is also the Authority's view that such an approach is more aligned with the public's expectations of pension oversight.

Costs

The charges borne by some DC schemes are clearly higher than they could be, a fact which was identified in the Report on Pension Charges in Ireland (Charges Report) published by the Department of Social Protection in October 2012. While it is acknowledged that the provision of pension schemes cannot be cost free, it is clear from the Charges Report that there are major issues with the reasonableness and transparency of charges. This is especially true for smaller occupational pension schemes and individual pension arrangements which appear to be comparatively expensive.

Current compliance and governance standards

Among the issues that the Authority has encountered in its supervision of pensions are:

- Administration – the Authority has encountered instances of poor record keeping, of failure to provide members with information, and of providing inaccurate data to the Authority. In very many cases, the trustees were unaware of their non-compliance.
- Governance – the Authority has observed weak governance practice but, more worryingly, too often there is no evidence of any governance activity by trustees, which is inappropriate given their significant responsibilities which cannot be wholly met by outsourcing.
- Investments – the investment choices offered to DC members are in many cases too complex, and, most importantly, the default strategies are not always appropriate. In addition, the Authority has considerable concerns about the risk management of investments in DB.
- Communications – it is clear that many members do not understand enough about their pension schemes to make informed decisions about investments, benefit options, etc.

The need to rationalise the number of pension schemes

There are over 160,000 occupational pension schemes in Ireland – this includes frozen schemes and additional voluntary contribution arrangements. Ireland has more small and single member schemes than any other country in Europe. The Authority has the following concerns about this number of schemes:

- Small schemes have much less bargaining power with service providers than larger schemes.
- Larger schemes have more scope for reducing costs through economies of scale (though the cost of collecting contributions is unlikely to reduce by much).
- There are over 180,000 individual and corporate trustees listed in the Authority's records. It is unrealistic to expect a significant level of pension knowledge in such a large group.
- It is impractical for the Authority to exercise effective proactive and prospective supervision over this number of schemes.

Consultation 2013

Against this backdrop, the Authority conducted an initial consultation in 2013 on the future structure and regulation of DC provision. This consultation posed specific questions about trusteeship, regulation, investment, disclosure and value for money. The responses to that consultation confirmed the Authority's view that there is considerable scope for improvement in DC pensions. The Authority has since carried out further consultations in specific areas such as codes of governance for DC schemes and trustee qualifications which have contributed to our work in these areas.

External drivers of reform

New IORP II Directive

Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (known as the IORP I Directive) contains the statutory framework for establishing an internal market for IORPs throughout the EU and in particular, for the regulation and supervision of cross-border schemes in the EU. IORP I was implemented in Ireland by amending the Pensions Act and by introducing a number of regulations.

In March 2014, the European Commission published a draft revision of IORP I (known as the IORP II Directive). The European Parliament, the Council and the Commission have now agreed the proposal for the revised Directive. It was approved by Council on 30 June 2016 and it now has to be formally approved by the

European Parliament. Once this occurs, it will be published in the Official Journal and will officially enter into force. Ireland will have 24 months to transpose the Directive from the date of publication. IORP II will dictate much of the future direction of pension scheme regulation in Ireland.

The over-arching objective of IORP II is to facilitate the development of occupational retirement savings in the EU. IORP II has four specific aims:

- Removing the barriers for cross-border activity of IORPs between Member States;
- Ensuring good governance and risk management;
- Providing clear and relevant information to members and beneficiaries;
- Ensuring that supervisory authorities have the necessary tools to supervise IORPs.

The proposals for reform set out in this paper are consistent with the approach of the EU. IORP II will impose a number of new and enhanced obligations on schemes, primarily related to governance. These additional obligations will in turn create additional supervisory obligations for the Authority as regulator.

OECD report

An assessment and evaluation of the Irish pension system was carried out by the OECD in 2012 at the request of the Minister for Social Protection. The OECD's report was published in 2013 and found that private pension coverage, both in occupational and personal pension plans, was uneven and needs to be increased urgently. The report made a number of recommendations for reform of pensions in Ireland including proposals to:

- expand private pension coverage and retirement savings;
- improve the design of DC arrangements; and
- enhance benefit security in DB schemes.

Universal Retirement Savings System (URSS)

Deliberations are continuing regarding the development of a universal retirement savings system aimed at those workers without supplementary coverage, the potential introduction of which would be a substantial multi-year programme of work. The Minister for Social Protection has indicated that the development of such a reform, which will support the long term sustainability and adequacy of the pension system, will be a priority area of work for the Department of Social Protection.

In order to deliver a successful universal pension system there is a need to underpin this system with reform and simplification of the wider pension landscape, and the Authority has been requested to bring forward proposals to raise the standard of the pension system. The Authority is of the view that reform and simplification of the current system would greatly facilitate any initiatives to expand supplementary pension coverage.

Conclusions

It is the Authority's view that changes to the current system are needed in order to address the existing shortcomings so that pension savers better understand their pensions and the decisions they need to make and achieve better value for money. The objective of such change is to create a pension system that is fit for purpose and is underpinned by good governance practices.

There have been a number of attempts in the past to reform aspects of the supplementary pension system. However, the most common outcome has been that although the reform may achieve the specific objective of the change, it increased the overall complexity of the pension system and did not achieve any aggregate improvement. It is the Authority's view that the only reform that has any likelihood of achieving better outcomes for savers and beneficiaries is a system-wide approach that is focused on the experience and outcomes of participants.

3. Overview of proposals for reform

The objectives of the Authority's reform proposals are as follows:

- All schemes should be actively managed to a high standard;
- The Authority should be able to oversee the running of schemes to the necessary detail and to intervene where beneficiary interests are under threat;
- Pension scheme savers should find it easier to understand the pension system and should be supported to make the necessary decisions.

In order to meet these objectives and to address the issues identified in the previous section, the Authority is proposing a revised regulatory framework that encompasses the following:

- Higher standards for trustees of occupational schemes;
- An authorisation process for new occupational pension schemes (rather than a registration process as is currently the case);
- Closer supervision of pension scheme management;
- Better information for members and more transparent charges;
- Rationalisation of the number of pension savings vehicles.

