

The background of the slide features a close-up, slightly out-of-focus image of a tree branch. The branch is dark brown and runs vertically on the left side, with several thinner, lighter brown branches extending diagonally across the frame. A semi-transparent teal overlay covers the entire image, with a darker teal horizontal band across the middle where the chapter title is located.

CHAPTER 12

THE ROLE OF REGULATION

Introduction

12.1 The first half of this chapter discusses pension regulation and the role of regulation in:

- Providing confidence and security;
- Supervision of pensions:
 - structures,
 - objectives, and
 - role of the State;
- Governance, disclosure and the particular regulatory needs of different pension scheme designs;
- The provision of information on pensions; and
- The move to risk-based supervision.

The second half of the chapter discusses the issues of charges on pension products.

Role of Regulation

Confidence and security – State role

12.2 The main reason the State establishes systems of regulation in any area of activity is to provide confidence and stability in that system. The State may also intervene where markets are not operating efficiently (including protecting consumers from unequal relationships).

12.3 In pensions systems, the providers of products have much more knowledge of the products than consumers. One aspect of regulation is to ensure that the providers give sufficient information to the consumers in order to make the balance more equal and to allow consumers to make informed choices. As pensions saving involves providers investing other people's money on their behalf, it is important that those people can be confident that the system is secure, and more to the point, that their own savings are secure.

12.4 The State ensures that sufficient levels of confidence and security exist in the pensions system by intervening through legislation or other means to ensure standards are put in place and monitored. While the State is responsible for putting legislation in

place which sets the standards, it normally establishes a separate body to monitor those standards.

Supervision of pensions: structures

12.5 Regulatory objectives are not achieved merely through legislation/regulation but through the existence of a regulatory agency with the powers to detect breaches and enforce obligations. The following are the agencies responsible for various aspects of pension supervision:

Authority	Responsibility
Revenue Commissioners	All taxation issues, including maximum benefits and some investment aspects of ARFs and small self-administered schemes
Financial Regulator	RACs, buy-out bonds and annuities
Pensions Board	Most Pensions Act aspects of occupational pensions and PRSAs
Equality Tribunal	Equality provisions of the Pensions Act

12.6 The distinction should be noted between the regulation of pension schemes and pension scheme assets. Many pension schemes and ARFs invest in financial products such as insurance policies or investment products. These products are usually supervised by the Financial Regulator, but are not themselves pension vehicles.

12.7 Where pension savers believe that their pension savings have been mismanaged in some respect, there are two statutory ombudsman systems in place. For annuities, most RACs, and buy-out bonds, the Financial Services Ombudsman has jurisdiction, and for occupational pensions and PRSAs, it is the Pensions Ombudsman. Note that for ARFs, any issues would be followed up through the appropriate channel relevant to the underlying investment.

12.8 The ombudsman system can generally be used only where the pension saver has suffered financial loss because of maladministration.

Supervision of pensions: role and objectives

- 12.9** There are a number of reasons why the State should have a role in the regulation of the pensions system. Firstly, there are significant amounts invested in Irish pensions - an estimated €90 billion. This amount is effectively made up of the savings of individuals for provision of income in retirement. As these savings are of paramount importance to these individuals, it is right that they should be protected insofar as is possible. Furthermore, modern-day consumers expect that the State provides for effective regulation in many areas of consumer activity.
- 12.10** There are a number of ways that the State achieves this - such as ensuring tax reliefs are only granted where pension schemes are set up under trust. This ensures that practically all occupational pension schemes are established under trust and therefore the assets are separated from those of the sponsoring employer. Schemes must also produce annual reports and benefit statements for members within prescribed timescales. PRSAs are individual contracts between individuals and the providers. The PRSA product must be jointly approved by the Pensions Board and the Revenue Commissioners before it can be marketed. A Standard PRSA is also subject to a maximum level of charges.
- 12.11** Secondly, the State encourages individuals to take out supplementary pension provision. Therefore, it is in the State's interest to ensure confidence and security in the system.
- 12.12** Thirdly, the State invests significant amounts in the supplementary pensions system, both through the tax reliefs it grants and the provision it makes for its own employees. It is understandable that the State wants to ensure that controls are put in place to ensure that it is spending its money in an appropriate manner. This is largely achieved through putting rules in place as to how tax reliefs can be availed of. The State limits the amount of contributions that can be paid by individuals,

the size of funds that can accumulate and the benefits that can be paid.

- 12.13** Finally, the EU Pensions Directive (IORPs Directive) requires that schemes adhere to certain standards and requirements and that the State has effective means of ensuring that these are complied with.

Regulatory objectives

- 12.14** The following are the objectives of the regulation of all pensions:
- To ensure that savers receive the benefits to which they are entitled under the terms of their pension arrangement;
 - To give those saving for retirement enough information to assess the adequacy of their pension provision;
 - To ensure that monies contributed for retirement savings are not misappropriated and are properly accounted for;
 - Where savers have investment choices under defined contribution arrangements, to provide enough information to make investment decisions;
 - To ensure that tax reliefs available for pensions are used to provide appropriate pension benefits and are not abused;
 - To provide pension savers (or trustees acting on their behalf) with enough information to decide whether or not to use that vehicle for retirement saving, particularly in respect of value for money; and
 - To provide pension savers with the information they need to make specific decisions, for instance at retirement or on leaving employment.
- 12.15** The above objectives apply to all pension savings. There are additional objectives for group pension arrangements, where the savings of individuals are being looked after by trustees. These additional objectives are:
- For defined benefit arrangements, to ensure that the scheme is being funded at a rate that is appropriate to the benefits promised;

- To make sure that the investments of the scheme are appropriate to the objectives and expectations of the scheme and its members; and
- To prevent discrimination in scheme access or provision.

12.16 There are some objectives which are specific to PRSAs as follows:

- Employers to provide access to PRSAs to 'excluded employees' who do not have access to other occupational retirement schemes;
- To impose a cap on charges on standard PRSAs.

12.17 Not all of the above objectives are as relevant to all forms of pension provision, or even within the same classes. For example:

- The amount of information provided to investors in ARFs varies considerably depending on whether the provider is a life insurance company or not;
- There are significant differences between the information provided to PRSA and RAC holders both at the point of initial investment and thereafter; and
- Whereas individual retirement savers have the opportunity to choose between competing providers of pension savings products, members of occupational schemes may be obliged to join arrangements.

12.18 The above examples are not intended to be exhaustive.

Regulation and pension scheme governance

12.19 At the end of 2005, there were over 93,000 active occupational pension schemes registered with the Pensions Board. In addition, there are over 53,000 frozen schemes (where contributions are not currently being paid but benefits are still held within the scheme).

12.20 As schemes are set up on a trust basis, there are trustees whose duty it is, under trust law,

to act in the best interests of the members of the scheme. This is a common law duty and can be enforced by members in the courts. Furthermore, the Pensions Act places further obligations on trustees. Any breach of these requirements is a criminal offence and the Pensions Board can, and does, prosecute such breaches.

