The Public Service Reform Plan

Critical Review

Integration of the Regulatory Function of the Pensions Board with the Central Bank and Amalgamation of the Pensions Ombudsman with the Financial Services Ombudsman

April 2013

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Section 1 – Objectives and Organisation for the Critical Review

1.1 The Public Service Review

The Public Service Reform Plan, launched on 17th November 2011, provided for the rationalisation of 48 State Bodies by the end of 2012 and the review of a further 46 Bodies by the end of June 2012. These measures were designed to make service delivery more effective and efficient and to be guided by five objectives:-

- Placing customer service at the core of everything we do;
- Maximising new and innovative service delivery channels;
- Radically reducing our costs to drive better value for money;
- Leading, organising and working in new ways;
- A strong focus on implementation and delivery.

The Reform Plan noted that these measures are expected to deliver enhanced service efficiencies, together with ensuring a more focused and democratically accountable Public Service, securing €20 million in enhanced service efficiencies and value-for-money.

In its Plan for Rationalisation of State Agencies, the Government designated two public institutions engaged in the oversight and operation of the Irish Pension System for a critical review:

(1) The Pensions Board with a view to subsuming its regulatory functions within the Central Bank;

(2) The Pension Ombudsman with a view to combining it with the Financial Services Ombudsman.

1.2 The Group Undertaking the Review

A Steering Group (comprised of senior representatives of the affected institutions, The Pensions Board, The Central Bank, The Office of the Pensions Ombudsman, the Financial Services Ombudsman and the Departments of Social Protection, Public Service Expenditure and Reform and Finance) was established in June of 2012, to undertake a review of the proposed amalgamations and provide recommendations on the utility, efficacy and potential cost savings of the suggested mergers.

The Steering Group was chaired by Mr Richard Hinz of the World Bank, an independent external expert with international experience in the relevant public policy issues and the organisation and management of institutions engaged in the oversight of pension system. Mr. Hinz's engagement in the effort was provided on a

pro bono basis by the World Bank. Staff support for the review was provided by the Department of Social Protection.

This Report was written by Mr Hinz. The Steering Group is deeply appreciative of the expertise and commitment shown by Mr Hinz which greatly informed the work of the Group.

A list of the membership of the Steering Group is at Appendix 1.

1.3 Terms of Reference and Work Plan

The Group met three times to undertake the review. The first meeting was held on July 2, 2012 to agree on the Terms of Reference for the Group and to review initial information and identify relevant issues for consideration.

At this meeting the Group agreed, as reflected in the following Terms of Reference, that its deliberations would:

- Provide a reflection on the current status of the pension system in Ireland and how this will continue to evolve to meet future requirements and constraints. The importance of providing advice, based not only on the current structure and requirements of the pension system but also to consider what is appropriate to meet the needs of the future, was agreed by the Group to be a primary objective. To effectively achieve this, the need to co-ordinate the review with the parallel analysis now being undertaken by a team from the OECD was noted;
- Catalogue and provide an observation of the existing organisation and functions of the four agencies under discussion and consideration of how these elements and functions could be adjusted or strengthened to meet current or future requirements;
- Provide an assessment and suggestions regarding how the organisation and functions are best undertaken going forward; and
- Put forward a view on potential advantages and risk of possible approaches to organising the agencies and how they might look like if a new structure is implemented.

The group agreed to undertake a process that would involve three steps organised around three planned meetings. These were agreed to be:

(1) A review of the relevant background documentation collected and prepared by the staff of the Department of Social Protection on the legal foundations, functions and operations of the relevant institutions at the first meeting;

(2) A process of public consultation during which all relevant stakeholders and any members of the interested public would be afforded the opportunity to offer their views and advice in response to a set of questions developed by the Group. This was to be done in conjunction with a presentation by the OECD at an all-day meeting that was held at Farmleigh House on September 14, 2012; and

(3) A final meeting held on December 10, 2012 at which the Group reviewed the issues and developed the recommendations that are presented in this report.

The Group agreed that it would work on a consensus basis in formulating its recommendations and that the role of the Chair would be to identify the relevant issues and guide the discussion in order to facilitate a consensus among the various stakeholders represented in the Group. Following this three step process, a report would be prepared by the Chair containing the agreed recommendations and then presented by the Minister for Social Protection to the Government.

1.4 Consultation Process

In order to inform the process, a set of questions were drafted by the Steering Group for the public consultation process. A set of public agencies, industry groups and stakeholder organisations representing potentially affected populations (including older people and pensioners) were invited to respond in writing and to participate in an open public meeting to provide their views and advice on the issues.

During the first meeting and through a follow up process of written deliberations the Group developed a series of questions for the consultation process (see Appendix 2).

In total 15 written submissions were received and distributed to the Group in advance of the consultation meeting in Farmleigh House. Representatives of organisations, who provided comments in response to the questions, were invited to present their views at the meeting and others were afforded the opportunity to provide oral comments to the Group at that time.

A detailed synopsis of the written submissions received and presentations made on the consultation day are in Section 5 of this report.

1.5 Structure of Report

The remainder of this Report is divided into five sections:

Section 2 provides a brief overview of the Irish pension system and the conditions and challenges that are faced in providing secure and adequate retirement income over the long term to provide context and identify key considerations that guided the deliberations and recommendations of the group

Section 3 provides a similar overview of the requirements for the regulation and supervision of this system, highlighting the current and future requirements necessary to sustain this evolving system.

Section 4 provides summary information on the legislative basis and organisation and operations of the relevant institutions.

Section 5 gives an overview of the consultation process and outlines the advice and information provided through this process.

Section 6 provides a review of the issues and deliberations of the group in relation to the objectives of the Public Service Review and sets forth the recommendations of the Group.

Section 2 - The Pensions Environment in Ireland

2.1 Demographic Trends

Ireland will experience significant population aging in the coming decades. The population of the EU is projected to increase from 501 million people in 2010 to a peak of 526 million around 2040 and then to decline to 517 million in 2060. The greatest proportional population growth is projected to be in Ireland (+46%). During this period the share of the EU population aged over 65 is expected to increase from 17% in 2010 to 30% in 2060. Although the projected increase in the proportion of the population aged over 65 in Ireland (from 11 % in 2010 to 24% in 2060) is less than the projected EU average, it represents a major change in the age distribution of the population.

Population ageing is also evidenced by the increase in median age which was 34.3 in Ireland in 2010 and is projected to increase to 41.4 in 2060 – a projected increase of almost 21% in 50 years. This change is a result of both declining fertility and increases in life expectancy. Life expectancy at birth for women born in Ireland in 1996 is 78.5 while that for men born in the same year is 73[1]. For women and men born in 2041 these figures are expected to increase to 88.3 and 86.5 respectively, resulting in a large increase in the proportion of the population aged 80 or over. In 2010, just 2.8% of the Irish population were above the age of 80. This is projected to increase to 9% in 2060.

As the proportion of the population aged 65 and over increases, the task of financing the associated pension spending will fall to a diminishing share of the population. The ratio of workers to retired persons was 5.3 in 2010. This is expected to fall to 3.1 in 2020 and 2.1 in 2060. This demographic transition, while slightly less dramatic than the EU average (which is among the most rapidly aging in the world today) represents an unprecedented change that will require a robust and dynamic pension system to maintain adequate and sustainable income support for the older people.

2.2 The Current Pension System

Ireland has a distinctive version of what is known as a "multi-pillar" pension system. The foundation of this is the two-part State pension that provides a flat benefit with eligibility linked with specific contribution requirements. This is complemented by a non-contributory means tested "safety net" that provides a minimum benefit for low earners and those with limited contribution history.

[1] CSO, 2010, Statistical Yearbook of Ireland 2010, Tables 4.12 and 4.13

This state benefit provides a pension that is equivalent to less than 40% of median and less than 30% of average earnings[2]. According to the EU-SILC results for 2009, the average net income for a pensioner unit in the State was €481.44 per week. This figure was €717.20 for couples and €338.44 for single pensioners. The data also show that social welfare pensions are the main source of income for Irish pensioners as they account for almost 49% of gross weekly income. This is true in the case of both pensioner couples and single pensioners, although the proportion of gross income accounted for by such pensions is almost 59% for single pensioners compared to just over 41% for couples.

Older people in Ireland have the lowest consistent poverty rate and, as a group compared to the rest of the population, are least likely to be at risk of poverty - pointing to the adequacy of the State pension[3]. Between 2004 and 2010, consistent poverty for older people (those over 65) fell from 3.3% to 0.9%. The 'at risk of poverty' rate for people in that age group fell from 27.1% to 9.6% over the same period. The data shows that State pension provision is very significant in preventing pensioner poverty and that, in particular to mitigate and prevent increased future costs to the State, increasing occupational and private pension provision is important.

The Social Insurance Fund (SIF) finances social insurance benefits and, primarily, the State pension. In 2012, the SIF had a significant shortfall of expenditure over incomes – the provisional 2011 is of a shortfall of €1.5 bn, on expenditure of €9.0 bn but income of €7.5 bn. The Actuarial Review of the Social Insurance Fund (June 2012) predicts that long-term pension related expenditure is projected to become the predominant component of fund expenditure, rising from 57% in 2011 to 85% in 2066.