The proposals, which are set out in detail in this chapter, are intended to achieve significant improvements in how supplementary pensions are managed and supervised. If these proposals are implemented, the expected outcomes are as follows:

- Higher standards of governance to protect members' interests;
- More effective supervision of the pension system by the Authority;
- A streamlined and simplified pension system that is easier to navigate and engage with;
- Members better supported to make more informed choices;
- Schemes that are run efficiently and provide good value for money;
- A better foundation for the possible introduction of a universal retirement savings scheme.

The Authority's proposals are likely to result in the following changes to the Irish supplementary pension system:

- There would be a very significant reduction in the number of new occupational pension schemes registered each year;
- Multi-employer pension schemes (or master trusts) would become a much more common means of pension provision;
- Savers who previously would have been in single member occupational schemes are likely in future to save through PRSAs or multi-employer pension schemes.

These proposals have been developed as a result of an analysis of Irish supplementary pensions. Moreover, they are consistent with the approach adopted in the new IORP II Directive which will improve the way pension schemes are governed.

If the proposals set out below are implemented, the transition from the current pension regime to a new one will be challenging and must be specifically addressed. The Authority has set out its proposals on transition later in this paper. The timing and details of such transition will significantly depend on the transposition of the IORP II Directive and also on any development of a universal retirement savings scheme should the introduction of such a scheme be agreed by Government.

Revised regulatory framework

In order to achieve the objectives of the reform and to create a fit for purpose pension system, the Authority's current regulatory framework needs to be revised. It is necessary that each individual scheme be fit for purpose and managed to an appropriate standard. This means that scheme trustees must have the necessary, skills, knowledge and experience to fulfil their obligations to members, they must undertake their responsibilities in an organised and reasonable way, and they must at all times focus on the interests of the members.

It is therefore proposed that the Authority's regulatory framework be revised in the three areas outlined below. These elements of reform will collectively facilitate a pension system grounded in good governance giving rise to good member outcomes.

The three proposed changes to the regulatory framework are set out below and will be discussed in more detail in the sections following:

- **Proposed changes to trusteeship:** The role of the trustee is central to good scheme governance and consequently to good member outcomes. It is therefore essential that trustees have the skills, knowledge and experience needed to fulfil the onerous responsibility of minding other people's money. In light of this the

Authority believes that it is necessary to increase the requirements on trustees and to assess whether trustees meet these requirements both as part of the authorisation process and on an ongoing basis as part of the supervision process.

- **Scheme authorisation:** A scheme should have the necessary governance, administration and financial structures in place when it is created, so that it will be managed to a high standard from the beginning. The Authority therefore proposes to recommend that there should be a scheme authorisation process that will sit alongside the supervisory and enforcement processes of the regulatory framework. This would enable the Authority to perform a gatekeeper role and ensure that schemes and trustees seeking entry to the pension system are properly structured, have robust governance processes and procedures in place and are therefore capable of providing good member outcomes. Scheme trustees will be clear on their obligations and requirements at the point of entry to the system which will both complement and enhance the Authority's ongoing supervision.
- **Enhanced supervision and enforcement:** Trustees should have a clear detailed understanding of what their obligations are, and the Authority should have the ability to assess their compliance and where necessary, intervene to achieve compliance. The Authority therefore proposes that it should have the power to create binding codes of practice for any areas of trustees' responsibilities as necessary. These codes would be complemented by the Authority having an appropriate range of supervisory and enforcement measures in order to take effective action in the event of potential risks to members' outcomes.

The Authority believes that this revised regulatory framework would be enhanced by the adoption of proposals for the rationalisation of existing personal pension vehicles which will ultimately assist as a step towards simplifying Irish pension provision.

The following sections set out the elements of the proposed reform, comprising changes to trusteeship requirements, new scheme authorisation, a revised regulatory framework, and rationalisation of personal pension vehicles.

Proposed changes to trusteeship

Overview

The Authority does believe that better member outcomes are more likely where trustees, whatever their background, have the knowledge and skills required to administer the particular scheme. To this end, the Authority is proposing mandatory requirements for trustees, as follows:

- The introduction of an enhanced trustee qualification which will apply to a trustee board on a collective basis;
- A minimum trustee experience requirement which will apply to a trustee board on a collective basis;
- A minimum of two trustees per trustee board and two directors for a corporate entity;
- Mandatory continuous professional development for all trustees; and
- Additional eligibility restrictions.

It should be noted that the Authority is not seeking to “professionalise” trusteeship and fully acknowledges that non-professional or lay trustees can bring a significant amount to their role as a trustee and to the administration of the scheme generally.

Background

Trustees need to understand the finances of their scheme, oversee the investments, supervise the administration, provide meaningful information to members and ensure that members get value for money. In the Authority’s experience, the ability of trustees to meet these obligations varies greatly.

The Authority carries out a range of investigations, audits and inspections of schemes every year and also meets with a number of trustees. This activity has identified a number of areas where some trustees did not fully discharge their duties under the Act and where scheme governance standards were not of a satisfactory standard. The following examples are some areas where the Authority has found trustee standards have fallen short from a compliance and governance perspective:

- Lack of awareness of the full extent of their duties; in some cases, trustees do not meet and appear to have little or no understanding of their statutory obligations;
- Failing to fulfil training obligations as evidenced in responses to compliance audits;
- Not putting in place proper procedures for ensuring contributions are remitted to a scheme on time;
- Delegating trustee duties to administrators or other third parties without putting in place appropriate contracts or service level agreements and without overseeing the third parties to whom they have delegated their duties;
- Having insufficient understanding of investments – sometimes it transpires that trustees are not aware of matters such as diversification, risk management,

investment strategy, investment return benchmarking or the meaning of a Statement of Investment Policy Principles;

- Making decisions about their schemes but not documenting these decisions;
- Not managing conflicts of interest.

The Pension Charges Report 2012 found worrying evidence of lack of engagement by some trustees. The report suggested that the non-respondents to their survey (66% of trustees contacted) were more likely to experience somewhat higher charges in the schemes they run. It also found that the majority of trustees who responded to the survey did not have all of the required information on scheme charges to hand, had some level of difficulty in completing the survey and that trustees had difficulty obtaining information. This low level and poor quality of response by trustees was disappointing given the importance of the role of the trustee and raised broader concerns regarding trustees' ability to oversee the management of pension schemes.