12.21 Many of the duties of trustees are designed to ensure a proper level of governance of schemes. In particular, they provide that information is given to members, contributions are invested in a timely manner, proper records are kept, members can have a say in running the scheme and annual reports are prepared.

12.22 Trusteeship works particularly well in large schemes with professional trustees, trustees made up of members of the scheme representing employees and the employer or a combination of the two. These types of trustee arrangements tend to have formal processes and procedures in place, particularly around the structuring of meetings. Larger schemes also tend to have the resources to arrange for training and can obtain external advice where necessary. Even in such arrangements, the role of a trustee is becoming much more complex and time consuming and can be quite onerous for a non-professional trustee.

12.23 In medium and small sized schemes, the role of trustee is often taken on by the employer. This is not normally due to any particular desire of the employer to be trustee but more likely, particularly in smaller schemes, because that is the standard procedure of the provider selling the scheme. In most of these arrangements, the employer delegates the day to day administration of the scheme to a pension provider, broker or consultant. If the firm carrying out the day to day administration of the scheme fails to deliver, it may result in the trustees breaching the requirements of the legislation. In such a situation, the only recourse under the legislation is a criminal prosecution of the trustees. The Pensions Board has no power, at present, to take any action against the firm that caused the breach.

12.24 In November 2006, the Pensions Board submitted a report¹³⁴ to the Minister for Social and Family Affairs which looks at the issue of trusteeship and makes recommendations regarding these issues, with particular emphasis on trustee training and education and making administration firms more accountable. The key recommendations made in the report include:

- Pension scheme administrators should be registered and supervised;
- Service level agreements between trustees and administrators should be made compulsory. Guidance on the appropriate content of service level agreements should be introduced;
- Employers should automatically arrange trustee training for all trustees within six months of their appointment and at least every two years thereafter;
- The potential of new means of trustee training such as 'e-learning' should be explored;
- The trustee annual report should state what training has been received by trustees during the year;
- Trustee trainers should be encouraged to hold regional courses;
- The Pensions Board should have the power to appoint a trustee or authorise an administrator to carry out wind-up procedures, where appropriate; and
- Each scheme should have a copy of the Pensions Board's trustee handbook, and a 'trustee checklist' should be appended to the next edition of the handbook.

12.25 Preparation for the implementation of these recommendations will be initiated in 2007, including the usual regulatory impact analysis undertaken in advance of legislative changes being examined.

Regulation and disclosure of information

12.26 The number of schemes in existence, as outlined above, creates particular regulatory challenges. To date, emphasis has been placed on ensuring disclosure of information to scheme members to allow members to monitor the well-being of their own schemes. Initially, there was widespread non-compliance with the disclosure requirements but this has improved in recent years. While there are still some issues regarding information being produced on time it is, for the most part, being produced.

12.27 The effectiveness of provision of information to scheme members as a regulatory tool is debatable. For example, the preparation of trustee annual reports and audited accounts is a good discipline on the scheme but members only have to be notified that these are available on request.

12.28 Benefit statements must be provided to members on at least an annual basis and these give members information on the value of their benefits within the scheme. The provision of simpler and more understandable information to individuals may mean some trade offs in terms of loss of absolute accuracy and detail, but would be beneficial given that the shorter and clearer a document is, the more likely individuals are to read and understand it.

Regulation and different types of pension scheme

12.29 There are a small number of occupational pensions schemes that account for a large proportion of the total membership of all schemes. At the end of 2006, 134 occupational pension schemes had a total of 496,390 active members. Therefore, a very small proportion of the total number of schemes account for over two thirds of the total active membership. Concentrating resources on these schemes ensures an enhanced level of protection and security for the majority of members.

134 Pensions Board (2006) *Report of the Pensions Board to the Minister for Social and Family Affairs on Trusteeship*

12.30 The vast majority of occupational pension schemes registered with the Pensions Board are schemes that only have one active member. There are over 70,000 active schemes that are designed only for one member. There are a further 11,000 schemes that currently only have one member. Almost all of these schemes are arrangements for proprietors and directors. Life offices also offer these schemes. Indeed, almost all new scheme registrations in recent years have been in this category. This is primarily a result of an increase in the attractiveness of pension arrangements for such individuals following the introduction of Approved Retirement Funds (ARFs) and the facility for one-member-only schemes to borrow.

12.31 From a regulatory point of view, these types of scheme have less need for a regulatory focus. This is because the individual members of these schemes have full control over the choice of firm to manage their investments and also as to how those monies are invested.

12.32 The remaining schemes, which are in the small to medium size category, are administered either by pension providers (insurance companies or banks) or brokers and consultancy firms. By concentrating regulatory resources and focus on these firms, rather than the individual schemes, the Pensions Board can target its resources where it can secure the most impact. Any issues that occur on any one scheme administered by a firm are likely to occur across all schemes administered by that firm. Therefore, improvements made as a result of the examination of one scheme can benefit all other schemes without need for individual examination of these.

PRSA Regulation

12.33 The legislative framework for PRSAs means that a proactive approach is adopted by the Pensions Board from the start when a provider is being assessed to produce, market and sell PRSA products. Thereafter, the role of the Board is one of a reactive supervisor to any individual issues that may arise that lead to a requisite enquiry. The approval process to become a PRSA Provider

is extremely detailed and is underpinned by the requirements that the provider must demonstrate its capability to carry on the business of producing, marketing and selling the product. When these capabilities have been demonstrated, the Board is in a position, jointly with the Revenue Commissioners, to approve the PRSA product. Regular reports are also submitted by providers in respect of their contracts sold and related assets.

12.34 A number of submissions to the National Pensions Review called for a reduction in the amount of regulation to which PRSAs are subject. Among the specific points made were:

- PRSA sales are subject to considerably more regulation than many non-pension investments, such as property or many banking or insurance contracts. The amount of this regulation does not seem to bear any relationship to the perceived risk of loss or misselling;
- PRSAs are subject to considerably more regulation, point of sale disclosure obligations and product supervision than any other pension product. In particular, it is notable that PRSAs are the only pension vehicle subject to product approval. Although this should result in a lower level of sales regulation, the opposite is actually the case.

12.35 In addition, it has been suggested that the PRSA fact-finding questionnaire at point of sale should be eliminated.

12.36 The administration and sales of PRSAs are subject to regulation by the Pensions Board, the Revenue Commissioners and the Financial Regulator. The Board has a statutory responsibility for approving the product design and materials for supervising the ongoing compliance with the Pensions Act and for gathering data. The Revenue Commissioners also approve the product jointly with the Board, and are entitled to collect data from providers. The Financial Regulator has a statutory responsibility for supervising the sale of the products.

12.37 As set out in the National Pensions Review, PRSA providers have cited the regulatory burden as a significant contributory factor

to the low take-up of PRSAs to date. They say that potential savers find the compliance requirements discouraging. Intermediaries also find that the regulatory requirements make these products uneconomic to sell, especially for smaller contributions, which is where the PRSA was meant to be especially relevant.