The State Pension is supplemented by a relatively extensive (by both EU and broader international standards) voluntary pension system. This currently covers about 50% of the working age population. Ireland's reliance on these supplementary occupational arrangements to provide income support for the older people is among the highest in developed countries. This supplementary system is comprised of occupational pensions for both public and private sector workers and individual (or personal) pension savings arrangements. Recent OECD estimates indicate that about three quarters of the coverage in private pension schemes are in occupational arrangements and about one quarter in personal arrangements. The growth of individual arrangements has increased rapidly in recent years with the introduction of Personal Retirement Savings Accounts (PRSAs). This trend is expected to continue for the foreseeable future due to a variety of pressures on occupational schemes and, in some part, due to the needs of a more mobile workforce. Coverage in supplemental pensions can also be related to age, with workers over the age of 40 far more likely to participate. Recent OECD analysis indicates that in order to reach average income replacement rates among OECD countries, these funds will

[2] Pensions at a Glance 2011, OECD

[3] The 'at risk of poverty' indicator is based on measuring incomes below a certain income limit while the consistent poverty indicator measures both income and deprivation.

need to provide about one half of income for future retirees, among the highest reliance on supplementary funds among EU nations.[4]

The occupational pension system is fragmented with many small schemes and, like nearly every occupational system throughout the world, experiencing a major shift from the traditional defined benefit arrangements that promise a monthly pension based on a formula of earnings and years of service, to defined contribution schemes that promise only a level of contributions to an individual account and provide a benefit that is derived from the value of the account at the time of retirement. The number of funded DB schemes has been declining over many years: at April 2012, there were 993 DB pension schemes (subject to the Funding Standard) with 197,177 active members, down from 1,200 schemes with 254,000 members in 2009, and just over 2,500 schemes in 1991. In April 2012, there were 75,183 defined contributions schemes with 259,732 members. (Respective figures for 2009 were 83,000 schemes with 267,000 members. In 2001 there were 33,400 DC schemes). In April 2012, there were 201,038 PRSA standard and non-standard contracts. (Figures for 2009 are 171,000 standard and non-standard contracts). The coverage of supplementary pension and issues in the level and distribution of this coverage are presented in greater depth in the forthcoming OECD review of the Irish pension system.

Occupational DB pension schemes continue to face financing challenges due to a range of factors. These include an under-estimation of longevity, poor investment returns, the impact of the downturn in financial markets (in which significant declines in asset values were exacerbated by rapid increases in the valuation of liabilities as interest rates dropped) and the imposition of a tax levy of 0.6% of assets from 2011 to 2014. Following the 2008 financial crisis in excess of 80% of schemes fell into an underfunded position, and while there has been some recovery since then through the improvements in the markets, the situation is still volatile and many schemes remain in a difficult funding position.

The forthcoming revision of funding standards for occupational DB schemes is anticipated to place further pressures on financing. In the absence of any benefit guarantee arrangements for these schemes, policy in this area will continue to be dictated by the challenge of resolving the tension between efforts to enhance the security of benefits, in the face of the increased risks resulting from changes in the financial environment, with the desire to minimize the financial burden and risks to employers sponsoring these schemes to arrest the decline of the defined benefit system. Although supplementary pension coverage is high by international standards it remains below 50% of employed workers and far less among lower and middle income groups.

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[4] Pensions at a Glance 2011, OECD.

2.3 Trends and Future Development in Pensions in Ireland

The developments outlined above demonstrate that sustaining pensioner income and the financing of pensions in the future are increasingly critical issues. These policy issues have been examined in the Green Paper on Pensions 2007 and in the National Pensions Framework 2010. The forthcoming review of long-term pension policy from the OECD makes recommendations on the long-term development of national pension policy. These include several recommendations to extend the coverage of occupational and individual savings arrangements including consideration of mandates to participate in a scheme or the use of auto-enrolment in addition to a number of suggestions to adjust the design and regulatory framework of pension schemes to enhance the security of benefits and their efficiency in delivering retirement income.

As the populations of most western countries are aging, issues around pension sustainability and adequacy have been receiving greater attention at EU level. Reforms currently being developed in Ireland are in line with the policy direction being adopted in the EU. Although the position in Ireland is relatively positive compared to other EU countries, there is a challenge in increasing effective retirement age. This issue is receiving significant attention at EU level at present in the context of broad policy documents, such as, the Europe2020 strategy and pension documents such as the European Commission Green Paper on Pensions and the White Paper and Agenda for Adequate, Safe and Sustainable Pensions. Similarly, attention is also being focussed on the specific sustainability and regulation of occupational pensions in the context of the current review of the IORPS Directive and the proposals to apply the principles of Solvency II to occupational pension funds.

2.4 Key Issues Arising from the Structure of the Irish Pension System and Recent Developments

The organisation and recent evolution of the Irish pension system establish a number of important considerations that provide some parameters and key policy considerations that guide the consideration of the feasibility, wisdom and efficacy of a consolidation of the main public institutions responsible for the regulation and supervision of the system. These most salient of these include:

(1) **The imperative to maintain an environment that can support a robust, dynamic and growing voluntary pension system.** The distinctive feature of the Irish pension system in relation to the EU and other countries at a similar level of development is the absence of a mandatory earnings related pillar in the pension system. Although the flat benefit of the State pension provides a reasonable rate of income replacement for low income workers and poverty protection for the broader population, it can result in a low rate of income replacement on average that very rapidly declines up the income distribution. The forthcoming demographic transition will impose increasing challenges to sustain even this modest public system that already requires significant general budget support in its

financing. Providing adequate income for the elderly to sustain pre-retirement consumption will require voluntary coverage rates well above the current (and recently declining) levels, both to maintain living standards among retirees but also to sustain political support for the State pension system that is redistributive in favour of lower income groups.

(2) **A compelling need to support and sustain occupational defined benefit schemes while recognizing the fundamental structural and economic pressures that have contributed to the decline of these schemes**. While facing a variety of pressures related to increased mobility of labour, greater financing risks from volatility in asset value and discount rates affecting liability valuation and rising life expectancy, defined benefit pension schemes continue to provide the potential for a secure and sufficient retirement income for workers. In part, this is due to the inherent efficiencies that result from the pooling of investment and mortality risks, the avoidance of adverse mortality risk selection and the absence of the profit margins in commercial annuity markets. It is also due to the fact that there is not yet compelling evidence in any setting that, even in mandatory and auto-enrolment individual retirement savings account systems, the typical individual is able to make the complex decisions and exercise the degree of discipline required to save and invest on their own to ensure adequate income maintenance and prevention of poverty in old age.

Inherently paternalistic, occupational defined benefit schemes are the one vehicle that has been able to provide a reliable supplemental retirement income to a broad range of moderate income workers. Employer sponsored, and especially defined benefit arrangements, however remain under considerable duress due to the confluence of a wide range of factors. Sustaining these schemes will require a considerable investment not only in the tax incentives they are typically afforded, but also in the specialised expertise required for their oversight and attentiveness to the rapidly evolving pressures on their sponsors and finances that have caused the decline in sponsorship and coverage for several decades. Any institutional arrangements able to sustain these schemes will need to have the ability to support and advise on policy and adapt the regulatory and supervisory environment in a manner that responds rapidly and effectively to the particular needs of this type of pension scheme, as well as the capacity to provide appropriate protection to members that addresses the distinctive demands of this type of pension.

(3) **The need for policy and regulation to address the additional responsibilities and risks imposed on members associated with the shift to defined contribution and personal pension savings schemes.** The rapid transition to defined contribution schemes (the source of virtually all growth in coverage under voluntary pension systems throughout the world) results in a fundamental re-allocation of risks and responsibilities. Defined contribution pensions shift responsibility for savings and

investment decisions to members and transfer the risks associated with these to the members. Effective regulation and supervision of these schemes therefore requires a far different mix of expertise, authority and programs than for defined benefit arrangements. These schemes necessitate a focus on the integrity of fund transfers from employers to investment managers, the reliability of record keeping for the accounting of individual fund balances, the suitability of investment products, the quality of investment management and the appropriateness of fees. This makes their oversight far more akin to the supervision of retail investment products than to occupational defined benefit schemes in which the sponsors underwrite these risks and are therefore regulated with a focus on the probity of governance and long term financial solvency. Institutional arrangements capable of supporting a vibrant and reliable supplementary pension system will need to have a capacity to access and develop the expertise in the regulation of what are essentially specialised (due to their long term nature and low risk capacity) retail investment products required for a successful defined contribution system. This requirement becomes even more important if an auto enrolment or mandatory pension saving system is established.

Section 3 - Review of Key Issues and International Developments in the Organisation of Pension Regulation and Member Protections

3.1 Functions Required for Effective Pension System Oversight

There are three key elements to any cohesive system for the oversight of a pension system:

(1) Rule-making that establishes the terms and conditions within which pension funds are permitted to operate;
(2) Supervision that entail the process of monitoring the activities and imposing necessary direction or sanctions to ensure compliance with the rules and regulations; and
(3) Protection of beneficiaries through the resolution of disputes regarding the conduct of the scheme or the value of benefits received (including intermediate issues such as transfer of contributions and periodic value of individual accounts).

There are infinite possible variations in how these functions are organised and administered that reflect the underlying structure of individual countries pension systems and variations in culture, legal structure and the path of institutional development. The one commonality attribute of successful systems is the capacity to perform all three in a complete and coordinated manner. The three functions are often addressed under common rubric of "regulation".

Pension funds are essentially a specialised type of financial institution in which an intermediary collects and administers the savings of members and distributes them after a specified period in the form of benefits. Pension funds are distinguished from other similar financial institutions by a number of characteristics that are derived from their specialised purpose of providing the basis for income replacement and poverty alleviation in old age. These characteristics include the long holding period of the assets, the relatively low risk tolerance of members, integration with other social policies and programs and the provision of tax preferences (typically in the form of consumption tax treatment) that result in a large fiscal investment. Perhaps most significantly, pension funds are distinguished from other similar financial products such as annuity products and collective investment funds by the role of employers in organising and administering pension funds.

Occupational funds sponsored, and often administered, by employers have historically been perceived to have a variety of advantages in relation to individual retirement savings by workers. These include scale efficiencies in administration, the willingness of employers to effectively subsidise administrative costs to obtain an advantage in competitive labour markets to attract and retain high value added workers, cost advantages from creating a pool of lives that are assembled based on a characteristic with little relation to

mortality – a common industry or employer which limits the cost of adverse selection in individual annuity markers and, perhaps most importantly, the mandatory enrolment and imposed savings of an employment based arrangement funded through employer contributions and payroll deductions.