IORP II Directive

The new IORP II Directive requires that all persons who effectively run an institution (i.e. trustees) have “*qualifications, knowledge and experience*” that is “*collectively adequate*” and that persons who carry out key functions should have “*professional qualifications, knowledge and experience*” that is adequate to properly carry out their key functions. The Directive also requires trustees to be “*of good repute and integrity*”. It will impose an obligation on regulatory authorities to assess whether trustees fulfil these requirements. Article 22(6) of the Directive requires pension schemes to “*have at least two persons who are effectively in charge of the operations*” of the pension scheme, which means pension schemes would generally be required to have a minimum of two trustees on a trustee board. These requirements align with the governance reforms being proposed by the Authority.

Conclusions

Trustees are responsible for approximately €100bn of pension assets and have a fiduciary responsibility for safeguarding the retirement savings of members and their dependants. It is the Authority's view that the current regime is not reliably meeting the needs of members. The Authority therefore proposes to recommend higher standards of training and qualifications, and minimum experience requirements.

Trustee qualifications

The current trustee training requirement provides a good but quite basic level of pension knowledge, but it is the Authority's view that the standard of training is not high enough to meet the demands of a trustee role. Therefore the Authority proposes to add to the current trustee training requirements and proposes that a

trustee board must have a combination of appropriate qualifications and experience in order to discharge their obligations. The Authority is of the view that improved trustee knowledge would improve the governance standards and quality of decision making in many schemes, and would therefore produce better outcomes for the members of those schemes. Although it is not the primary objective of such a recommendation, the Authority believes that enhanced qualification standards would contribute to the consolidation of smaller schemes.

Proposal

Taking all of the above into consideration, the Authority's proposed recommendation is to introduce an enhanced minimum trustee qualification that will apply to a trustee board on a collective basis. When considering the issue of multi-employer trusts (i.e. master trusts) the Authority proposes that all directors of a corporate trustee company who manage such an arrangement would be required to obtain the minimum trustee qualification or meet experience requirements that would be prescribed. This is on the basis that these trustees would potentially be responsible for a significantly larger scheme which would have a considerable amount of assets and members.

Based on the responses to a 2015 consultation the Authority believes that NFQ level 7 would be an appropriate minimum standard for trustee qualifications. The Authority would define a list of topics that should be included in a curriculum leading to a trustee qualification. The onus would be on the educational providers to ensure their course meets the Authority's eventual requirements and a list of duly approved courses/qualifications would be made available on the Authority's website.

The Authority is of the view that educational credits in respect of previous pension related qualifications would be a matter for the educational providers rather than for the Authority.

Trustee experience

The Authority recognises that academic qualifications alone will not be adequate and that appropriate trustee experience is very relevant when determining minimum standards applicable to trustee boards. The Authority therefore proposes that a trustee board should consist of a minimum of two trustees, where at least one trustee would have the proposed mandatory qualification and another trustee would have a prescribed amount of experience acting as a trustee – the proposed level is two years. Corporate trustees, when acting as sole trustee to a scheme, would be required to have a minimum of two directors, one with a mandatory trustee qualification and one who meets the prescribed criteria for experience.

CPD requirements

The Authority is of the view that it would be beneficial for trustees to undertake CPD for a set number of hours per annum. This requirement would be in addition to the existing trustee training requirements in the Act which require new trustees to receive initial training within 6 months of appointment but would replace the ongoing obligation to complete trustee training every two years. Continuing professional development would help trustees to keep their knowledge up-to-date and relevant. It is proposed that all trustees should be subject to annual CPD; however the number of CPD hours trustees should undertake would be a matter for further discussion.

Eligibility criteria to become a trustee

The current restrictions to acting as trustee are set out in the Act which provides that

“A person shall not act as a trustee of a scheme or trust RAC where a person is:

- (a) an undischarged bankrupt; or has made a composition or arrangement with his creditors and has not discharged his obligations under that composition or arrangement; or*
- (b) has been convicted of an offence involving fraud or dishonesty; or*
- (c) a company and any director of the company is prohibited under this section from being a trustee of the scheme or trust RAC; or*
- (d) a person who is for the time being subject to the restrictions imposed by section 150 of the Companies Act 1990”.*

In addition to these restrictions it is proposed that the following persons also be prohibited from acting as trustee:

- Persons who lack the necessary decision-making capacity;
- Persons under the age of 18 because of their inability to enter into various contractual and legal arrangements;
- Trustees or potential trustees that have been precluded from acting as trustee pursuant to the provisions of the Act.

It is also proposed to prohibit the sponsoring employer (in a corporate capacity) and professional advisers who provide services to a scheme from acting as trustees in light of the potential for conflicts of interest.

As part of the eligibility requirements, the Authority is considering the introduction of a fitness and probity regime which would involve the Authority conducting further evaluation of trustees' overall suitability for the role.

Questions on proposals

- What are your views on trusteeship generally and how it operates in practice from your own experience?
- Do you agree that the introduction of trustee qualifications as proposed will help increase standards of trusteeship? If not, why not?
- Do you consider that the enhanced trustee qualification requirement should apply to a trustee board collectively or to each member of a trustee board individually?
- Do you agree that all directors of a corporate trustee company responsible for a master trust should be required to fulfil either the qualification or the experience requirements (subject to a minimum of one trustee director meeting the experience requirement and a minimum of one trustee director obtaining the qualification)?
- Do you agree that recognising experience gained as a trustee should be taken into account when determining minimum standards for trustees? If not, why not?
- Do you have any suggestions on what is appropriate trustee experience and how this could be measured?
- Do you think all trustees should be subject to annual CPD? How many CPD hours per annum do you think would be appropriate? If you do not favour CPD please state the reasons why and suggest an alternative approach.
- Do you agree with the proposed additional eligibility restrictions?
- What are your views on the proposal to impose “fit and proper” requirements on trustees?
- Are there any other persons that should be prohibited from acting as trustee? If yes, please say whom and state the reasons why they should be prohibited.

Scheme Authorisation¹

Background and overview

A process for new scheme authorisation would enable the Authority to perform a gatekeeper role and ensure that schemes and trustees seeking entry to the pension system are properly structured, have robust processes and procedures in place regarding governance and are therefore capable of providing good member outcomes. As a result, trustees and others involved would be clear on their

¹ This process is also referred to as licensing but in the context of the proposals set out in this paper and to be consistent with the language used in the IORP I Directive and IORP II Directive, the term “authorisation” is used accordingly.

obligations and requirements at the point of entry to the system: this will both complement and enhance the Authority's ongoing supervision of the obligations and requirements imposed as part of the authorisation process.