- 12.38** The primary advantage of reduced regulation would be in the indirect incentive thereby provided for intermediaries and providers to make additional marketing and distribution efforts to sell PRSAs. This is consistent with the general view that pensions need to be sold – there is unlikely to be a significant self-motivated demand for pension savings products.
- 12.39** As well as providing additional incentives to those selling these products, a reduction in regulation would make the process less off-putting for those who are considering setting up a PRSA.
- 12.40** However, PRSA regulation undeniably reduces the possibility of someone starting or continuing a PRSA where it is unsuitable or not appropriate for their particular circumstances. Although this possibility may be small, any reduction in regulation will increase it. However, the Pensions Board do not see this risk as significant. Overall, a balance has to be maintained that is reasonable.

Regulation - raising awareness

- 12.41** Information on pensions is essential to fulfill three main objectives, i.e.:
- i) To heighten pension awareness with a view to increasing pension coverage and to encourage those with pension provision to address the adequacy of that provision.
 - ii) To safeguard the rights of scheme members, whereby members must obtain information on their own personal entitlements to exercise the rights under the Pensions Acts to monitor the administration and financial soundness of their scheme.

- iii) To ensure that households have sufficient information to make appropriate financial decisions, particularly to adapt their protection under defined contribution plans in the light of the shift from defined benefit provision.

Pension Awareness

- 12.42** An independent survey conducted at end-2005 for the Pensions Board confirmed that pension awareness is at a high level, with 87% of the respondents believing that the Social Welfare pension would not meet their needs in retirement. Reasons given as key barriers to starting a pension for most young people are the perceived lack of affordability, prioritisation of expenditure on more immediate commodities (e.g. house/holiday/car), perception of being too young to start a pension and lack of understanding about pensions.
- 12.43** The Government currently allocates €1 million towards the National Pensions Awareness Campaign, overseen by a project team which includes representatives from the Board, the Department of Social and Family Affairs, providers and the social partners. The periods with the most intense activity are National Pensions Action Week and up to the end-of-year tax deadline in October.
- 12.44** In previous years, pension providers have also financially contributed towards a nationwide distribution of National Pensions Action Week information and carried out their own direct advertising and promotions and in-branch activity on pensions. In general, providers are investing more in developing business by targeting groups such as women to increase pension coverage.

- 12.45** The primary objective of recent National Pensions Awareness Campaigns has been to drive action by those with no pension, with the focus on specific sectors identified by the CSO as having low levels of pension penetration, particularly 25-35 year olds, women, hospitality/farming/rural community and international workers. The 2007 campaign also highlights the need for those with pension provision to address the adequacy issue and encourages SSIA holders to make pension provision a priority this year.

Safeguarding rights

12.46 The Pensions Board continues to promote the security of occupational pension schemes and confidence in the system by providing clear, authoritative guidance to trustees and pension practitioners on how to comply with the Pensions Act and on good practice generally in relation to scheme administration. Examples of this work include free information booklets to reflect legislative changes and the Board's information and enquiry service which deals with enquiries or complaints received from scheme members and their dependants, prospective members, trustees, trade unions, employers and company employees with human resource pay and industrial relations functions. Enquiries, including technical queries, are also received from pension practitioners, professional bodies and media representatives. A full list of the Board's current information booklets, as well as a list of guidance available from other organisations in relation to pensions, is contained in Appendix H.

12.47 In order to support them for their role, trustees are a particular focus for the Board's information activities. In addition to existing written guidance, including the trustee handbook and codes of practice, it is envisaged that an e-learning guide for trustees, and other supports, will now be developed, following completion of the review of trusteeship by the Board in late 2006.

Information for decision-making by the individual

12.48 Every year, 250,000 people access the Pensions Board website, particularly the on-line pension calculator and checklist. The Financial Regulator has also initiated "Pensions Made Easy" publications.

12.49 The Board, the Financial Regulator, the Consumer Strategy Group and many other agencies, as part of the National Steering Group for Financial Education, are working to progress the formal inclusion of financial planning in the Irish educational system, including retirement planning.

12.50 The Board recently reached an agreement with FÁS and Fáilte Ireland to include a pensions element in their training process, and with the National Federation of Recruitment Agencies to

support the provision of pensions information among their members.

Information for decision-making by the policy-maker

12.51 There is an ongoing need to improve the capacity for evidence-based decision making. While progress has been made, in common with other areas of Government policy, the availability of detailed pension information continues to be an issue for policy makers. A number of steps are currently underway to improve this position with a view to improving both policy and regulatory outcomes. EU Regulation No. 2056/2002 and other demands will ensure that the need to develop the information base available will continue to be a priority over the next few years.

Options for the future regarding information and awareness

12.52 One of the key means of increasing coverage, improving adequacy and enhancing security is the provision of information to inform, educate and guide. Much work is already being done in this regard by the range of stakeholders involved in pensions. However, in order to bridge the behavioural gap between awareness and action, more may need to be done.

12.53 Attention needs to be given to the role of institutions beyond Government in increasing information and awareness and the possibilities for developing these relationships through joint initiatives. The social partners have a particularly important role to play in this regard, given their close relationships with the target groups.

12.54 It may be appropriate to examine the inclusion of financial planning in the school curriculum, and also support for new research to develop our understanding of behavioural finance and pensions risks at third level.

12.55 Pension providers and financial institutions may have a particular part to play. Some options suggested by the EU in relation to consumer information include:

- Simplifying information for customers and focusing on key characteristics of the product;

- Better identifying the risk profile of the client and segment clients;
- Monitoring by authorities of publicity for financial products;
- Improving financial advice provided by intermediaries (including enhancing technical preparation of financial advisors where relevant);
- Obliging intermediaries to keep proof of advice provided and to improve after sale service;
- Knowing the rules, particularly where complex products mean that households may not fully understand all of the risks and costs of these products.

12.56 Finally, individuals themselves have a responsibility to seek the information that is available to them, to examine this information carefully, to be proactive about seeking such additional information as they consider to be necessary and to act to ensure that they are making prudent provision for their future, in so far as they can.

Pensions Legislation

12.57 The pensions area is complex and continues to evolve. Therefore, different regulatory issues and questions of policy emerge. The Pensions Act 1990 is the legislative foundation for pensions policy in Ireland. It is usually amended each year to deal with various regulatory issues that emerge.

12.58 Two issues currently being debated are trusteeship and commutation.

Trusteeship

12.59 The great majority of trustees rely on professional providers – typically insurance companies or consultancy firms – to administer their pension schemes and to fulfil the trustees' compliance obligations under the Pensions Act. Inevitably, many trustees do not have a detailed knowledge of these obligations, and are therefore not in a position to judge whether their provider is fulfilling them on their behalf. The report by the Pensions Board on trusteeship has recommended that providers of pension administration services should be

directly regulated by the Pensions Board and this will be considered by the Minister for Social and Family Affairs.