3.2 Institutional Arrangements for Pension Regulation

Conduct of the regulation and supervision of pension schemes is optimally derived from matching the underlying design of the national pension system to the legal and institutional arrangements that will provide the oversight. Although many variations and complexities arise this may be simplified into two primary elements: (1) ensuring the oversight and integrity of the management of the financial assets and (2) establishing standards and providing oversight of the governance process and conduct of an employer's administration of a pension scheme in which it participates. This first function is effectively identical to the oversight of insurance and investment products and, in function virtually identical to the regulation of financial services and products, differing primarily in relation to the specific standards for risk, fees and suitability that may be particular to pension investment products. The second is distinctive to employer pension funds and is directed to more qualitative and process oriented oversight related to ensuring integrity of the flow of contributions, fit and proper standards for persons assigned responsibility for funds and the prevention of conflicts of interest or misuse of funds that have received preferential tax treatment for other purposes. In countries with a tradition of Anglo Saxon common law, this latter function is a derivative of the principles of Trust law that have evolved to address the same set of agency issues relevant to other arrangements in which third parties are tasked with administering resources on behalf of individuals who are absent or deemed to lack to the capacity to make effective decisions on their own.

Consistent with these characteristics, there are two basic models for the regulation and supervision of pension funds that are fairly well aligned with the organisation of the pension system and the role of employers. The first of these models is prevalent in countries in which the pension system is based on individual savings accounts that are administered through specially licensed financial institutions and products, most notably the systems in Latin America and Central and Eastern Europe. These systems were established through reforms beginning in the 1980s that created individual pension savings to relieve the fiscal pressures on unsustainable public social insurance programs. These are typically mandatory systems in which the role of employers is constrained to enabling workers to exercise a choice of investment provider and forwarding mandated contributions. In this model, pension funds are regulated as a subset of other financial institutions with a focus on defining permissible portfolio composition (typically established in by law), control of marketing and limitation of fees. Because these functions and related policy concerns mirror those of other financial products, in these arrangements pension oversight is most often undertaken through a supervisor that is integrated with other financial services supervision – usually a central bank or integrated financial services

authority. In a few cases (notably Chile which was a pioneer in this type of system) pension supervision is undertaken by a specialised agency with parallel functions and authority to financial services regulation. This is due to the view that pension funds have more specific and restrictive requirements or the perceived limitations or state of development of financial services and their regulation. Among countries that initially adopted the Chilean model there has been a pronounced trend toward subsequent integration of the pension supervisor with the authority responsible for other financial services.

In settings in which employers continue to play a primary role in the establishment and administration of the pension system, especially those with an "Anglo Saxon trust based" legal foundation, pension supervision typically continues to be undertaken by a specialised authority. Two factors are likely to be important to this outcome. First, there are a very different set of concerns in rule making and supervision of a system in which employers and trustees (rather than an investment management professional) have a significant role. Administering a framework based on process oriented and qualitative decision making standards related to trust law requires a very different set of skills and procedures than the more objective, quantitative and outcome oriented standards applicable to most financial services regulation. Second, employer based systems that are voluntary and afford employers discretion in benefit design and generosity and, in which standards of conduct are situational and oriented to principles of prudence and diligence (the foundation of tradition of trust law), face very different policy pressures than mandatory individual investment account systems. Where voluntary employer sponsored arrangements play a meaningful role in the overall pension system, policies guiding regulatory decisions face far greater concerns related to maintaining an employer's willingness to participate in the system. This manifests itself in both the degree of flexibility and the responsiveness of the regulatory conduct in the face of changing economic conditions or other pressures on employer, but also in terms of the perception of employers regarding the extent to which there is a reliable means for the airing concerns and consideration of the issues relevant to their business decisions to remain in the pension system. In general, employers deem a specialised pension supervisor to have the knowledge, experience, expertise and incentives to address their particular concerns. One of the key challenges, however, that is faced by such a regulator is to balance access and input with the potential for "regulatory capture".

There are also important differences arising from the underlying nature of pension system in the governance of the institutions that are responsible for the oversight of pension schemes. Supervisory bodies for systems in which the pension schemes are organised and function essentially as financial intermediaries typically have direct reporting relationships to Ministries of Finance or to Central Banks or are established as operating units of these larger institutions. Specialised institutions that are responsible for voluntary occupational schemes are more likely to be independent public bodies or components that are attached to Ministries with social policy or labour market responsibilities. These entities are more commonly governed by a board and include

advisory bodies of stakeholders that reflect their integration with social policy concerns and the need to consider the role of stakeholders in the provision of voluntary pension benefits.

It is worth noting that there is by no means a perfect dichotomy along any of these lines. Several countries with a significant reliance on employer sponsorship have moved to integrated financial services supervision that includes pensions, notably Denmark and the Netherlands in the EU and Australia. However, in the instance of the Netherlands and Denmark, the employer’s role in managing pension schemes is relatively limited. The Dutch pension funds are operated primarily as industry wide funds and are effectively mandatory under the labour laws which provide that if the majority of workers in an industry have joined an industry pension schemes, all others are required to participate. In Australia, employers have moved nearly entirely away from defined benefit schemes and their role is now essentially to forward contributions to regulated financial services companies. In the countries with meaningful voluntary employer based schemes (including the United States, the UK, Switzerland, Hong Kong and Kenya) pension scheme regulation remains with a specialised institution or unit within a large government agency that effectively operates independently. The distribution of integrated and specialised private pension supervision among OECD countries in 2008 is shown in the following table.

PRIVATE PENSION FUNDS SUPERVISORY STRUCTURES IN THE OECD COUNTRIES (2008)

INTEGRATED **(Banks, Securities, Insurance Companies, Pension Funds)**	**PARTIALLY INTEGRATED** **(Insurance Companies and Pension Funds)**	**SPECIALISED** **(Pension Funds)**
Australia	Belgium	Ireland
Austria	Czech Republic	Italy
Canada	Finland	Japan
Denmark	Luxembourg	Mexico
Germany	Netherlands	Slovak Republic
Hungary	New Zealand	Sweden
Iceland	Poland	Switzerland
Korea	Portugal	United Kingdom
Norway	Spain	United States
	Turkey	

Source: OECD

The two model framework for the consideration of the structure of pension fund supervision outlined above is complicated by the rapid transition to defined contribution schemes in nearly every setting. These typically (and in Ireland as well) represent hybrid allocations of responsibility between employers and financial institutions. They often retain many of the key attributes and perceived advantages of employer sponsored systems in the automatic enrolment of workers and use of payroll deductions that greatly increase the levels of savings. They also include a significant role of employers in organizing and administering the investment management process. In the United States, in 401K type plans, employers often explicitly subsidise (or incentivise) savings through matching contributions. These functions retain the role and inherent regulatory challenges of the employer acting as the member's agent (though with differing motivations and incentives) – the classic agency hazard that is the origin of virtually all types of financial regulation. With the delegation of investment responsibility to separate financial institutions, however, these arrangements require effective

coordination and harmonization of the agency issues with the challenges of controlling the investment management process.

The tension arising from the evolution of employer sponsored schemes to defined contribution designs creates the key emerging challenge in effective organisation of pension supervision, integrating the needs for an approach that is responsive to voluntary employer sponsorship while incorporating the knowledge and institutional expertise required for oversight of investment instruments aligned with the distinctive needs of retirement savings. Addressing the policy trade-offs and institutional arrangements that can effectively resolve the competing imperatives in this allocation of responsibility remains very much a work in progress among pension supervisors. Solutions to date remain a reflection of the path of institutional development, country specific legal foundations, "regulatory culture" and political economy rather than a consensus on an intrinsically effective form of organisation of the supervisor.

In most countries with employer sponsored schemes there is little pension specific regulation of investment products with issues of suitability controlled, if at all, indirectly through limits on the design of employer schemes. The absence of direct regulation of financial products in these settings can be seen as a significant weakness of the regulatory scheme. This challenge is accentuated with the introduction of a national auto-enrolment design, if it entails an employer role in selecting or intermediating investment choices. Thus far, it has been addressed though specific licensing of permissible options and their oversight by a special purpose pension regulator (in Hong Kong for example) and through the establishment of default funds (as in New Zealand).

3.3 Functions and Organisation of Consumer Protections for Pension Scheme Members

The provision of consumer protection, dispute resolution and mechanisms for redress face similar challenges and tensions arising from the same kinds of differences between retail financial services and occupational pensions. Consumer protections and dispute resolution for both types of entities require the same basic functions, (1) to provide an accessible venue for resolving disputes, (2) making expertise and advocacy on behalf of aggrieved parties that may have far lower levels of resources and expertise than large institutions readily accessible (3) ensuring the expeditious resolution of cases and (4) providing a framework for remediation and compensation.

These objectives are typically achieved primarily through the establishment of rights of action and venues for dispute resolution in the legal foundations authorising financial products and regulating the provision of pensions, although this is a particularly underdeveloped element of most countries pension statutes and, in very many instances, private pension laws do not contain specific provisions of this nature, leaving this to more general standards and practices of civil law. Increasingly countries are expanding and consolidating

financial consumer protections in response to the experience of the 2008 global financial crisis and the consequences it has imposed on consumers of financial products, as well as the perception that the absence of consumer protections played a significant role in fostering crisis through misselling or poor administration of financial products, especially residential mortgages. Nevertheless, most countries rely primarily on unassisted private rights of action or direct compliance enforcement by regulatory authorities in response to specific complaints.

A few, notably the UK and Ireland, have established a public agency in the form of an Ombudsman to fulfil an intermediary role in providing consumer protection and dispute resolution. In both instances, this has involved separate institutions for both pensions and financial services. This is presumably a reflection of similar tensions and differences between retail or commercially provided financial services in which the consumer is presumed to engage transactions on a fully voluntary and informed basis with a seller that is motivated by profit and pension schemes in which members participation is often involuntary due to the link to employment. There is not an *a priori* assumption of knowledge and “arm’s length” transactions and other considerations (most critically the desire of members to not jeopardize an employment relationship) may impose severe constraints on the capacity or willingness to engage in an adversarial dispute resolution process. As with regulation, there is also a concern in consumer protections for occupational pensions to limit the liability of scheme sponsors for the consequences of errors and omissions in scheme administration in order not to limit the willingness of employers to sponsor schemes.