The current registration process for pension schemes under the Act is relatively straightforward and passive. The Act imposes a duty on trustees of a scheme to ensure that the scheme is registered with the Authority within one year of the scheme's commencement. The trustees are required to provide the Authority with such information as is prescribed for the purposes of registration. However, the Act does not provide for any discretion on the part of the Authority to decide whether or not to register a scheme nor does it provide for any express powers allowing the Authority to probe the information submitted. In addition to registration by the Authority, schemes must be approved by Revenue under the Taxes Consolidation Act 1997. While applications to Revenue are facilitated through the Authority's PDR system (and there is some duplication in the information sought by both bodies), the Revenue approval process is legislatively and administratively separate to that under the Pensions Act. While Revenue is concerned with preventing the abuse of the tax treatment of pensions, the Authority has a much broader regulatory function in respect of the state and conduct of pensions generally.

The current registration process is deficient in a number of respects:

- The only criterion for a scheme to register with the Authority is that it has received Revenue approval – this results in a large number of schemes being established every year, mostly single member schemes;²
- The low barriers to entry mean that schemes (in particular single member schemes) are registered without due consideration as to efficiency, value for money or viability;
- The large number of pension schemes in Ireland is not conducive to effective and efficient supervision and oversight and the existing regime fails to provide any incentive for the reduction in the number of existing schemes;
- As pension schemes do not have to be registered until 12 months after commencement, the Authority does not have an up to date record of the entities to be regulated. It would be more efficient to use the initial registration as an opportunity to confirm compliance than to rely only on ongoing supervision;
- The process is not aligned with international best practice for pension schemes and comparative regulatory activities;

² In 2015, approximately 13,550 new schemes were registered, of which 13,000 were single member scheme registrations.

- Ireland's obligations for increased prudential supervision of pension providers (i.e. the protection of the rights of members and beneficiaries and the stability and soundness of pension schemes) under the new IORP II Directive will arguably not be met by the existing process.

International best practice

The authorisation of pension entities (as distinct from registration) is widely observed in OECD and non-OECD countries. Comprehensive requirements are particularly prevalent in mandatory pension systems, but some form of evaluation prior to the start of operation is applied to pension funds in most systems.³ A system of authorisation plays an important role in ensuring an effective and efficient operation of the pension markets, and in consequence is a useful and important mechanism to protect the best interests of scheme members and other relevant beneficiaries.

The OECD-IOPS Guidelines on the licensing of pension entities set out effective and impartial licensing requirements based on international practice and therefore represent best practice. The Guidelines define "licensing" as the process by which an authority grants permission to a pension entity to operate and/or to have the right to benefit from specific tax treatment. It includes a range of actions, involving the assessment of compliance with specific requirements prior to granting permission to operate or granting tax benefits, or it may be the status of compliance with such requirements. The Guidelines require applicants to demonstrate they have in place policies and procedures that are consistent with a system that seeks to ensure benefits are delivered to scheme members and provided under the terms of the scheme and consistent with the pension laws of the country and support continuous supervision. The Guidelines set out the areas recommended for inclusion in an authorisation process and can be viewed [here](#).

An effective authorisation system should be supported by continuous supervision and in that regard, enhanced supervisory powers necessary to meet the potential requirements for authorisation will have to be implemented as discussed in this chapter.

It is the Authority's view that the introduction of a system of authorisation is desirable as it ensures targeted regulation and supervision from the commencement of a scheme's operations right through to its ongoing activities.

When considering authorisation as a potential feature of Irish pension oversight, it is important to note that international practice does not present a one size fits all approach. The Authority has taken into account that the trust model for pension

³ At one extreme, in Ireland and the UK, approval of a scheme from the tax authority and then registration with the pension authority is all that is required. At the other end of the spectrum, licensing is strictly regulated, with authorisation only being granted following detailed scrutiny.

delivery in Ireland is not necessarily identical to the models used in other jurisdictions and so any authorisation process should be adapted accordingly.

Proposals

The Authority proposes a robust process of scheme authorisation that would ensure that schemes are as far as practicable fit for purpose at the point of establishment. This would represent a shift to a more active pre-commencement process away from the existing passive process whereby schemes are registered up to one year after commencement.

The new regime would involve submission and evaluation of prescribed information to allow the Authority to determine whether the scheme should be allowed to begin operations and become responsible for members' pension savings. The rationale behind this proposal is to ensure that schemes are fit for purpose at the point of establishment. This should help schemes to provide better member outcomes. This authorisation process links to a framework of ongoing supervision, as schemes will be expected to maintain the standards required on an ongoing basis and authorisation will be conditional on commitment by trustees to compliance with any prescribed codes of practice. Existing schemes will not be required to go through the authorisation process but they will be expected to demonstrate their compliance with the overall requirements imposed on new schemes at authorisation.

To this end, and taking account of the OECD-IOPS Guidelines, the new IORP II Directive and the need for enhanced governance in Irish pension schemes, the Authority proposes that the authorisation process would cover the following broad headings:

- Scheme structure and formation – this would consider the documentation of the scheme (e.g. trust deed and rules, member booklet) and trustee details and assessment (their eligibility, qualifications, etc.).
- Governance and management – this would include administrative arrangements, trustee policies (e.g. outsourcing, risk management) and governance policies.
- Investment – this would deal with the proposed investment objectives and strategy, policies for oversight of investment managers, etc.
- Business plan – this deals with the viability of the scheme (e.g. numbers of potential members, financing and charges, etc.).

In order to evaluate a scheme's compliance with these requirements, an objective set of criteria will be developed and published. Under some of the above headings, it is proposed that documentation will be required to be submitted for review, in other cases, confirmation that the document exists will suffice as a condition of authorisation. In addition, the application of codes of practice will feature as a

condition of authorisation, which will outline the Authority's expectations and assist with compliance.

The role of Revenue will need to be incorporated into this process and discussions are currently underway. It is envisaged that efficiencies will be made where possible by addressing any existing duplication in the process. It is proposed that approval by the Authority will be required before Revenue approval will be granted. Therefore the development of any new regime will be heavily dependent on incorporating and agreeing the operation of a parallel or integrated process with Revenue.