Commutation

12.60 Commutation applies to most private sector defined benefit schemes. On retirement, scheme members may be entitled under the rules of the scheme to surrender part of their pension in return for a tax-free lump sum. A commutation factor is applied which determines the amount of pension that can be converted into a lump sum. Often this means that for every €1 of pension surrendered, €9 of tax-free cash is paid. There are no statutory provisions or guidelines in place as to the appropriate commutation factor to use. Scheme rules allow the trustees discretion to decide the factor with or without actuarial advice or specify the rate. In some cases, the commutation factor which translates a pension payment into a lump sum is valued at less than the market cost of buying the pension. In other words, the lump sum paid to a member as a tax-free benefit is less than the market cost of the pension it replaces. Where this occurs, the saving to the pension scheme would fall back into the assets of the scheme, with the result that the scheme's surplus would be slightly increased or, where the scheme was in deficit, the deficit reduced.

12.61 However, from the scheme's point of view, it can be argued that it is not reasonable to compare this with the market cost of the pensions, as typically a scheme will value its pensions at a different rate than the market cost. Furthermore, whether or not an individual is better off financially in taking the tax-free cash option in lieu of pension is a function of the individual's tax position, the return the individual could get with the lump sum and how long the individual will live in retirement.

12.62 That said, it is clear the members are not always aware of the value issue and that schemes generally end up in a better financial position if members take the tax-free cash option.

12.63 One option would be to set the rules around the commutation factors that should be offered by schemes. These would be complex and

schemes could ultimately decide not to offer commutation to members. Another method of dealing with the issue may be for the Pensions Board to issue guidelines to trustees on the issues of the use of commutation factors which would form best practice. There should also be better disclosure to members of the issues they need to consider when deciding whether or not to commute pension. This could be achieved with amendments to the current disclosure regulations.

Operational Review

- 12.64** As can be seen from the sections above, regulation of occupational pension schemes involves monitoring of a very large number of schemes in a complex and fast moving environment in order to fulfil a range of specific objectives.
- 12.65** In order to ensure that the Pensions Board is equipped to provide the appropriate level of supervision for the occupational pensions system, during 2006/2007 the Pensions Board has been carrying out an operational review. The essential aim of the exercise is to review the principles and practices of the Board's supervisory and related activities and to make recommendations designed to maximise its effectiveness and efficiency in the future. The review takes account of the additional regulatory responsibilities the Board has as a result of changes in legislation, many of which have been driven by the implementation of the IORPs Directive.
- 12.66** It focuses on a move towards a risk-based approach which is in keeping with international norms in the regulatory area and is essential in ensuring that the Board is structured and skilled to ensure confidence and stability in the occupational pension system as far as possible, subject to additional necessary resources being made available.

Charges and pension products

Types of charges

- 12.67** Funded supplementary pension arrangements are subject to both *explicit* and *implicit* charges, depending on the nature of the arrangement and services required.
- 12.68** Explicit charges made by third party providers to funded supplementary pension arrangements include:
- *Fees*, plus VAT, charged by the service provider to the arrangement itself and/or to the sponsoring entity;
 - *Contract charges*, levied within individual contract arrangements, such as retirement annuities, PRSAs, Buy Out Bonds, and insured occupational pension schemes contracts. Typically the provider is a life assurance company. These 'inside the contract' charges can take a number of different forms:
 - A contribution charge, deducted by the provider before investment of the contribution;
 - A monetary charge, deducted by the provider before investment of a contribution, or deducted from the accumulated fund, or added to the contribution payable;
 - A fund based charge, typically expressed as a percentage of the fund, e.g. 1% per annum. This is deducted within the fund before the setting of the unit price or fund value.
- 12.69** Implicit charges¹³⁵ are additional to explicit charges and include:
- *Investment trading costs*;
 - *Margins in risk benefit premiums* charged by insurers, in relation to anticipated future mortality and morbidity rates.

135 Charges which may not be directly visible to the sponsoring entity or member, but which, for example reduce the investment return provided to an arrangement before explicit charges are applied or increase the "wholesale" cost of a product or service, before other explicit charges, are added.

- 12.70** Employers may also incur own costs (i.e. not third party) in operating funded supplementary pension arrangements in relation to:
- Deduction and submission of employee contributions to occupational pension scheme trustees or a PRSA provider; under the Pensions Act 1990, the employer can not make any deduction from such contributions before submission to the trustees or PRSA provider, as the case may be;
 - Providing from the employer's own resources of various administration services for an occupational pension scheme established by the employer, e.g. record keeping, disclosure of information, etc;
 - Providing information and advice to employees in relation to an occupational pension scheme or PRSA arrangement;
 - Making annual returns of certain information to Revenue¹³⁶ in relation to contributions paid to occupational pension schemes, PRSAs and retirement annuities.

Disclosure and visibility of charges

- 12.71** Explicit fees charged by a third party provider to a sponsoring entity or trustees of a pension arrangement are obviously disclosed and entirely visible.
- 12.72** In relation to explicit charges, there is a statutory requirement¹³⁷ to disclose to the relevant individual at the point of sale, the contract charges (and any associated sales remuneration) in relation to the following:
- PRSAs;
 - Retirement annuities and associated risk benefit policies;
 - Annuities (issued to individuals, rather than to trustees).
- 12.73** However, policies issued by life assurance companies to the trustees of occupational

pension schemes are specifically *excluded* from the disclosure requirements of the Life Assurance (Provision of Information) Regulations 2001 and hence trustees effecting such policies are not entitled to the same level of disclosure of contract charges and sales remuneration as individual contract holders.

Statutory control of charges

- 12.74** Only PRSAs are currently subject to statutory control (under the Pensions Act 1990) over the type and quantum of explicit charges which can be made to a PRSA contract:
- No charges expressed in cash terms can be made to a PRSA, Standard or non Standard;
 - The maximum charge on each Standard PRSA contribution received is 5% per annum;
 - The maximum Standard PRSA fund charge is 1% per annum;
 - No 'initial' charge can be made to a transfer value received into a PRSA, Standard or non Standard. This is taken to mean no contribution charge can be made to such a transfer value;
 - No charge can be made to a PRSA, Standard or non Standard, on termination of the PRSA and/or payment of a transfer value from a PRSA;
 - No charge can be made to a PRSA on suspension, variation or recommencement of contributions to a PRSA, Standard or non Standard.

12.75 Charges made to other forms of funded supplementary pension arrangements are not currently subject to any form of statutory control.

Level of charges

- 12.76** Apart from PRSAs, there is no readily available central source of information on the level of explicit third party charges made to funded supplementary pension arrangements for various services.
- 12.77** Previous reviews and reports on pension coverage undertaken by the Pensions Board have concentrated on macro issues related to increasing pension coverage and none

136 Through the P35 return, in accordance with Section 897A, Taxes Consolidation Act 1997

137 Under the Pensions Act and related regulations in relation to PRSAs, and under the Life Assurance (Provision of Information) Regulations, 2001 in relation to retirement annuities, buy out bonds and individual annuities.

specifically attempted to quantify the level and impact of charges currently levied on different types of funded supplementary pension arrangements.