Due to these differences, as well as the perceived complexity attendant to the calculation of earnings based annuity benefits, pension systems typically have a distinct and separate legal basis for their consumer protection regimes, as well as separate procedures and rights of action for individuals, than those applied to commercially sold financial products and services. Consequently, when there is an integrated consumer protection institution, pension related issues are typically administered through a separate unit.

One of the more notable aspects of this differentiation is in the area of sanctions and remediation. Consumer protection regimes for commercial financial services typically provide for punitive and compensatory sanctions and (as is the case in Ireland) allow these to be imposed in a quasi-judicial manner. In contrast, consumer protection for occupational pension schemes typically provide only for the correction of errors and payment of lost benefits rather than punitive or compensatory sanctions and do not afford authority for these to be imposed by an authority such as an Ombudsman. This limited exposure of occupational pension schemes to remedial financial sanctions is in deference to the voluntary nature of the benefit provision. In the United States, for example, the only sanction for miscalculation or unreasonable withholding of benefits is to compel their payment regardless of the harm that may have been caused. This provision remains one of the more controversial aspects of the statute but one that employer insist is essential to their continued provision of

benefits. Regardless of the public policy merits of this differentiation, it creates fundamental differences in the administration of the two types of functions that is a significant issue in any consideration of their amalgamation.

Section 4 - The Legal Foundations and Organisation of Pension Scheme Oversight and Consumer Protection

4.1 Regulation of Pensions

In Ireland, the foundations of pension regulation are set out in primary and secondary legislation passed by the Oireachtas. The following are recognised in the Green Paper on Pensions 2007 as the main objectives of pension regulation in Ireland:

- 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;
- To provide enough information to make investment decisions in relation to those with investment choices under defined contribution schemes;
- 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) with enough information to decide whether or not to use that vehicle for retirement savings in the context of value for money; and
- To provide pension savers with information they need to make specific decisions, for instance at retirement or on leaving retirement.

In addition, for savings of individuals being looked after by trustees:

- For DB, to ensure that the scheme is being funded at a rate that is appropriate to the benefits promised;
- To ensure 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.

Additionally for Personal Retirement Savings Accounts (PRSAs):

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

Four agencies, with powers to detect breaches and enforce obligations are responsible for various aspects of pension supervision in Ireland, namely:

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

4.2 The Pensions Board and the Central Bank

4.2.1 Regulatory Remit of the Pensions Board

The role of the Pensions Board is to monitor and supervise the operation of the Pensions Act, Personal Retirement Savings Accounts (PRSA) and other pension's developments. This role includes the management of the funding standard and prosecutions in relation to non-remittance of contributions.

4.2.2 Regulatory Remit of the Central Bank

The Central Bank has a role in relation to the regulation of financial providers, including insurance providers, and this includes a role in insurance based pension products. In this regard, the Central Bank treats occupational pension schemes as purchasers of products within its authority and regulates the conduct and selling of these products in the same manner that they are regulated for any other institutional purchaser,

rather than imposing any specific standards or requirements. This entails the treatment of insured annuity contracts in recognition of their specific nature, that is similar to a defined benefit annuity, while adhering to the standards that are imposed on these contracts for any purchaser, rather than the specific though quite similar standards for an occupational defined benefit in the funding standards promulgated by The Pensions Board.

4.2.3 Legislation

The functions of both organisations are grounded in primary legislation, therefore, any change to the organisational structure and regulatory function will require changes by primary legislation.

4.2.4 Governance

The first schedule of the Pensions Act 1990 as amended provides for the establishment of a Pensions Board. The Central Bank Act 2010 provides for a Commission. The structure of these governing bodies vary as outlined below.

The Pensions Board consists of a Chairperson and 16 members while the Central Bank provides for a Commission with 10 members including the Governor as Chairman of the Commission.

Members of both bodies receive payment for their services. In 2012, the fees for a Pension Board member was €7,695 and, for members of the Commission, €14,936. Travel and subsistence to attend meetings is paid in both organisations.

The Pensions Board is established on a social partnership structure with the staffing of the organisation set up using a traditional matrix system. The traditional civil service governance structure is in operation. While traditional civil service grades are assigned to staff in situ, many staff members have additional qualifications such as actuarial and legal qualifications. The Accounting Officer is the Chief Executive Officer of the Board. There is no formal Service Level Agreement in place with the sponsoring Department.

The Board operates under the aegis of the Department of Social Protection and Board members are appointed by the Minister for Social Protection. The Board adheres to the current Code of Practice for the governance of State Bodies and has adopted the Code of Conduct for members and staff and is subject to the Ethics in Public Office. The operations of the Pensions Board are undertaken by the professional staff and are the responsibility of the Chief Executive. The Pension Board regulates:

- Occupational pension schemes
- Trust RACs

- Personal Retirement Savings Accounts in Ireland.

This is done as part of the statutory role to monitor and supervise operation of the Pensions Act. The Board also provide advice to the Minister for Social Protection on pension matters. The appointed Pensions Board performs two distinct functions. It serves as a governing body that provides oversight of the activities of the agency The appointed Pensions Board also provides a policy advisory function. The Minister of Social Protection is responsible for the formulation of national pension policy and receives advice from the Pension Board on general policy considerations and, in greater depth and frequency, on matters relevant to occupational pension schemes.

The Central Bank reports to the Minister for Finance. The Bank is managed by the Commission of which the Governor is the Chairman. The Commission manages and controls the affairs and activities of the Bank.

The Central Bank, due to the diversity of its current responsibilities, is organised into a number of divisional structures that report to the Governor of the Central Bank. The primary responsibility of the Central Bank is to maintain price stability through monetary policy formulation in cooperation with the European Central Bank. It also has the following objectives:-

- The stability of the financial system;
- The proper and effective regulation of financial institutions and markets, while ensuring that consumers of financial services are protected;
- The efficient and effective operation of payment and settlement systems; and
- The provision of analysis and advice to policy makers to support national economic policy development.

The Central Bank Reform Act 2010, created a new single unitary body – the Central Bank of Ireland - responsible for both central banking and financial regulation. The new structure replaced the previous related entities, the Central Bank, the Financial Services Authority of Ireland and the Financial Regulator.

The Central Bank Reform Act 2010 was the first of a three-stage legislative process to create a new fully integrated structure for financial regulation, and it provided a statutory basis for the new structure to replace the then existing Central Bank of Ireland and Financial Services Authority of Ireland by:

- Reforming the regulatory structure;
- Enhancing the powers and functions of the Bank; and
- Consolidating existing legislation on the regulation of financial services.

The Minister for Finance makes Regulations under domestic legislation – such as the European Communities Act, 1972 (as amended), the Financial Transfers Act, 1992 and the Criminal Justice (Terrorist Offences) Act, 2005, – which empower the Central Bank in the administration and enforcement of the financial sanctions aspects of the restrictive measures. The Central Bank may, in the exercise of these powers, give directions or issue instructions as it sees fit.

The sole shareholder of the Bank is the Minister for Finance.

4.2.5 Financing

The Pensions Board is funded by a levy on occupational pension schemes and PRSA providers. The only funding received from the Exchequer is in respect of pension payments for retired staff.

The Central Bank is funded on a 50/50 basis, 50% from the industry with 50% coming from the Exchequer.

4.2.6 Staffing and Budget of the Pensions Board

There are currently 52 staff employed by Pensions Board with a WTE of 51. This figure includes a Principal Officer who is seconded to Department of Finance until 2015.

Their staffing cadre is as follows:

- 2012 - 50
- 2013 - 50
- 2014 - 50
- 2015 - 44

The staff of the Pensions Board are public servants. Most of the staff of the Pensions Board are permanent staff while a small number are on limited fixed term contracts. Payroll costs in 2012 is in the region of €3.2m.

The staff of the Central Bank are public servants. At the end of 2011, the Bank employed 1,372 staff from an approved complement of 1,559 with 622 assigned to regulatory areas. Furthermore, during 2011, 16 secondments were engaged from professional services and law firms with all assigned to the regulatory areas.

4.2.7 Accommodation

The Pensions Board is situated at Verscholye House, Lower Mount Street, Dublin 2 under a 25 year lease which commenced in July 2001 and with an opt-out clause without penalty after 15 years, i.e. 2016. The Central Bank operates out of 7 buildings over 4 locations. A number of leases exist on these buildings.

4.3 The Pension Ombudsman and the Financial Services Ombudsman

4.3.1 The Office of the Pensions Ombudsman

The Pensions Ombudsman was established under the Pensions Act, 1990 as amended, in September 2003, providing powers to investigate and adjudicate on complaints of financial loss due to maladministration and disputes of fact or law in relation to occupational pension schemes and personal retirement savings accounts (PRSAs). It is a free service to the complainant.

The Pensions Ombudsman investigates and decides upon certain complaints and disputes from individuals about their occupational pension schemes, Personal Retirement Savings Accounts (PRSAs) and certain trust Retirement Annuity Contracts (RACs). Once the investigation is finalised, the Pensions Ombudsman will issue a legally binding decision in a Final Determination, which is sent to all parties to the complaint.

The Pensions Ombudsman has a statutory responsibility to deal with individual complaints made by members of the public on certain pension matters involving both maladministration and financial loss. The Office of the Pensions Ombudsman is funded by the Exchequer.

The Pensions Ombudsman is an officer holder. The staff of the office of the Pensions Ombudsman comprises 10 people equating to 9.8 full-time equivalent posts. Three of the staff are established civil servants**,** on secondment from the Department of Social Protection, and the remaining 6 staff are employees of the Office of the Pensions Ombudsman. All staff in the office are paid by the Department of Social Protection with all the standard relevant deductions being made at source.

Central support services in relation to salaries and accounts are provided by the Department of Social Protection. The Department of Social Protection has supported the Office of the Pensions Ombudsman since its inception in 2003 with a 'shared services' type arrangement whereby finance, payroll and ICT requirements of the Office of the Pensions Ombudsman have been met by the Department.