Legislation would clearly set out the process and the timelines for deciding on an application (e.g. the submission of further information, the role of face-to-face meetings, the attachment of conditions to an authorisation and a mechanism for appeals where an application is rejected). Once authorised, the Authority would seek to ensure that the scheme trustees continue to manage the scheme to the standard required at the point of authorisation. Where the requirements are no longer met, this may ultimately result in the revocation of a scheme's authorisation, though this would be as a last resort only.

Questions on proposals

- Would pension schemes benefit from the introduction of an authorisation process? Do you agree with the broad proposals set out by the Authority? If not, what alternatives would you suggest for achieving better scheme governance?
- Are there specific areas that are not outlined above that should feature as part of the authorisation process?
- What do you see as the key challenges posed by the introduction of an authorisation process for pension schemes, members, employers, trustees and/or the pensions industry?
- Do you see the proposals giving rise to regulatory arbitrage for schemes? If so, at what points in the process do you see this arising? What efficiencies can be gained by sharing information/processes with any other relevant supervisory authority (e.g. the Central Bank/Revenue)?
- Are there any other issues relating to scheme authorisation that you would like the Authority to consider?

Enhancing the current supervisory and enforcement processes

Trustees should have a clear detailed understanding of what their obligations are, and the Authority should have the ability to assess their compliance and where necessary, intervene to achieve compliance. The Authority therefore proposes that it should have the power to create binding codes of practice for any areas of trustees'

responsibilities as necessary. These codes would be complemented by the Authority having an appropriate range of supervisory and enforcement measures in order to be able to take effective action in the event of potential risks to members' outcomes.

The objective of the proposed changes to pensions oversight is to prescribe practices that are likely to lead to better member outcomes, and to enable the Authority to oversee the management of pension schemes and to intervene appropriately where there is a threat to member interests. It is therefore proposed that schemes and trustees will be subject to more prescriptive codes of behaviour. This will enable the Authority to monitor effectively the trustees' ongoing management and provide a basis for appropriate action in the event of non-compliance or in circumstances where there are potential risks to member outcomes.

IOPS have published Guidelines for Supervisory Intervention, Enforcement and Sanctions (the IOPS Guidelines) which reflect international good practice regarding the powers needed and used by pension supervisory authorities. The IOPS Guidelines outline that in order for pension supervisory authorities to achieve their objective they need not only to have adequate supervisory methods but also to be able to enforce regulations and require remedial action when necessary. The IOPS Guidelines suggest that this can be achieved through a combination of intervention, enforcement and sanctioning powers which can be preventative, protective or punitive in their effect. This reflects the position that effective regulation is achieved where the regulator has access to a suite of tools which can be used in a targeted and focussed manner proportionate to the risk posed.

The new IORP II Directive requires that Member States ensure that those responsible for pension supervision be provided with the necessary means, have relevant expertise, capacity and mandate to achieve the main objective of prudential supervision. The aim of this is to protect the rights of members and beneficiaries and the stability and soundness of the pension institution. The new Directive outlines the principles of prudential supervision as including supervision based on a prospective and risk-based approach, applied in a timely and proportionate manner to the nature, scale and complexity of the risk. In addition, IORP II provides for the use of intervention powers by the supervisory authority in the event of a breach of requirements imposed by the Directive.

Proposal

In light of the above, the Authority has reviewed its current supervisory and enforcement processes and has identified the need to revise and enhance its range of existing powers. In doing so, particular focus will be placed on imposing and monitoring more prescriptive obligations on schemes and trustees through codes of practice and on powers facilitating the ability for early intervention in a scheme where necessary.

Codes of practice

It has long been recognised that there is a fundamental link between good governance and good pension outcomes. However, in order to achieve this, trustees must be aware of what good scheme governance entails. An effective way of informing trustees is to provide them with good quality guidance, which is an important element of better regulation. In light of this, the Authority proposes to issue binding codes of practice which will define best practice in various aspects of scheme management and governance, in order to improve standards generally. It is proposed that these codes will prescribe appropriate practice in, for example, identifying appropriate investment strategies, scheme communications with members and trustee governance procedures. It is proposed that schemes and trustees will be required to comply with the requirements outlined in the codes. Accordingly, the Authority proposes to seek additional powers to prescribe binding codes of practice.

The Authority has recently begun publishing voluntary codes of governance for DC schemes which set out high level standards that trustees are expected to adopt in order to serve the best interests of members and beneficiaries. It is likely that any future binding codes issued by the Authority in relation to governance will be based on the broad principles outlined in those codes.

The Authority is committed to engaging with all stakeholders in relation to the content of binding codes of practice and would consult with all relevant parties in order to ensure that any codes prescribed are clear and proportionate.

Intervention powers

In line with the move towards prospective risk based supervision, the Authority also proposes to seek the power to intervene in the management of a scheme in the form of issuing directions to the trustees to take specific action or refrain from taking action, in circumstances where the Authority considers that good member outcomes are at risk.

The Authority currently has a number of supervisory and enforcement powers which enable it to take appropriate action in circumstances where a breach of legislation/requirements has occurred. However, often this means that by the time the Authority becomes aware of an issue, the scheme members' outcomes have already been adversely affected. In light of this and in line with best international practice, the Authority is proposing to move from an *ex post facto* approach to supervision to an *ex ante* approach. However, the Authority does not currently have the statutory power to intervene in a scheme and direct the scheme/trustees to take appropriate action or cease action which the Authority considers to be inappropriate. An intervention power of this nature is consistent with the good practice IOPS Guidelines referenced above, with the Authority's move towards prospective risk

based supervision and with the necessity of having a supervisory process capable of ensuring that schemes continue to be fit for purpose post authorisation.

Conclusion

These proposed additional powers would provide the Authority with a broad range of tools which would be used in a targeted, focused and appropriate manner in order to achieve its objective in the most proportionate manner. It is proposed that the Authority would adopt a revised supervisory and enforcement strategy to define the manner in which these new powers would be used and to give effect to the revised regulatory framework. The Authority proposes to adopt a tiered approach to the use of its powers, which is consistent with the Authority's commitment to use its supervisory and enforcement powers in a proportionate manner.

Questions on proposals

- Do you have any views on the Authority's proposed enhanced supervisory and enforcement powers?
- Do you share the view that codes of practice should be binding on scheme trustees? If not, why not?