- 12.78** The absence of such information make its difficult to:
- Know whether funded supplementary pension arrangements are getting value for money for the services they are buying;
 - Compare the cost of one type of arrangement with another;
 - Compare charges with those made on similar arrangements in other jurisdictions;
 - Determine accurately the savings in charges which could be obtained by an auto enrolment or outright compulsory approach to funded supplementary pension provision.

12.79 In relation to PRSAs, the maximum explicit charge on Standard PRSAs can be compared with the revised¹³⁸ UK stakeholder maximum explicit charge of 1.5% per annum of the fund for the first 10 years, reducing to 1% per annum thereafter, as follows:

Table 12.1 Maximum Standard PRSA charges vs UK Stakeholder charges
Reduction in Yield (RIY)¹³⁹

Investment term (Yrs)	RIY of maximum Standard PRSA charge	RIY of maximum UK Stakeholder product	Projected ¹⁴⁰ PRSA fund as % of UK Stakeholder fund
5	3.0% pa	1.5% pa	96.2%
10	2.0% pa	1.5% pa	97.6%
15	1.6% pa	1.2% pa	96.9%
20	1.5% pa	1.1% pa	96.6%
25	1.3% pa	1.1% pa	96.4%

12.80 The contribution charge (max 5%) allowed on the Standard PRSA, when amortised over shorter investment terms, significantly increases the impact of charges over such periods.

12.81 The contribution charge is not a feature of the UK Stakeholder product and hence its charge levels do not vary by investment term, except where the fund charges reduces after the first 10 years to 1% per annum.

12.82 The contribution charge structure in the Standard PRSA allows PRSA providers to recover their PRSA set up costs over a shorter term than would be possible if the only charge allowed was a fund charge. It can be argued that allowing Standard PRSA providers to recover their set up costs over a short period reduces the cost to long term contributors, as the provider only charges for the cost of capital involved in setting up the PRSA for a shorter period. If the cost of capital involved in setting up the PRSA could only be recovered over a much longer period, the PRSA provider

¹³⁸ With effect for new contracts from 6th April 2005 onwards; for contracts issued before that date the maximum charge remains at 1% pa, with no contribution charge

¹³⁹ A way of expressing the impact of product charges, in terms of an annualised reduction in investment return over a specific period. For example, if a product achieves a gross investment return of 6% pa over a period, and its RIY is 1.5% pa over that period, the actual return achieved by the product holder over that period is 4.5% pa. The RIY charge can be looked on as a 'hurdle' rate of investment return which must first be achieved before the product holder earns a positive return on contributions paid over that period.

¹⁴⁰ Assuming a 6% pa gross investment return, and a regular monthly contribution throughout.

would have to charge more, in product charges, for the use of its capital over the longer period.

12.83 Over the investment terms of 15 to 25 years, the maximum charge on the Standard PRSA is marginally more expensive than the maximum charge under the UK stakeholder product. Of course, in this regard, the different scale of the Irish and UK markets must be borne in mind.

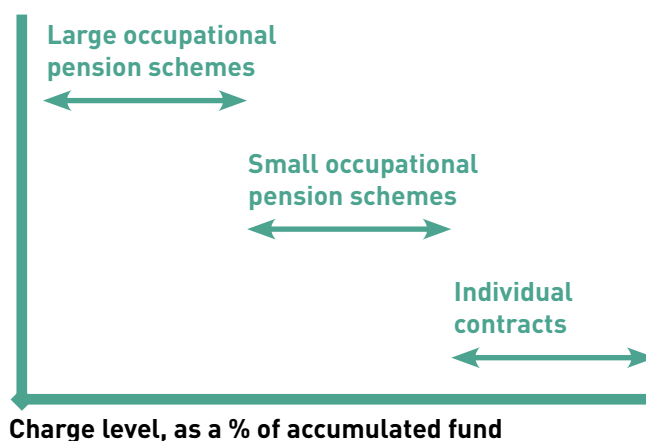
12.84 However in considering the above table of RIYs over different terms, it should be noted that it is assumed that a regular monthly contribution will be paid throughout the term shown. Experience would indicate that this is highly unlikely to happen, particularly for employees contributing to a Standard PRSA through an employer designation scheme, where payment of contributions is linked to continuing employment with that employer.

12.85 Persistency rates for UK group personal pensions (linked to employer), published by the FSA in the UK, suggest that less than 50% are still contributing after 4 years.¹⁴¹ There is no reason to suppose that it would be materially different here for Standard PRSA employer designation schemes.

12.86 If a Standard PRSA holder contributed for, say, 5 years and then takes a transfer value to an occupational pension scheme, the RIY suffered in the Standard PRSA over the 5 year period would be 3.0% per annum, compared to 1.5% per annum under the UK stakeholder product. This may be compounded in some cases by a further initial charge levied on the PRSA transfer value by the occupational pension scheme to which it is paid.

12.87 However Standard PRSA contributors who contribute for a relatively short period but then leave their funds in that PRSA, or transfer to another Standard PRSA without charge, would achieve the lower Standard PRSA charges shown over time.

12.88 Based on international experience, it is likely that the range of charges between different types of arrangements varies as follows:



12.89 Individual contracts are typically more expensive to deliver and service than group occupational pension schemes. A significant cost element of individual contract set up costs is the initial sales and distribution cost. For example, the current typical commission paid to an intermediary by a life company in the first year of an individual pension contract might be circa 25% of the first year's contribution, with ongoing renewal commission in the range of 2%-4% of each contribution paid. In addition, or as an alternative, some intermediaries may also be entitled to a 'fund based' commission, typically circa 0.5% per annum of the ongoing value of the policy.

12.90 One Standard PRSA provider currently offers intermediaries various sales remuneration options including one offering a fund based commission payment of 0.55% per annum, for monthly contributions between €150 and €600 per month. In the case of a 20 year contribution term, Table 12.1 above shows the projected total Standard PRSA charges as being equivalent to a reduction in yield of 1.5% per annum over that period. Therefore in such a case, it would appear that sales remuneration costs accounts for over one third of total product charges over this period.

12.91 This indicates the significant proportion of individual contract charges which can be accounted for by sales remuneration, i.e. the cost of paying for a face to face meeting, and advice, to 'persuade' an individual or employer to start an individual pension contract.

141 FSA (2006) *Survey of Persistency of Life and Pensions Policies*, October 2006

Implicit charges

12.92 While explicit charges can often be the focus of examination of charges, implicit charges related to investment of funds can also be a significant and hidden cost to pension arrangements.

12.93 The First Report of the UK Pensions Commission¹⁴² assumed implicit costs of circa 0.5% per annum on average across all asset classes, i.e. the difference between the gross or 'wholesale' market return and the net return achieved by the pension arrangement, before deduction of explicit costs.

Impact of charges

12.94 Charge levels on funded supplementary pension arrangements can impact in a number of different ways:

- For defined contribution arrangements, high charges reduce the retirement fund that would otherwise be accumulated for the individual at retirement for a particular contribution level, than if charges were lower.