The Office of the Pensions Ombudsman Headquarters is at 36 Upper Mount Street, Dublin 2 and is leased and paid for by the Office of Public Works. The current annual rent paid by the OPW is €200,000, reviewable in 2012. The lease expires in 2017. There is no charge to the Office of the Pensions Ombudsman in respect of this accommodation as it is funded by the Exchequer on the vote of OPW.

4.3.2 The Financial Services Ombudsman

The Financial Services Ombudsman's Bureau was established on a statutory basis under the Central Bank and Financial Services Authority of Ireland Act 2004 (Section 16 and Schedules 6 and 7) and became operational on 1st April 2005. The legislation provides for establishment of a Financial Services Ombudsman to deal with:

- consumer complaints about financial institutions;
- establishment of consumer and industry consultative panels to advise the financial services regulator;
- new reporting and auditing obligations for financial institutions;
- power for the financial services regulator to impose penalties directly on financial institutions for failure to comply with regulatory requirements, subject to a right of appeal to the appeals tribunal already provided for in the Act;
- a right of appeal to the appeals tribunal as regards certain supervisory decisions of the authority;
- new regulatory requirements for money transmission; and
- *bureau de change* businesses.

The Financial Services Ombudsman is a statutory officer who deals independently with unresolved complaints from consumers about their individual dealings with all regulated financial service providers. As an independent officer, the Financial Services Ombudsman ensures that unresolved complaints from consumers of regulated financial service providers are investigated, mediated and adjudicated in an impartial and independent manner.

The Financial Services Ombudsman can direct a provider to rectify the conduct complained of and award compensation of up €250,000 where a complaint is upheld. The role is, therefore, a quasi-judicial one and whether a complaint can be upheld or not is determined on the basis of evidence furnished, examined and reviewed. It is a free service to the complainant. Broader issues of consumer protection are the responsibility of the Irish Financial Regulator.

All the staff, 34 in total, in the Financial Services Ombudsman's Office are public servants. The Ombudsman and the Deputy Ombudsman are on 2 to 3 year contracts appointed by Council and two investigators are on 12 month contracts. There is a public servant superannuation scheme is in place. The Office of the Financial Services Ombudsman provides its own administrative and IT services.

The Bureau of the Financial Services Ombudsman operates from single premises – 3rd floor Lincoln House, Lincoln Place, Dublin 2, on which they have a 20 year lease (commenced 2006). The annual cost of the lease excluding service charge is €180,000.

Section 5 - Public Consultations

5.1 Consultation Process

A consultation process took place which outlined a set of questions for response. The questions were developed by the Group undertaking the critical review at its first meeting. A copy the consultation notice can be found in Appendix 2.

The consultation included acceptance of written responses to the questions and any other comments advice by September 7th 2012 and a public meeting that was held on the afternoon of September 14' 2012 in Farmleigh House, at which those providing written submissions and a number of others were invited to provide their views and advice to the Group. A summary of the responses is provided below.

Some of the commentary received addressed more general pension policy issues, in particular, the forthcoming funding standard for defined benefit schemes that are beyond the ambit of the Critical Review. However, the majority of the input received addressed the overall functioning of the pension system and the capacity of the existing institutional structure to formulate policy, administer the regulation and supervision of the system and address the interest of stakeholders, providing invaluable input into the deliberations and conclusions of the group. In general, the commentary indicated a recognition and appreciation of both the Pensions Board and the Pensions Ombudsman in fulfilling their responsibilities. There was particular emphasis on the level of expertise and professionalism exhibited in both organisations in regard to pension specific skills and the responsiveness of both to the specific interests of schemes sponsors, the industry and members. A number of concerns were raised about the focus and distribution of the activities, the relative responsiveness to the industry and pensioners and the capacity of the current institutions to effectively address the needs of what is likely to become a predominantly defined contribution system.

A summary of the commentary and responses follows.

5.2 Summary of Commentary Received

A. General

Question 1. Do the current regulatory system and the institutional arrangements and organisational structure for occupational pensions and individual pensions arrangements serve (i) members (ii) employers (iii) the financial sector well?

The submissions had a number of general comments in relation to the current regulatory system. One submission felt that there is a certain level of disjoint in the current regime given that different aspects of governance are managed by different government organisations. Another regarded this as an odd question at a time when many defined benefit schemes are winding up or making Section 50 applications and felt that the regulatory system established under the Pensions Act (1990) has failed in its primary purpose of ensuring that workers receive the pension promise that was made to them.

(i) Members

In relation to members, a number of submissions felt that the current regulatory system, institutional arrangements and organisational structure are primarily designed to serve members and have been successful in protecting member's interests. One submission recommended that regulation should be focused on protecting members' interests although this needs to be done in a broad way that balances the immediate and long term interests of members. However, another submission felt that the general public still have a very weak understanding of pension schemes and their benefits and it is the responsibility of the Pensions Board and industry to inform and educate people. Another argued that an element of the regulatory system which does not serve members well is the lack of focus on enforcement of employer compliance with contribution obligations under pension schemes.

The view was expressed in one submission that some schemes only consider "members" to be employees and seek to exclude pensioners and those with preserved benefits from any participation in the scheme. They viewed as a major issue that pensioners have no right of audience in forums where important issues in respect of their pensions and future arrangements are being dealt with.

Another submission argued that for those who are members of defined contribution schemes there is no certainty about the amount of their pension in retirement. They are left to purchase an annuity with their accumulated fund and they are dependent on the vagaries of the markets at time of retirement. Also, there is often very little clarity about the fees and charges which are applied. A good and welcome feature of the PRSA system was the fact that the charges to be applied were set down in the legislation.

(ii) Employers

In relation to employers, a number of submissions stated that the regulatory system needs to focus more on enforcement of employers' obligation to make contributions under pension schemes, e.g. employers of certain schemes may fail to pay employer contributions due without being in breach of the Pensions Act (e.g. defined benefit schemes). Enforcement focuses on prosecutions, which leads to fines payable to the exchequer.

Another submission stated that it is less clear how the system serves employers as the regulatory focus is mostly on trustees. A few submissions expressed concern that compliance with new regulations has led to increased costs of operating occupational pension schemes, which is a deterrent to employers who are considering establishing a pension schemes and the existing regulations could be simplified so as to reduce compliance costs for employers.

(iii) Financial Sector

One submission expressed the view that members of the public and employers have little direct interaction with the Central Bank and all financial services, excluding pensions, are regulated by the Central Bank. Where overlap or regulation occurs, firms find it confusing with inconsistent standards, gaps in coverage and increased costs. With more pensions likely to be provided on a contract basis, it is important that regulation caters for this so that the members are provided appropriate protection.

The level of regulation applied, by whoever that Regulator might be, was the concern of one submission and, bearing in mind the complex nature of pensions, the regulatory approach should not hamper the provision and uptake of pensions within the market.

Another submission argued that the financial sector is the main provider of non-DB based products such as PRSAs, insurance and other products and regulation and has been responsible for better policing of the types of products being sold, especially to those who are close to retirement age. Regulation together with legal actions resulting in prosecutions has worked. The result is a more confident approach to those who are providing product in the marketplace now.

It was also argued that basing policy on a notional, inflexible Minimum Funding Standard and on enforcing certain trustee behaviour was ill-conceived and the system forced trustees to take the advice of experts who were themselves almost totally unregulated.

Another submission felt that there is a lack of transparency with regard to the interaction between the Pensions Board and the Government/Department of Social Protection, especially in the policy advisory area.

The view was also expressed that the regulatory system, institutional arrangements and organisational structure should not be set up or managed in order to 'serve' the financial sector although an effective regime should be efficient and reasonable so that compliance costs, which are ultimately paid for by customers, can be kept at a reasonable level.

Question 2: What do you perceive to be the strengths and weaknesses of the current institutional structure?

The submissions perceived the following as strengths of the current structure:

- The existence of regulatory bodies is a clear strength and it is important to have a detailed pensions regulatory function, such as that currently conducted by the Pensions Board, because the regulation of pension products requires a specific method of regulation which is different to the regulation of financial products generally;
- At times, it is not clear to members which authority is responsible for regulating their pension scheme and having a dedicated Regulator such as the Pensions Board ensures that there should be a good understanding of how occupational pension schemes and PRSAs work;
- Sector representation on the Pensions Board provides a forum for engagement on issues - being focused on one particular sector does ensure that communications from the Pensions Board are targeted and clear. This is often not the case when communications are trying to target a very broad sector; and
- Another strength is the fact that the Pensions Board (PB) report directly to the Department of Social Protection (DSP). DSP have the biggest vested interest in ensuring that pension coverage is expanded and that people adequately provide for their future.

The submissions perceived the following as weaknesses of the current structure:

- A significant weakness is the lack of understanding in the market place regarding roles and responsibilities of each regulatory body and for individuals it is not always clear where they need to go to have issues addressed;
- One weakness of the structure is that it is not the Pension Board which is the Regulator but its Chief Executive Officer and there appears to be little concern about what is in the best interest of the workers and retired workers who stand to lose significantly from the lack of foresight of policy makers. The decision makers seem to have arbitrary power and there no obvious accountability pertaining to their poor decision making;
- Workers who lose their pensions due to poor regulation and bad and naive policy decisions have no avenue of appeal;

- Another weakness of the regulatory system is that it is based on trust law and is blind to the fact that many schemes are voluntary compromises arrived at through negotiation. For instance, the government can decide that schemes must revalue deferred pensions thus putting an extra burden on active members which can have the effect of making the scheme unsustainable;
- The benefits of any scheme should be negotiated between employers and workers and the government the law or the regulator should have no role in deciding what the benefits are to be or how they are structured;
- Both organisations are not really perceived by the general public as being particularly independent due to their links with the industry;
- There is a perceived tendency for some appointees to the Pensions Board to act more in the interests of their representative or sponsoring groups and their members rather than the broader interests of the general public;
- A weakness in the system is the fact that the there is no Pensions Protection Fund in place such as the one in the UK to provide a guarantee of pensions.