Rationalisation of pensions vehicles

Introduction

The current supplementary pension system, with multiple pension savings vehicles to provide retirement benefits, has too many vehicles designed essentially to do the same thing. It was envisaged at the time PRSAs were introduced in 2002, that PRSAs would eventually replace both buy-out bonds (BOBs) and retirement annuity contracts (RACs). The existing duplication and range of options can be confusing for scheme members and prospective members and adds greatly to the complexity of the overall system. Navigating the pensions system takes considerable time and effort, which is potentially off-putting for consumers.

The Authority's view is that rationalisation of pensions vehicles would help significantly to reduce this complexity. This could be achieved by permitting no new RACs or BOBs to be issued from a given date. This would simplify the landscape for consumers by having PRSAs as the single option for new contract-based arrangements.

Cessation of RACs and BOBs

Based on the foregoing, the Authority proposes the prospective cessation of RACs and BOBs in order to rationalise the number of pensions vehicles to reduce

complexity. If effected, the options for new DC retirement savings will include only trust-based occupational schemes and PRSAs.

The legislation to prohibit the establishment of new BOBs is in place; however it has not yet been commenced. This is likely due to limitations around transferring from schemes to PRSAs which matter is dealt with below.

Review of PRSA provisions of the Pensions Act

Because the above proposal will result in PRSAs being the only option available for new contract-based retirement savings, it is appropriate to review the provisions of Part X of the Pensions Act, which governs these contracts and which is unchanged since 2002. The review, which is underway, is not intended to reconsider the fundamental design of PRSAs, but to decide whether any changes are appropriate to improve the operation of PRSAs and their oversight. This will focus on operational difficulties around the process for product approval, provisions relating to charges, member disclosure and any other provisions of Part X that need clarification or amendment.

Additional related issues

Additional issues arising from the proposal to cease RACs and BOBs include:

- Transfers from schemes to PRSAs

Transfers are generally allowed from schemes to PRSAs provided the member has been in the scheme for 15 years or less. A member leaving employment or whose scheme is winding-up who has more than 15 years' service is therefore only allowed to transfer to another scheme or to a BOB. Before the prohibition on the establishment of new BOBs could be commenced, the Authority proposes that the restriction on transfers to PRSAs for scheme members with more than 15 years' service be removed.

- Transfers from schemes to PRSAs – Certificate of Benefits Comparison (CBC) and related documents

The Act provides that a PRSA provider shall not accept a transfer from a scheme to a PRSA unless the member has been furnished with the following documents:

- (a) a certificate of comparison of the benefits (CBC) which may accrue from the scheme and which may accrue from the PRSA; and
- (b) a written statement of the reasons why such a transfer is or is not in the interest of the person wishing to make such a transfer.

The person preparing the certificate or statement must also have a prescribed level of professional indemnity cover for this purpose.

These requirements do not apply in certain limited circumstances.

The content and other aspects of this obligation will be considered as part of the Authority's intended review.

- Transfers from BOBs to PRSAs

Currently BOB holders are permitted to transfer to an occupational pension scheme, another BOB or a UK statutory or approved scheme. Transfers from BOBs to PRSAs are not permitted. Section 122(2) of the Act, which has not yet been commenced, allows for BOB holders to terminate their contracts and transfer to a PRSA in a similar manner to transfers from RACs to PRSAs.

Before the prohibition on the establishment of new BOBs could be commenced the Authority proposes that existing BOB holders be allowed to transfer to PRSAs should they so wish.

- Transfers from RACs to schemes

Currently RAC holders are permitted to transfer to another RAC or to a PRSA. Transfers to schemes are not permitted. However there is scope for RAC holders to get around this restriction by transferring first to a PRSA and then on to a scheme. The Authority proposes that direct transfers from RACs to schemes be permitted to avoid use of the circuitous route which can add cost to the consumer.

Questions on proposals

- Do you agree with the proposal to rationalise pensions vehicles in order to simplify the landscape for consumers?
- Are there any other additional issues presented by the cessation of RACs and BOBs?
- Do you foresee any practical difficulties with the removal of the 15 year rule limiting transfers from schemes to PRSAs?
- Do you foresee any practical difficulties with permitting BOBs to transfer to PRSAs?
- Do you foresee any practical difficulties with permitting RACs to transfer to schemes?
- Do you have any practical suggestions which the Authority can take into account as part of its review of the certificate of comparison and reason why statement required, in certain circumstances, for transfers from schemes to PRSAs?

4. Related matters

Master trusts/multi-employer pension schemes

Background

One of the objectives of the Authority's proposals is to reduce the number of pension schemes. As stated above, the Authority expects that as a result of these proposals, there would be significantly fewer small single employer schemes. This means that there will be a greater role for master trusts, defined in this document as occupational schemes whose contributing members may be employees of unrelated employers. Such master trusts raise specific issues of management and oversight, and these issues are considered below.

Current status

Master trusts are not expressly defined for the purposes of the Pensions Act.⁴ Other than Revenue approval rules, which require that a master trust satisfies the conditions of section 772 of the Taxes Consolidation Act 1997 and that membership is confined to employees and deferred members of the participating employers, there are no barriers to entry under the Pensions Act for master trusts. Having said that, Irish pension scheme regulation is based primarily on the principal employer/single trust model so in practice while there are no barriers, the existing regulatory environment is not necessarily equipped to respond to any particular governance issues associated with master trusts. The Authority is aware that there is a very small number of existing pension schemes that operate on a master trust basis and recent developments in other jurisdictions have generated interest in master trusts as a model for pension schemes in Ireland.

The potential benefit of master trusts is that they may provide an opportunity for small DC schemes to exploit economies of scale. By effectively merging the trustee functions of smaller schemes into one operation, there may be an opportunity, for example, to negotiate reduced fees, eliminate the need for individual companies to commit resources to trusteeship functions, and to pool advice.⁵ In the long run, if the overall reduction in the number of pension schemes is to be achieved in Ireland, the master trust model would appear to be a relevant vehicle to facilitate this. In addition, the master trust may be an important tool in any future implementation of universal retirement savings.

⁴ Although the Pensions Act defines 'sectionalised schemes', to date these have not been given effect by the necessary Regulations under section 5(3A) of the Act. Existing Trust RACs also have features of a multi-employer type trust (albeit multi-self-employed).

⁵ Report of the Pensions Board to the Minister for Social and Family Affairs on Trusteeship, November 2006.