If we take an assumed current typical charge level of 1.5% per annum, this table shows the projected *increase* in accumulated fund over various contribution terms resulting from a reduction of 0.5% per annum and 1% per annum respectively in the charge level throughout:

Table 12.2 % Increase in defined contribution accumulated fund¹⁴³

Contribution term	Charges reduced by	
	0.50% pa	1.00% pa
10	+ 3%	+ 6%
15	+ 4%	+ 9%
20	+ 6%	+ 12%
25	+ 8%	+ 16%
30	+ 9%	+ 20%

142 First Report of the UK Pensions Commission, (2004) Chapter 6, page 216.

143 Assuming a fixed monthly contribution over the term shown, based on a 6% pa pre-charge investment return, and assuming a starting charge level of 1.5% pa.

12.95 For example, a regular contributor over 25 years would have an 8% greater retirement fund if the charge level were reduced by 0.5% per annum throughout, and have a 16% greater retirement fund if the charge level were reduced by 1% per annum throughout.

- For defined benefit arrangements, higher charges increase the cost of providing the promised benefit;
- A perception of high charges can act as a disincentive to employers and individuals alike to start and contribute to a voluntary pension arrangement.

Bundled charges

12.96 Bundled services and products, like life assurance pension policies, carry bundled charges. While components of the explicit charges may be identifiable as between, say, the contribution charge and the fund charge under an individual contract, what is not known is how much is being charged for each of the bundled services being provided, e.g. how much of the charge relates to set up costs, ongoing administration and compliance costs, investment management costs, etc., where such services are provided.

12.97 In the absence of such information, it is therefore difficult to identify:

- which specific services cost the most;
- whether charges for specific services are reasonable or competitive.

12.98 Labels attached to bundled product charges may be misleading, in this regard. For example:

- individual pension policies, including PRSAs, carry a fund charge which is sometimes referred to as a '*fund management*' charge. This could typically be 1% per annum or more. This might appear to the uninitiated as the cost of investment management. In fact investment management might itself cost as little as 0.1– 0.3% per annum, with the balance of the 'fund management' charge being a margin for the life company covering one or more of its other services such as distribution and sales remuneration, administration, as well as its profit margin, etc.

- Some unit linked funds publish a 'Bid' and 'Offer' unit price, with a typical spread being 3%–5%. Units are purchased at the Offer Price and encashed at the Bid Price. However this spread is in fact just a mark up or contribution charge for the benefit of the provider and has nothing to do with the buying and selling values of the underlying securities of the fund in question. The costs of buying and selling the fund's underlying assets are taken into account separately by valuing the assets on a "bid" or selling basis when there is a net outflow of contributions from the fund and on an "offer" or buying basis when there is a net inflow of contributions into the fund in question.

Drivers of costs

12.99 What are the key drivers of the cost of services provided to funded supplementary pension arrangements? Without any detailed knowledge of the empirical level of charges made for different services provided to such pension arrangements in Ireland, it is difficult to pin point whether any particular factor or factors is driving up costs for funded supplementary pension arrangements. For example, some argue that increased regulation and compliance requirements are driving up the cost of providing this service to pension arrangements, and hence charge levels. However even if this could be proven, it is impossible to know whether this is a material factor in driving up charges made to pension arrangements without knowing how much of total charges are related specifically to the cost of regulation and compliance.

12.100 It is more likely, for example, that distribution and sales remuneration costs are far more significant than ongoing regulation and compliance costs, as the example of the Standard PRSA charges showed earlier. However without detailed information and facts, it is simply not possible to identify the key cost drivers for all types of arrangements.

12.101 The UK Pensions Commission concluded in its Second Report of 2005 that two key cost drivers in the UK, in relation to the cost of selling individual pension contracts in the UK, were:

- set-up costs, including the cost of sales remuneration; and
- costs resulting from poor persistency. Lapsing of contracts or contributions leads to a proliferation of account set up and maintenance costs. Contract providers build in an allowance in their charges for the costs created by lack of persistency, e.g. the administration costs of having to maintain many individual accounts with low balances and no or irregular ongoing contributions.

12.102 The UK Report also concluded that *"ongoing maintenance costs and fund management costs are by contrast smaller elements of the total cost in relation to individual stakeholder contracts."*¹⁴⁴

12.103 The UK Report illustrated a particular example of a 40 year old median earner contributing to an individual contract (under a small employer arrangement) and suggested that of the total 1.3% per annum expected charge over the contribution period, the split was as follows:

Table 12.3 UK Stakeholder Source of Costs Example

	Charge	% of total charge
Up front costs, including sales remuneration, advice etc.	0.42% pa	32%
Lack of persistency costs	0.50% pa	39%
Ongoing costs, administration etc.	0.28% pa	21%
Fund management	0.10% pa	8%
Total	1.30% pa	100%

Competition

12.104 Active competition in the marketplace for the provision of services to funded supplementary pension arrangements should, if information on charges is readily and widely available in an understandable format to potential purchasers, lead to downward pressure on the costs of services provided to funded supplementary pension arrangements. Without detailed information on current

144 Second Report of the UK Pensions Commission, (2005) Chapter 6, Page 111.

charge levels, it's not possible to state if this is or is not the case in the Irish funded supplementary pensions marketplace.

12.105 A small number of life assurance companies are dominant providers of products and services to the funded supplementary pension market, particularly for smaller occupational pension schemes and individual contracts.

12.106 This dominance has arisen due to a combination of factors:

- Consolidation in the life assurance industry has concentrated market share into 3 main entities which now account for about two-thirds of the life company pensions market;
- Life companies have a number of actual and de facto monopolies in the provision of certain products and services to the pensions marketplace, such as retirement annuities, annuities, PRSAs and Buy Out Bonds;
- Only some life assurance companies have the minimum threshold level of resources, such as human knowledge and systems, necessary to provide and administer certain specialised products and services required by the funded supplementary pension market. Therefore these companies are in a dominant position in relation to certain types of products, e.g. group public sector AVCs;
- There has been only one significant new entrant to the domestic Irish life assurance market over the past decade;
- Cross border life companies have shown no interest to date in selling pension business here. This may be for a number of reasons:
 - The relatively small size of the Irish life assurance and pensions market, relative to other European markets;
 - Lack of distribution capability in the Irish market. Many of these companies sell through captive distribution channels in their "home" markets and would have little experience of or appetite for establishing the capability to sell through Irish independent intermediaries;
 - The perceived complexity of local sales and marketing requirements;

- A Revenue reporting and taxation regime for policyholders effecting 'foreign policies'¹⁴⁵ which does not apply to policies effected with domestic life companies;
- The most likely cross border life companies to operate here are UK life companies which typically issue policies in Sterling rather than in Euro.

12.107 Life companies in Ireland transact the majority of their pension business through independent intermediaries. The latest available statistics¹⁴⁶ suggest that life companies obtain about two thirds of their new annual premium pension business through such intermediaries.