Question 3: Are there any gaps in the structure of Regulatory and supervision system or issues that will need to be addressed to meet anticipated future needs?

A number of submissions expressed the view that there are gaps in the structure of the regulatory and supervision system. One submission stated that the first principle of pension regulation should be to protect the interests of pension schemes and members and the current system tends to ignore the interests and wishes of members of schemes and forces trustees to take the worst decisions in the worst of times. Workers, organisations and employers who bring pension funds into existence and set the rules (in the trust deed) are not just 'relevant bodies' in this debate but are vital stakeholders who represent the people who own the funds.

Another submission stated that public education is still very weak despite initiatives such as Pension Awareness Week and Women and Pensions. Members of pension schemes do receive some information but there is no real consistency across schemes.

The view was also expressed that the standard of trustee training is still very patchy; there is still considerable misunderstanding of this role and it is common for trustees drawn from certain categories of membership/representative bodies to mistakenly believe that their function is to protect the interests of 'their' members rather than the interests of all categories of scheme membership. It was also proposed that the broader issue of financial education within our 2nd level education system should be addressed as this is a very important subject which affects all aspects of daily life but which is almost completely neglected from a formal education perspective.

Another submission proposed that if the intention is to continue with the National Pensions Framework proposal based on the State Pensions then a structure will have to be put in place to handle both the State pension contributory and also the auto- enrolment component of that proposal. The issue of right of audience for pensioners must also be clearly provided for and the necessary change to give it affect enacted.

Question 4: What are they and how can they best be addressed

The submissions received identified the following as gaps in the structure of the regulatory and supervisory structure:

- The regulatory structures do not provide for intervention to improve the structure of defined contribution schemes, or to incentivise employers to establish them or to assist in in the winding down of the defined benefit section of the pension system in Ireland;
- A greater level of consultation with the pensions and financial services industry would be extremely beneficial;
- National policy on the long term future of the funded (Pillar 2/3) pension system in Ireland is very opaque. It is also subject to continual shifts and lurches in policy in the short term. Various reports on the pension system have been published in recent years yet recommendations are either not implemented or have seem to be parked;
- Not enough attempts have been made to intervene in the winding down of the defined benefit part of the Irish funded pension system. This is so even where members have suffered significant losses in their accrued pension rights, whether through scheme insolvencies or otherwise;
- Not enough is being done to improve the structure and outcomes of defined contribution schemes, or to incentivise employers to establish and maintain them;
- Recent actions include the proposals to reduce the tax “expenditure” on funded schemes and the imposition of an annual levy on all funded pension assets. The most worrying aspect of these measures is that there has been no statement as to how they fit into any longer term pension strategy and how their impact will be reversed or mitigated in the longer term. Indeed they run contrary to public policy of increasing private pension provision;
- Regulation (of pension funds) should be directed at the behaviour of those who sell services to pension funds such as investment managers, actuaries and lawyers. Workers and employers and trustees should be free to make their own arrangements in relation to benefits, contributions and risk, provided they have been advised by properly regulated and competent advisors. The decision of the Regulator should be subject to peer review and international best practice;
- A Pensions Protection fund will have to be set up - a good example may be the UK model.

Question 5: If you consider that the current arrangements are not appropriate, please outline your view of an appropriate regulatory framework and supporting institutional structure that can best address the long term needs of the overall Irish Pension System.

A number of submissions felt that an independent pension policy commission should be established to focus solely on long-term and strategic pension policy in the State and should be composed of experts from both the public and private pension sectors. It was also proposed that this institution could replace the pension policy section of the Department of Social Protection and the Pensions Board should continue with its existing regulatory role in relation to the funded occupational pension sector

One submission suggests that the most obvious weakness in our pension system is the lack of any coherent long term strategy for the provision of retirement benefits and there is little merit in having a robust regulatory framework overseeing a pension system which does not have this long-term strategy. It was stated that, at present, policy direction can change when election results return a new administration and it is quite common for some clearly stated objectives to be undermined by key decisions from other areas on government. An example of this would be the objective to increase overall pension coverage and the subsequent decision to reduce the tax efficiency of private pension funding and the introduction of the pension levy.

Another submission argued that increasingly people will be dependent on the State pension as their primary source of income in retirement and proposed that the State should move to introduce the auto-enrolment scheme as increasingly employers are ceasing to operate defined benefit schemes and are moving to hybrid or defined contribution schemes or no pension scheme at all. It was also proposed that if the State pension is now expected to be the main source of income in retirement then a Pensions and Work or some such Division should be located in Department of Social Protection to deal with all aspects of pensions from policy to payment to funding. Included in this unit should be all of the skill and expertise to deliver a good product and to maximise returns and income for pensioners. It was also stated that consumers providing for retirement should be at the centre of policy considerations – regardless of the technical make up of products, the channel through which they are purchased or the regulatory regime that applies.

Question 6: In the context of proposals to move towards participation in a national employment pension savings scheme what changes would be required to best meet the needs of such a system?

A number of submissions were not supportive of a move towards a mandatory pension regime and it was stated that such a regime will ultimately be viewed by employers and employees as a tax on wages and will in turn lead to a regime where the minimum level of contribution will be made and, as such, benefits from such

an arrangement could be trivial when it comes to drawing benefits. It was felt that a much more appropriate approach is to educate people as to the benefits of pensions to provide for their retirement needs.

One submission, while not convinced that a national employment pension savings scheme is appropriate or necessary, believes that if such a system is introduced it will work best in the context of a single Regulator and single ombudsman. It would be important that the regulation of such a scheme would be on the same basis as all schemes in order to ensure a level playing field.

Another submission argued that workers will resist any attempt to manipulate them into a so called 'national employment pension saving scheme' due to the total failure of the regulatory system with regard to funded occupational provision. It was also proposed that if this system is introduced, a reward scheme for additional payments should be considered for e.g. the ability to withdraw some funds in times of need or an interest payment for additional contributions made.

Pensions Board: Integrate Regulatory Function with the Central Bank

Question 7. Does the current regulatory and supervisory structure for pensions address current or anticipated future needs?

There were differing views expressed in the responses to this question. A number of submissions stated that on a day-to-day basis current needs were being met but there may be difficulties in terms of long-term planning. One submission expressed the view that in areas such as education, pension coverage, and pension adequacy, there are significant shortcomings with the current structures and these shortcomings will all contribute to very significant problems in the future.

Another submission believes that the integration of the Pensions Board with the Central Bank will improve matters as: an integrated entity will have greater resources available to it; it should lead to a reduction in cost to industry and public and the trend in Europe for regulation to be applied consistently would suggest a single entity would be more appropriate.

Question 8. What will need to change to address anticipated future requirements?

From responses received, the following are examples of changes needed to address anticipated future requirements:

- Supervisory structure models of other jurisdictions should be examined and tapped into – best models appear to be Australia and New Zealand. More clarity is required around the regulation of cross border schemes;

- The politicians will need to decide that every effort should be made to save as much of workers 'pensions as possible and direct the regulator and the civil servants to help rather than hinder this process;
- The introduction of a statutory policy making body which is adequately funded and independent of the administration of the day is seen as a vital component in any properly functioning pension system; and
- The introduction of a policy making body as opposed to a policy advising body with real powers which could establish and monitor long term strategies.

Question 9. What would you consider are the current strengths and weaknesses of the Pensions Board in its regulation of occupational pensions?

The following were considered as strengths from the submissions received:

- The composition of the Pensions Board guarantees representation of all stakeholders. Active engagement is encouraged to resolve issues and guidance notes are freely available;
- The Board has a good consultative approach which leads to meaningful regulation and the core team within the Pensions Board are very experienced and very skilled;
- The Pensions Board plays an important role in advising and providing technical support to the Minister and has the expertise to deal with very complex issues e.g. in relation to defined benefit schemes;
- The Pensions Board also has an important role to play in promoting pensions awareness to the public; in implementation / enforcement of regulations; and in developing and delivering informative materials on pensions matters;
- The Board have a willingness to engage with other experts in order to improve the quality of proposals, regulations, guidance etc. as they are developed and have a detailed knowledge of developments at European level through close involvement in EIOPA activities; and
- In terms of the day-to-day regulatory function, this is broadly sound. There are some issues in relation to the Pensions Board often being reactive rather than proactive. There can also be a tendency to focus on less significant issues of technical non-compliance although this has improved in recent times.

The following were considered as weaknesses from the submissions received:

- The timing of introduction of new regulations does not always appear to have been thought out (pensions levy when majority of schemes in deficit) and there can be delays in producing guidance on regulatory changes;
- There can be a lack of clarity around the statutory requirements in relation to unfunded schemes particularly around the area of member communications;
- The regulatory approach in practice tends to be a tick box nature lacking flexibility in individual cases;

- The Pension Board does not regulate pensions. All the regulatory decisions and functions have been devolved to the Chief Executive Officer;
- The Board has a tendency to focus on the defined benefit pension scheme sector to the detriment of the defined contribution sector. This is significant as this latter sector is growing rapidly whereas the defined benefit sector is declining; and
- It is unclear how effective the Executive and the Board itself are at having their voice heard in policy debates or how proactive they are. Also, the respective roles of the Board and the Department of Social Protection in regulatory policy, including policy on the structure of the private pensions system and issues such as intergenerational equity, are not entirely clear.

Question 10. Do you perceive any benefits from the Pensions Board having a role in the provision of policy analysis and advice on pension issues?

A number of submissions stated that it was important that the role of Pensions Board in the provision of policy analysis and advice should continue and the Pensions Board should remain an integral element of the drive to grow pension coverage. However, one submission argued that the make–up of the Board is skewed in the interest of the professional pension industry and while the Board can advise on policy matters, it can be perceived to lack sufficient influence and ultimately it is the Government Department that makes the decisions. Another submission questions whether the Board could play an effective role in policy analysis and advice on pension issues in the current environment and going forward - its members represent a wide range of groups, all of which must be anxious to protect the interests of their own constituents in an increasingly challenging economic environment.