Potential issues

From a governance perspective, the Authority is of the view that while master trusts would be a welcome feature in the Irish market, they present some additional challenges to the overall regulatory regime. These challenges are not insurmountable but arise mainly because master trusts represent a shift away from the tripartite occupational based relationship of employer/trustee/beneficiary to one where the ultimate promoter of the scheme is effectively providing services to the public at large (albeit through employers). In addition, these schemes, by their nature, have the ability to become significant in scale and as a result detached from their membership.

In order to facilitate the development of master trusts within the revised regulatory regime, the Authority needs to identify those particular features that will enable master trusts to be fit for purpose and to deliver good member outcomes. To this end, the Authority has identified a number of particular challenges relating to the governance of master trusts which need to be addressed as follows:

- Trust structure – how will a master trust be defined and operate? Due to the somewhat commercial nature of a master trust, would the regulation of master trusts be better served by allowing for individual and/or corporate trustees or sole corporate trustees only? How will member funds be held so as to ensure the best possible security and traceability?
- Conflicts of interest – potential conflicts of interest between the master trust and any relevant third party service providers which are also connected entities to the promoter of the trust will need to be addressed, particularly in the areas of charges and costs.
- Capital requirements/financial stability – the need to put in place capitalisation requirements for corporate trustees in particular to provide for costs that will arise where a master trust winds-up.
- Sustainability of a master trust – the size and scale that a master trust needs to attain in order to deliver the purported economies of scale and reduce costs on members.
- Member participation – how will members be afforded the ability to participate within the scheme and be given the appropriate access to trustees and information?
- Employer participation – the extent to which the employers can be afforded the opportunity to participate within the scheme, make changes to rules, etc.

- Remuneration and charges – the need for transparent remuneration policies for those running the master trust and the application of charges (particularly in the context of potential conflicts of interest).
- Facilitating transfers into master trusts – the extent to which existing schemes can be transferred into master trusts and addressing the existing barriers (e.g. the need to obtain member’s consent, bulk transfer rules etc.).
- Potential regulatory arbitrage – the extent to which those involved in the running and operation of a master trust (including third party service providers) are regulated under different regimes.

Proposals

Having regard to the issues raised above, the Authority is of the view that in addition to meeting the requirements of the proposed authorisation process as set out earlier, master trusts should be obliged to meet additional requirements such as:

- The trustee must be a designated activity company with a prescribed minimum capitalisation;
- Independent trustee-directors will be required and further consideration will be given to the question of a majority of independent trustee-directors;
- All trustee directors will be required to have minimum qualifications and experience;
- Robust procedures for dealing with conflicts of interests (particularly conflicts between the promoter of the scheme and services provided by connected entities);
- Arrangements for member/employer participation through communications, meetings or a consultative forum etc;
- Development of a policy on controlling charges and remuneration.

Questions on proposals

- What is your view on the appropriate supervisory approach to master trusts?
- What is your view on the feasibility of master trusts in Ireland and the potential for them to generate economies of scale and reduce costs for members?
- Do you agree with the issues identified by the Authority? Are there any additional issues that you would raise in relation to the operation of master trusts?

- Do you agree with the proposed requirements that should be placed on master trusts? Are there any additional requirements that you would suggest to ensure good governance in master trusts?
- Do you see the proposals giving rise to regulatory arbitrage? If so, at what points in the process do you see this arising?
- Are there any other issues relating to the authorisation or operation of master trusts that you would like the Authority to consider?
- Are there any methods that you would suggest to facilitate the transfer of existing schemes into master trusts?

Other issues

There are a number of other matters not included in this consultation which nonetheless are relevant to the question of pensions simplification and reform which include:

Pension taxation

It is widely recognised that the current rules governing the tax treatment of pension contributions and benefits are complex and are potentially inconsistent between different types of pension provision. The Authority and Revenue have had initial discussions about the opportunities for some simplification and are now progressing to examine the issues involved in more detail with the Departments of Finance and Social Protection. Policy proposals about these matters are ultimately the responsibility of the Department of Finance.

Decumulation

The Authority is concerned that the members of occupational schemes or contract based pension arrangements may not have sufficient information at retirement to make the most appropriate decisions and there are a number of areas which should be addressed to improve the member experience, including the disclosure of information and the provision of advice. These issues fall partly within the remit of the Authority but may also concern the Central Bank and Revenue. The Authority intends to actively engage with both organisations to discuss the issues involved and measures which may be taken to address these.

Disclosure

The Authority is of the view that the regulations governing the information provided to members of occupational schemes and PRSA contributors should be reviewed. The objective of that work would be to ensure that member communications are provided

in a more user-friendly fashion and that that the information is structured in a way that aids understanding and decision making.

The Authority intends to undertake such a review in 2017 with the objective of making recommendations to the Minister for Social Protection as soon as possible. The work will take account of international developments, including EU obligations and will include consultation with relevant bodies.

Pensions Authority fees

The structure of the fees levied by the Authority on occupational schemes may have a part to play in reducing the number of occupational schemes, though any change would have to pay careful attention to the question of transitional arrangements. The Authority is considering this matter, and is likely to seek views through a consultation process. The fees are set out in a statutory instrument, so any final decision on this matter is for the Minister for Social Protection.

Questions on proposals

- Are there any other matters relevant to funded supplementary pensions that you think should be included in consideration of reform?

5. Transition

Overview

Changes to the obligations and supervision of pension schemes will apply to all schemes set up on or after a prescribed implementation date. This section considers the issue of applying the new requirements to existing schemes – what timescales might be appropriate, and whether there should be any exemptions.

The suggested general objectives of a transition process for current schemes are as follows:

- The objective of the reform is to raise the standards of pension provision. The shorter the transition, the sooner this can be achieved.
- Trustees, sponsoring employers and their advisers need time to understand the new obligations, identify what is the appropriate approach and implement it.
- A transition may involve the coexistence of a number of regulatory systems, which would add to complexity for the pension sector and will make supervision more complicated.

There are a number of specific constraints applying to the reforms proposed in this document:

- The deadline for transposition and implementation of the new IORP II Directive is likely to be around the fourth quarter of 2018 – this means not just that the necessary legislation and regulations are in place, but that they are commenced and being enforced.
- The proposed reforms represent considerable change for Irish pensions, and many trustees and their employers will need to decide whether to make the necessary changes to their current scheme or to move to a new scheme.
- Similarly, the transition arrangements need to allow time for sufficient numbers of people to gain the required trustee experience and/or qualifications.