12.108 Where life companies conduct such a significant proportion of pension business through intermediaries, the question of sales remuneration and its impact on insured funded supplementary pension product charges is relevant. The higher sales remuneration terms become, the higher the associated charges that must be made in insured products subject to such sales remuneration terms.

12.109 Life companies members of the Irish Insurance Federation maintained a voluntary agreement on maximum sales remuneration terms from the mid 1980s until 1998, when the agreement was struck down by the Competition Authority as being anti-competitive.

12.110 The current situation therefore is that there is no limit on sales remuneration terms payable in connection with the arranging of pension policies.

12.111 A concern in such a situation is that life companies might have a direct incentive to compete for insured pension business by paying higher levels of sales remuneration to intermediaries arranging policies as part of funded supplementary pension arrangements,

145 i.e. a policy effected with a life company not established here or operating here through a Branch. (Section 730H, Taxes Consolidation Act 1997)

146 IIF Factfile, 2006 in respect of year 2005

which in turn will be reflected in higher product charges for such arrangements.

12.112 This concern is further compounded by the current lack of any statutory obligation to disclose product charges and sales remuneration terms for policies issued by life assurance companies to the trustees of occupational pension schemes.

12.113 There is some evidence to suggest that some life companies have maintained, and even increased, their new business product margins over the last 5 years, compared to a continuing reduction in net interest margins experienced by most retail banks arising from greater competition for mortgage and deposit business. This suggests that the impact of competition for consumer's business is possibly not as strong in the domestic life assurance market as it may be for mortgages and deposits. Competition in the domestic life assurance market for pension business may be more focused on competition for the intermediary's business, which can result in higher charges for the consumer.

12.114 There are also a relatively small number of providers of advisory and administration services to medium to large self administered occupational pension schemes. For example, a small (<5) number of employee benefit consultancy firms are believed to control some 90% of the larger end of the employee benefit consultancy market.

Control over charges

12.115 Standard PRSAs are the only pension product currently subject to statutory control over maximum explicit charges. Any consideration of the imposition of statutory maximum explicit charges on providers of services to other funded supplementary pension arrangements, in a voluntary regime, must take account of the following:

- Where would the maximum charge level be set? If set too low, it could cause some commercial providers to pull out completely from certain unprofitable sectors of the marketplace. If set too high, it might have little effect;
- A maximum charge level might quickly become the minimum charge level for large sections of the market. There is

some evidence of this happening in relation to Standard PRSA charges where most PRSA providers are taking the maximum Standard PRSA charge allowed (i.e. 5% + 1% per annum) as their standard 'retail' charge, with 'discounts' to this maximum charge being given only for certain more profitable types of business, e.g. larger contribution sizes, schemes with a certain minimum number of members and/or total contribution level, etc.;

- How practical would it be to attempt to impose price control over a wide range of providers of disparate services to funded supplementary pension arrangements, in a voluntary regime?

While it might be technically possible to impose obligations on trustees of funded occupational pension schemes in relation to the maximum price they should pay for bundled services (e.g. follow the price control approach adopted for Standard PRSAs), there is no guarantee that commercial providers would be willing or able to provide such products, within such a maximum charge, to all types of schemes;

- Any attempt to impose maximum charges on bundled services, such as policies issued by life assurance companies, would cause anomalies in the marketplace if similar controls were not to be applied to all other products and services provided on an unbundled basis. For example, an insured Director's Pension Plan for a proprietary director might be subject to maximum charges but not a Small Self Administered Pension Scheme, etc.;
- Who would police maximum charges on a wide range of funded supplementary pension providers and products?
- Service and product providers are subject to the same inflationary pressures on their costs as other participants in the economy. It may be hard to justify imposing price control over one sector of the economy but not over others. For example, why should an auditor be subject to a maximum charge for auditing a pension scheme, but not for auditing a company?

12.116 It is not at all certain that it would be feasible to extend maximum charge controls to all product and services providers to funded supplementary pension arrangements in a voluntary regime, even if such a course of action were thought desirable. Imposing an obligation on providers for greater disclosure of charges in a meaningful way may bring more immediate benefits to employers and members alike.

Compulsion

12.117 There is evidence from other jurisdictions that auto enrolment or compulsion can, depending on the precise nature of the arrangement, reduce charges associated with funded supplementary pension arrangements through a combination of factors:

- *Reduced distribution costs*; employers and individuals do not have to be ‘persuaded’ to set up or join the arrangement in question. Lower or no sales remuneration is therefore required;
- *Reduced or no advice costs*; simplified compulsory products and arrangements don’t require the provision of individual regulated advice to employers and individuals. This again reduces the sales remuneration required to provide this advice;
- *Higher contribution levels*, where a minimum contribution level is set as a percentage of individual’s earnings and/or the employer is also required to contribute. Contribution levels in such a case are likely to be higher on average than apply currently to Standard PRSA under employer designation schemes. Fixed costs absorb a proportionately lower percentage of higher contributions;
- *Economies of scale through bulk purchase of certain services*, such as investment management, administration, contribution collection, etc.;
- *Elimination or substantial reduction of low persistency costs*: if membership of a centralised arrangement is compulsory, contribution membership is not broken on moving from one job to another.

12.118 How low charges could be taken would depend on the structure of such an auto

enrolment or compulsory arrangement. The UK Pensions Commission in its second Report has specified a target annual management charge of 0.3% per annum for its proposed auto-enrolment National Pensions Savings Scheme.¹⁴⁷ However the UK Government has since indicated¹⁴⁸ that it considers this level of charge to be achievable over the ‘long term’ but in the short term a charge level of 0.5% per annum is achievable.

12.119 The Swedish compulsory supplementary Premium Pension Scheme currently has a fund charge on its default Premium Saving Fund (State managed) of 0.15% per annum, with an administration charge of 0.22% per annum, giving a total current charge for a contributor opting for the default fund of 0.37% per annum. This charge is also anticipated to reduce as the scheme grows in size of funds.

Issues for consideration

12.120 There is a lack of detailed knowledge of the cost of providing funded supplementary pension arrangements in a voluntary regime in Ireland. Without this detailed knowledge of current costs, it is not possible to state:

- whether the charges levied on these arrangements have been increasing or decreasing;
- whether such charges represent value for money;
- which particular service charges are material and which are not; and
- what initiatives, if any, could be undertaken to significantly reduce such charges.

12.121 Without this benchmark of current costs of delivering funded supplementary pension arrangements, it is also not possible to quantify the level of reduction in charges that might be achieved by an alternative auto enrolment or full compulsory funded supplementary pension arrangement. There is therefore an information deficit in relation to the charges of delivering funded supplementary pension arrangements to the marketplace.

147 Second Report of the UK Pensions Commission (2005) page 7

148 UK Department of Work and Pensions (2006), *Personal Accounts, a new way to save*

12.122 Consideration might be given to eliminating this information deficit by the Pensions Board gathering sufficient information from providers to funded supplementary pension arrangements to establish current benchmark charges for:

- various services provided to typical types of self administered funded occupational pension schemes; and
- typical individual contracts.