The knowledge and expertise of the staff and executive of the Pensions Board was mentioned in a number of submissions. There is some advantage in that the Pensions Board, at Board and Executive level, contains people that have experience and expertise in private sector occupational pension arrangements that would not necessarily be contained in the Department, for example. However, it is also important to separate the policy and regulatory functions as these can easily get blurred.

Another submission argued that the Pensions Board should be taking better advantage of the experience and expertise of the members of the Board. In the past the Board had a Policy and a Legislation Committee which examined in detail policy proposals as well as proposed legislation and regulations. This helped to ensure that legislation and regulations when enacted were able to achieve their purpose, were workable and did not have any unforeseen consequences.

One submission stated there is a role for the Board in this area but only if it is on a statutory basis and with a greater degree of objectivity. The tendency for some Board appointees to focus on the interests of 'their'

sectors' interests would undermine the development of an objective pensions system which could meet the needs of all stakeholders.

Question 11. In view of the fact that employer sponsored pension schemes differ from pension products sold by financial institutions such as banks, investment companies and life insurance companies, should the regulation of these products be maintained under a separate regulatory structure or an integrated structure?

The responses received differed on this question also. A number of submissions expressed the view that while the current structure seems to work well, an integrated approach may be better as there is significant overlap and having an integrated structure would allow a greater coherence in regulation. A number of responses also stated that it may be worth considering confining the regulation of sponsored pension schemes to those established under trust and those insured arrangements established under letters of exchange with all other approved arrangements coming under the Central Bank regulatory remit.

Another response argued that the fundamentals of employer sponsored pension scheme remain the same regardless of their origins e.g. contribution rates, drawdown of benefits etc. However, a second layer of understanding is required when dealing with a pension product offered by a financial institution and all concerned would be best served by a segregation of pensions and financial products.

Question 12. In your view, would the regulatory role of the Pensions Board be improved or compromised in the event of integration with the Central Bank?

In reply to this question, a number of submissions stated it was difficult to answer without knowing the precise nature of the integration and further consideration needs to be given to how the integration would work in practice. The view was expressed that the following questions should be addressed before any integration - What part of the Pensions Board's activities would move to what part(s) of the Central Bank? Will all of the functions transfer to the consumer division or will some move to insurance supervision? Where will the Registered Administrator authorisation and review function transfer to? How will the current Pensions Board interaction with providers and industry bodies be maintained? What will the governance structure be e.g., how will the skills provided by the Board of the Pensions Board be integrated or replaced? How will Central Bank requirements such as the Consumer Protection Code interact with the current Pensions Act provisions?

One submission stated that they have concerns around the area of financial sanctions and whether the Central Bank remit in terms of financial institution supervision should be imposed on pension service providers (should they become subject to Central Bank regulation) as ultimately all costs levied tend to fall back on the pension schemes resources.

Another submission felt integration would improve the role of the Pensions Board, on the basis that one body will deal with both ends of the spectrum i.e. the governance will be managed by one single body on behalf of the financial services industry, members and employers alike. A couple of other submissions were concerned that the regulatory role of the Pensions Board would be compromised, due to the very strong focus of the Central Bank on the banking sector. It would be important, in any integration, that the Pensions Board would remain a distinct function within the Central Bank and was adequately resourced by experienced staff with appropriate technical knowledge and expertise.

Question 13. If the regulatory role is integrated is there any further need for a Pensions Board?

There were a number of differing views on this question. A couple of submissions felt that if the role is integrated, there wouldn't appear to be any obvious role and it may be more practical for the Central Bank to deal with all the functions of the Pension Board.

However, a number of submissions argued for the retention of the Pensions Board in some form. The view was expressed that the Pensions Board has a crucial role to perform in the area of pension scheme compliance and should continue its role in the areas of policy formation, consultation and pension promotion. Another submission felt that there is a clear need for a body that considers pensions policy and suggested the setting up of a Pensions Commission or Board that could advise on these issues and could be similar to the composition of the Pensions Board, although a smaller membership group would be more efficient. Concern was expressed that if the regulatory role is integrated, the core skills of the staff in the Pensions Board could easily be lost as they are available nowhere else within the broader regulatory sector.

Any other comments

Question 14. Please provide any further comment you may wish to make on the proposals.

The submissions made the following further comments on the proposals:

"The Public Service Reform Plan provides for the rationalisation of state agencies on the basis that there will be increased efficiency, a less crowded administrative landscape, less duplication of effort and clearer lines of responsibility for citizens. It is unclear how this will be achieved from the proposed integration and we would like to see each of these issues addressed so that it is clear that there will be increased efficiency, a less crowded administrative landscape, less duplication of effort and clearer lines of responsibility for citizens."

"We would anticipate a significant reduction in cost as a result of the integration"

"It is generally accepted that we cannot afford multiple bodies where core functions can be duplicated leading to excessive costs and a correspondingly poor return for scarce resources."

"We do not agree with the integration of the Pensions Board functions into the Central Bank and we also feel that it needs to have a policy making rather than a policy advisory function."

"Some of the rules and deeds of trust are from the dark ages and should be revised and updated from an equality perspective. Many do not adequately deal with new civil partnerships and new family setting. Employment legislation relating to a mandatory requirement to relate solely on the basis of age must be seriously examined. It is outdated and ageist."

"Whatever changes are made, we feel that these must be achieved without any additional costs being levied on the pensions industry."

Section 6 - Conclusions and Recommendations

6.1 The Objectives of the Public Service Reform and the suggested amalgamation of Pension Institutions

The Public Service Reform plan sets out five objectives for the integration of government bodies.

- *Placing customer service at the core of everything we do;*
- *Maximising new and innovative service delivery channels;*
- *Radically reducing our costs to drive better value for money;*
- *Leading, Organising and Working in new ways;*
- *A strong focus on implementation and delivery.*

The consequences of the integration of The Pensions Board with the Central Bank and the Pension Ombudsman with the Financial Services Ombudsman were considered by the Group in the context of these five objectives resulting in the following observations and conclusions:

(1) Placing customer service at the core of everything we do

There are two main sets of customers to consider in this context, (1) The members and potential new members of pension schemes, and (2) the sponsors of occupational schemes and the industry that provides services to them. This assessment is derived from a judgement regarding the capacity of consolidated institutions to increase the quality of services provided to both of those.

Primacy in this consideration needs to be afforded to the objective of ensuring the security of benefits to members and the long-term sustainability of the occupational pension system. A compelling consideration is the longer term evolution of the pension system toward defined contribution arrangements that shift a number of key risks to members. This trend, which can be expected to continue and perhaps accelerate with the possible introduction of an auto enrolment system, moves the regulatory and compliance issues for pensions far closer to those of retail financial services. This would be applicable both for the rule making and enforcement at the fund level and also for the provision of consumer protections and dispute resolution. Consolidation of authority could be expected to bring to the regulation of pensions the experience and expertise applied to retail financial services products and thus improve the quality of the protection provided to members of defined contribution schemes. Rather than the current bifurcated arrangement, in which the operation of the schemes (the trust and trustees) are regulated by one authority and the assets and investment products by another, a consolidation would bring the two authorities within a single entity where

they could be expected to be better coordinated. The effect in regard to scheme sponsors and the industry would likely to be a similar qualitative improvement in the technical aspects of the regulatory process, coherence of philosophy and application of standards.

This advantage, however, would be offset to a meaningful degree by the potential diminution of the pension expertise and focus in an amalgamated institution. Given the pension specific issues and expertise required to maintain the quality and level of supervision it would likely require (as in other settings where pension supervision is undertaken by a Central Bank) a specialised division that would compete with other areas for the attention of management, resources and expertise. This would, at best, have a neutral impact on the overall security of members and more likely impose a significant risk of diminution, especially over time or in the face of demands such as those imposed by the 2008 crisis. More significantly, as strongly evidenced in the public consultations, sponsors and industry perceive any merger to result in a very significant reduction in the quality and responsiveness to their concerns. An independent Pensions Board is seen by the industry and sponsors as an institution that has functioned well in serving them as "customers" in the pension system. This is both because of the pension specific expertise but also the accessibility and responsiveness of the current institution to their concerns. Although they do not always like the judgments (for example major concerns were raised about the forthcoming new Funding Standard) the perception is that the separate organisation provides a means for their voice to be heard.

In relation to the Pension Ombudsman, identifying the intended customer is less complex as they are intended to be primarily the members of the schemes. One consideration in the capacity to serve the customer is consumer confusion between the work of the two offices and finding the correct authority among the two for a particular set of circumstances. However, both Ombudsman offices note that this does not appear to be an issue with any prevalence. At most, one case a week is referred between the two offices. If the offices were merged, an initial screening of all cases would still have to take place to decide which area of the new body it should be directed. A related concern is whether the existence of two separate bodies makes the system more complex to navigate and understand for customers. The complexity, however arises, from differing statutory authorities that would not be resolved through organisational consolidation.

(2) Maximising new and innovative service delivery channels

Both the regulatory and consumer protection functions are based on a division of authority and responsibility that is reflective of a time in which occupational pension schemes operated as very distinctive institutions. These were perceived to entail public policy considerations and functions very different from retail and other commercial financial service providers such as asset managers or insurance companies. An amalgamation of responsibility for control and oversight of the broader financial services industry with that of occupational pension schemes would certainly create new and innovative service delivery channels for both the industry

and scheme members. As noted throughout the deliberations of the group, this would be advantageous in the ability of the public institutions to address the new and emerging design of the pension system. Newness and innovation, however, are not intrinsically beneficial unless they represent value added, and do not achieve their value through the imposition of risks and costs that are out of proportion to their value. Evaluation of the expected trade-offs of this nature is inherently qualitative. The review of the issues and options for the suggested mergers undertaken by the Steering Committee considered trade-offs in regard to the capacity to provide improved service to the public and a basis for innovation to enable the regulatory and consumer protection infrastructure innovation to address the evolution of the pension system. These issues and trade-offs are, therefore, reflected in the other areas of consideration rather than in term of innovation per se.