Proposed approach

Set out below are the details of the proposed approach to transition which seeks to balance the competing objectives. In arriving at this proposal, the Authority has adopted the following positions:

- Although there isn't a 1:1 correspondence between the proposed reforms and the changes needed to implement the provisions of IORP II, there is a great deal of commonality. It is therefore considerably simpler not to differentiate.
- Notwithstanding the previous point, the Authority believes there is merit where possible in allowing additional time for schemes to implement change beyond the 2018 deadline.
- It would be a particular challenge to communicate, implement and enforce change for single member schemes. There is also the issue that very many of them have existing insurance contracts which it may not be appropriate to change. Although the objective remains to improve the governance of such schemes, it is recognised that special provisions may need to be made for these schemes.

The proposed approach, based on an IORP II implementation deadline of September 2018 is as follows:

New schemes	All new schemes, irrespective of membership numbers, which are set up on or after September 2018 will have to comply with all obligations, including authorisation, trustee qualifications, codes of practice and, where appropriate, master trust requirements.
Existing schemes with more than 100 members	All existing large schemes will from September 2018, have to comply with trustee qualifications, codes of practice and, where appropriate, master trust requirements.
Existing schemes with 2-100 members	All other existing multi-member schemes will have to comply with trustee qualifications, codes of practice and, where appropriate, master trust requirements from January 2021.
Existing single member schemes	Special provisions may be required for single member schemes set up before September 2018.

The Authority proposes that there would be further consultation when more specific transition proposals are developed.

Questions on proposals

- Do you agree with the objectives of transition set out above?

- Are there any other issues which you think should be taken into account in transition?
- What is your view on the transition proposals for existing schemes of 2-100 members?
- Are there specific provisions that you think should apply to single member schemes?

6. Consultation summary

In summary, the recommendations contained in this document comprise:

- Changes to trusteeship to include a minimum qualification and experience standard on a collective basis and an ongoing CPD requirement.
- The introduction of a system of scheme authorisation.
- Enhancements to the current supervisory and enforcement processes.
- Rationalisation of pension vehicles.

There are 35 questions in total, which are outlined below.

Proposed changes to trusteeship (page 14-19)

1. What are your views on trusteeship generally and how it operates in practice from your own experience?
2. Do you agree that the introduction of trustee qualifications as proposed will help increase standards of trusteeship? If not, why not?
3. Do you consider that the enhanced trustee qualification requirement should apply to a trustee board collectively or to each member of a trustee board individually?
4. Do you agree that all directors of a corporate trustee company responsible for a master trust should be required to fulfil either the qualification or the experience requirements (subject to a minimum of one trustee director meeting the experience requirement and a minimum of one trustee director obtaining the qualification)?
5. Do you agree that recognising experience gained as a trustee should be taken into account when determining minimum standards for trustees? If not, why not?
6. Do you have any suggestions on what is appropriate trustee experience and how this could be measured?
7. Do you think all trustees should be subject to annual CPD? How many CPD hours per annum do you think would be appropriate? If you do not favour CPD, please state the reasons why and suggest an alternative approach.

8. Do you agree with the proposed additional eligibility restrictions?
9. What are your views on the proposal to impose “fit and proper” requirements on trustees?
10. Are there any other persons that should be prohibited from acting as trustee? If yes, please say whom and state the reasons why they should be prohibited.

Scheme Authorisation (page 19-23)

11. Would pension schemes benefit from the introduction of an authorisation process? Do you agree with the broad proposals set out by the Authority? If not, what alternatives would you suggest for achieving better scheme governance?
12. Are there specific areas that are not outlined on pages 22 and 23 that should feature as part of the authorisation process?
13. What do you see as the key challenges posed by the introduction of an authorisation process for pension schemes, members, trustees and/or the pensions industry?
14. Do you see the proposals giving rise to regulatory arbitrage for schemes? If so, at what points in the process do you see this arising? What efficiencies can be gained by sharing information/processes with any other relevant supervisory authority (e.g. the Central Bank/Revenue)?
15. Are there any other issues relating to scheme authorisation that you would like the Authority to consider?

Enhance the current supervisory and enforcement processes (page 23-26)

16. Do you have any views on the Authority’s proposed enhanced supervisory and enforcement powers?
17. Do you share the view that codes of practice should be put on a statutory footing? If not, why not?

Rationalisation of pensions vehicles (page 26-28)

18. Do you agree with the proposal to rationalise pensions vehicles in order to simplify the landscape for consumers?

19. Are there any other additional issues presented by the cessation of RACs and BOBs?
20. Do you foresee any practical difficulties with the removal of the 15 year rule limiting transfers from schemes to PRSAs?
21. Do you foresee any practical difficulties with permitting BOBs to transfer to PRSAs?
22. Do you foresee any practical difficulties with permitting RACs to transfer to schemes?
23. Do you have any practical suggestions which the Authority can take into account as part of its review of the certificate of comparison and reason why statement required, in certain circumstances, for transfers from schemes to PRSAs?

Master trusts/multi-employer pension schemes (page 29-32)

24. What is your view on the appropriate supervisory approach to master trusts?
25. What is your view on the feasibility of master trusts in Ireland and the potential for them to generate economies of scale and reduce costs for members?
26. Do you agree with the issues identified by the Authority? Are there any additional issues that you would raise in relation to the operation of master trusts?
27. Do you agree with the proposed requirements that should be placed on master trusts? Are there any additional requirements that you would suggest to ensure good governance in master trusts?
28. Do you see the proposals giving rise to regulatory arbitrage? If so, at what points in the process do you see this arising?
29. Are there any other issues relating to the authorisation or operation of master trusts that you would like the Authority to consider?
30. Are there any methods that you would suggest to facilitate the transfer of existing schemes into master trusts?

Other issues (page 32-33)

31. Are there any other matters relevant to funded supplementary pensions that you think should be included in consideration of reform?

Transition (page 34-36)

32. Do you agree with the objectives of transition set out on page 34?
33. Are there any other issues which you think should be taken into account in transition?
34. What is your view on the transition proposals for existing schemes of 2-100 members?
35. Are there specific provisions that you think should apply to single member schemes?