12.123 The establishment of such benchmark charges would aid the analysis of the potential reduction in charges which might be achieved by alternative auto enrolment and compulsory arrangements. In addition, consideration might be given to greater and more consistent disclosure of charges and sales remuneration of all bundled products and services provided to funded supplementary pension arrangements.

Options

12.124 The current voluntary approach to funded supplementary pension arrangements can give rise to high charges in certain areas and circumstances, charges which can act as a deterrent to the objective of increasing supplementary pension coverage as follows:

- higher contribution levels are required, to achieve a particular benefit, or lower benefits are provided, than if charges were lower;
- high charges can act as a real or imagined barrier to the establishment of new arrangements and contracts;
- contract providers may use a more complex product design, which is more difficult for the consumer to understand, in order to disguise the impact of high charges;
- certain segments of the marketplace can only be serviced commercially at a prohibitive cost to the consumer.

12.125 In relation to controlling charges for supplementary pension arrangements, the main options are:

- the introduction of mandatory pensions, either through auto enrolment or outright compulsion;

- the imposition of maximum charges on certain funded supplementary pension arrangements, in particular on contract charges;
- continuation of current voluntary system but with more and better statutory disclosure of charges.

12.126 Each option has particular advantages and disadvantages. Auto enrolment or outright compulsion can potentially deliver the most significant and widespread reduction in charges for individual contributors through:

- no or reduced sales remuneration costs;
- no or reduced advice costs;
- reduced investment management costs, through bulking of investment funds and more use of passive investment management techniques;
- reduced administration costs, through economies of scale;
- reduced or elimination of costs associated with low persistency.

12.127 However:

- there would be significant initial costs in establishing such a scheme. A key issue would be who should pay for these initial establishment costs, and how and over what period would they be recovered?
- The existence of such an auto enrolment or compulsory scheme running along side existing voluntary supplementary arrangements could create complexity in the marketplace (e.g. would there be 'contracting out' for members of occupational pension schemes?) which might create a need for advice and additional administration systems to handle such co-existence. Both services would have to be paid for;
- If the auto enrolment or compulsory system allowed competing commercial providers within the one system (e.g. contributor could choose which commercial provider to manage his or her fund), international experience suggests that some of the anticipated cost savings would be reduced or lost altogether. For example, competing providers would likely incur sales, marketing and distribution

costs in an attempt to persuade contributors to pick their product within the auto enrolment or compulsory system. These costs would, of course, have to be passed back to the contributor in the form of higher charges.

12.128 The detailed design of the scheme would also dictate the type of charges which might be allowed under such a proposed scheme, e.g.:

- Fund based charge only;
- Combination of fund based and contribution charge (as currently applies to PRSAs);
- Flat monetary fees, which might apply to all accounts regardless of fund size or contribution level. (Such monetary fees are currently prohibited for PRSAs).

12.129 Each of these charging structures would have different impacts on contributors to such a scheme, with some contributors doing better under one type of charge than under another.

Conclusion

12.130 Any changes or developments in regulatory approach must have regard to the principles of Better Regulation, as outlined in the Government White Paper, “Regulating Better”. In particular, a process of Regulatory Impact Analysis would have to be completed to ensure that the implications of any changes are considered fully and that any regulation is balanced and proportionate.

12.131 Sight should not be lost of the fact that regulation must ultimately benefit individuals. As occupational pension provision is voluntary in Ireland, individuals will not benefit if regulation becomes a barrier to employers choosing to make retirement provision for their employees. Likewise, regulation should not discourage providers from the market as consumers should benefit from a competitive market. It is important, however, that there is sufficient transparency to allow consumers make informed choices and the issues previously outlined in relation to charges highlighted this.

12.132 The overall approach to pensions regulation continues to evolve to address proactively the challenges of a changing environment. This chapter outlines new directions in terms of the move to risk-based supervision, options for streamlining some aspects of regulation of PRSAs, while deepening other aspects of regulation including particular issues in relation to information and charges.

The Role of Regulation

The main reason the State establishes systems of regulation in any area of activity is to provide confidence and stability in that system. The State may also intervene where markets are not operating efficiently. As pensions saving involves providers investing other people's money on their behalf, it is important that those people can be confident that the system is secure and that their own savings are secure.

The State ensures that sufficient levels of confidence and security exist in the pensions system by intervening through legislation or other means to ensure standards are put in place and monitored. The State has established bodies to monitor those standards.

This Chapter sets out the State's regulatory objectives in relation to pensions. These include:

- ensuring that savers receive the benefits to which they are entitled;
- giving those saving enough information to assess the adequacy of their provision;
- ensuring that pension contributions are not misappropriated and are accounted for;
- ensuring that people have enough information to make investment decisions, where relevant;
- ensuring that tax reliefs are used appropriately;
- providing pension savers with enough information to decide whether or not to use that vehicle for retirement saving, particularly in respect of value for money;
- providing pension savers with the information needed to make specific decisions, for example, at retirement or on leaving employment.

The number of occupational pension schemes in existence creates particular regulatory challenges.

Information on pensions is essential to heighten pension awareness, safeguard the rights of scheme members and to ensure that people have sufficient information to make appropriate financial decisions.

The overall approach to pension regulation continues to evolve to address, proactively, challenges of a changing environment. In order to address these challenges, the Pensions Board is undertaking an operational review, with the intention of moving towards a risk-based approach. This will ensure that the Board is structured and skilled to ensure confidence and stability in the occupational pension system as far as possible.

Finally, the Chapter outlines options for streamlining some aspects of regulation of PRSAs, while deepening other aspects of regulation, in particular issues in relation to information and charges.

Charges

Funded supplementary pension arrangements are subject to both explicit and implicit charges, depending on the nature of the arrangement and services required.

Employers may also incur their own costs in operating funded supplementary pension arrangements in relation to the deduction and submission of employee contributions, providing various administration services (e.g. record keeping), providing information and advice to employees and making annual returns of certain information to Revenue.

Only PRSAs are currently subject to statutory control over the type and level of explicit charges; there is no readily available central source of information on the level of explicit third party charges made to funded supplementary pension arrangements. This makes it difficult to compare different arrangements or know whether value for money is being received.

For defined contribution arrangements, high charges can reduce the individual's retirement fund. For defined benefit arrangements, higher charges increase the cost of providing the promised benefit. A perception of high charges can act as a disincentive to employers and individuals alike to start and contribute to a voluntary pension arrangement.

The key issue in relation to charges is the lack of detailed knowledge and the Chapter outlines options that may address this information deficit. Options are also outlined in relation to controlling charges for supplementary pension schemes.

There are impacts attached to each of these options and any change in the regulatory approach would need to have regard to the principles of better regulation and undergo a regulatory impact analysis.

Questions for consideration

1. Is the overall approach to the regulation of pensions appropriate to ensure confidence and security in the system?
2. Are the regulatory objectives appropriate?
3. Is the level of regulation appropriate to the regulatory objectives we are trying to achieve?
4. Are there measures that could be taken to introduce transparency in relation to pension fund charges?