(3) Radically reducing our costs to drive better value for money

The Group concluded that there would likely be relatively minimal direct financial savings to the Exchequer resulting from either integration. The Pensions Board is financed by a levy on occupational pension schemes and PRSA providers and the Financial Regulator is partly financed by the financial sector. The work of The Pensions Board is solely directed to the regulation of occupational pension funds. This addresses issues that are very specific to these institutions and sufficiently different from the related issues of oversight of financial services that to maintain the current regulatory and supervisory presence would require the continuation of the current resource level. The issues and skill sets necessary to develop and administer the funding standards, ensure the quality and training of trustees and supervise the integrity of the transmission of contributions and quality of asset management are sufficiently different from those required for related activities for insurance companies selling annuities or financial services companies undertaking asset management that few synergies or overlaps in staffing would be anticipated. The one area of potential savings that was identified was in the governance structure where savings could be achieved by moving from the separate paid Board and Commission structure.

The judgement is significantly a result of the assessment that the legal and regulatory framework applicable to occupational pension schemes is appropriately very different from that which applies to what are functionally similar commercial financial services due to the voluntary nature of employer sponsorship. Also central to this assessment is the view of the Group that, in light of the importance of the occupational system to the economic security of current and future older people, any diminution of the quality or level of supervision resulting from a net reduction of attention and resources devoted to occupational schemes would not be sound public policy. It was suggested that there may, in fact, be a risk of increased costs to the Exchequer if the visibility of the occupational pension’s regulatory structure is reduced and the industry sought to reduce its attention to compliance with what are already relatively light regulatory standards in comparison to some other countries with similar occupational schemes. Ultimately, the point also needs to be made that the

impact of regulation should be to protect and secure an individual's' pension and reduce costs to the Exchequer by lessening the need for State support.

A similar conclusion was reached in regard to potential cost savings from the amalgamation of the two Ombudsman offices. The legal authority and procedures for the operation of the two institutions are sufficiently different that a consolidation would result in a single organisation that would be required to perform two distinctive functions and therefore expected to simply be comprised of two divisions. This conclusion is reinforced by the estimation of the current and future workload for the two Ombudsmen that has rapidly increased in recent years with the financial crisis with no indication of abating in the near future. There is some potential for modest savings of public expenses from a merger of the two offices of the Ombudsman were their financing mechanism to be harmonised. One hundred per cent of the costs of the Financial Services Ombudsman is funded by a levy on the industry. If this were applied to pension schemes as well, it would represent a net reduction of public expenditure in the form of cost shifting to the pension industry. The need to continue the current level of services to meet demand would not result in meaningful overall cost reductions.

(4) Leading, Organising and Working in New Ways

There are some advantages under this heading for an integration. There are a number of areas where customer overlap is evident. However, in terms of the overall environment in which both bodies operate, these areas in themselves do not create a strong argument for integration. As outlined above, their differing types of regulation, their differing focus and methods of operation, both with an underlying rationale point to a need for a specialised approach and provide little opportunity for merging of functions

In addition, the growing demands of the pensions sector leads to the conclusion that this is an area which will continue to require dedicated resources for the future

(5) *A strong focus on implementation and delivery*

The review of the respective organisations and, more importantly the public consultations, indicated that a focus on implementation and delivery of services were not a significant concern among stakeholders for any of the institutions. To the extent that issues in this area emerged, they were expressed in the context of concerns that a merger of a unique and independent regulatory authority for occupational pension funds into the broader regulatory functions of the Central Bank would potentially result in delivery and implementation of services and policy consultations to this sector becoming subservient to the broader agenda of financial system and macroeconomic stability. Consideration of these objectives, therefore, served to mitigate

enthusiasm and support for an institutional amalgamation and represent factors that offset potential cost and efficiency gains.

The two Ombudsmen, inherent in their mission and functions, but also in the manner in which they operate, were perceived by the Group and by stakeholders (as expressed in the consultations) to already be operating with a strong focus on implementing their respective authority and delivery of client services. Concerns were raised about the possible dilution of focus that might occur, especially in the short term through the loss of experienced staff or competing priorities, in a merged entity. Therefore, to the extent these issues are a consideration, it was to ensure that any recommended actions do not diminish the focus in these areas.

6.2 Recommendations

6.2.1 Amalgamation of the Pensions Board into the Central Bank

At the present time, it is not recommended to absorb the functions of the Pensions Board into the Central Bank.

The members of the Steering Group concluded that although there are some potential advantages of combining the two entities, on balance, these do not outweigh the disadvantages and risks attendant to such a merger.

The Group acknowledged that the overall system of pension regulation would benefit from a greater focus on the oversight of financial products that provide the foundation of defined contribution schemes. This includes selective revision of the underlying legal framework governing pension schemes and the licensing of financial products including standards for the suitability or licensing of pension specific investment products such as life cycle funds, limitations of fees and expenses, and marketing and mis-selling standards for pension related products. The establishment of these types of standards would likely be better developed and administered through a means that is able to utilise the expertise resident in the two organisations. The updating and refinement of the legal foundations of pension regulation, however, can be accomplished within the existing organisational framework and is likely a necessary predicate for the organisation of a merged body and was therefore not determined to be a compelling impetus for an amalgamation at this time.

Several factors were deemed to be of greater importance in reaching this recommendation. These include: (1) The likely need to maintain very distinctive functions and expertise associated with the oversight of defined benefit occupational schemes, (2) the closely related finding that cost savings from a merger would be negligible and (3) the view that it may not be an appropriate time for the Central Bank to undertake the integration of the regulatory functions of the Pensions Board.

This does not represent a conclusion that - as the Central Bank absorbs the myriad new functions, the trend to defined contribution schemes continues or a national individual account pension saving system is implemented - an amalgamation of the two institutions would not be advisable in the future. It is rather a conclusion that under the current circumstances the limited gains from such a merger do not outweigh the potential disadvantage and risks.

This recommendation is also significantly derived from the acknowledgement of the importance of the Pensions Board as an independent stakeholder driven vehicle for advising the Minister of Social Protection on formulating a cohesive policy framework for pension provision in Ireland. This policy area requires effective integration of issues associated with the regulation and sustainability of occupational schemes and the administration and financing of State Pensions and other social protection programs that are within the remit of the Minister for Social Protection.

The Group concluded that separating the policy advisory role from regulatory responsibilities would be detrimental to the policy development process because of the value derived from the interaction between the regulatory process and policy development. It was agreed that there is a need for continued interaction with the sector where information flow and stakeholder involvement remains key to effective policy analysis and formulation. This determination is derived from the importance of a dedicated pension's regulator in ensuring a substantive dialogue with sponsors and the industry to help sustain the occupation pension system and provision of defined benefits, a central theme that emerged from the consultations. The Group concluded that in light of the limited potential for meaningful cost savings, the possibility of a diminution of policy development functions and customer service and the imperative to foster the system of occupational schemes, a merger is not justifiable at this juncture.

The Group recommends some changes to the governance of the Pensions Board that will separate operational oversight and policy advisory functions that offer the potential for some limited financial savings.

The current governance structure of the Pensions Board combines two functions within the appointed Board. The administration of the regulatory and supervisory activities of the institution are undertaken by the Chief Executive and overseen by the members of the Pensions Board. The policy advisory functions are undertaken by the same body. This combines two distinctive roles in a form that is unnecessarily cumbersome and costly.

The current form of this governance board originates in the principles of "social partnership" that are reflective of the period in which it was originally established. This social partnership concept, however, was deemed by the Group to no longer provide an optimal framework for the oversight of regulation and provision of advice to the Minister. The consultation process indicated a widespread perception that the process of

appointment and composition of the Board is not fully reflecting the full range of stakeholders. This was especially the case in relation to the representation of members and pensioners and the view that the interests of the "pension industry" had become over represented thereby risking the perception of "regulatory capture". In part this is likely to be a result of the dual functions of the Board in which it performs operational oversight of the rule-making and supervision activities, which necessitate expertise in the technical issues related to scheme operations, and the more general policy advisory role.

The governing body of the Pensions Board should be divided into two bodies (1) a three member operational oversight group comprised of an independent chair and ex officio members from public institutions and (2) an unpaid policy advisory body with broader representation of stakeholders.

This recommendation is intended to streamline the operations of the institutional and better align the expertise of the members of the governing bodies with the two distinctive sets of tasks. The Group recommends that oversight of the Pensions Board be carried out by a Supervisory Committee comprised of an independent Chair with a representative from the Department of Social Protection, and the Department of Finance or the Department of Public Expenditure and Reform. The Chief Executive of the regulatory body (the current Pensions Board that is suggested to be renamed the "The Pensions Authority" to distinguish its' activities from the policy advisory function) would then report to and take direction on its operations from this body. A separate advisory body would be constituted to provide policy advice to the Minister. This body would be an unpaid advisory group with members appointed to specific terms to represent the full range of stakeholders in the pension system.

Separating and distinguishing the two functions in this manner would provide an operational oversight body with representation from the government institutions that have a stake in the activities of the pensions regulatory body and expertise in the administration of a public institution. This would provide oversight of the management, efficiency and performance of the regulatory body while, through an independent Chair, provide accountability to the public. This body would essentially perform an audit function for the Regulator and be required to develop, examine and validate financial and performance reporting by the Pensions Authority. This structure would retain the operational independence of the regulatory body while providing public accountability.

A separate and unpaid advisory body would be established to maintain the capacity for sponsor, industry and other stakeholder input into the policy process. Required membership by the Chief Executive of the new Pensions Authority on this board would retain the linkages between the administration of regulatory and supervisory activities and the policy process. The separation from operational activities would obviate any perception of "regulatory capture" by the industry. A requirement for broad representation from among

occupational schemes sponsors, the pension and financial services industry, scheme members and pensioners would ensure wide representation. An unpaid policy advisory body would also achieve a saving in public expenditure of approximately €100k per year.

6.2.2 Summary of Recommendations for Pension Regulation:

- The current structure of pensions regulation that maintains a separate institution in essentially the same form and functions as the Pensions Board to regulate and supervise occupational pension schemes and PRSA's should be continued until the Central Bank has been able to fully integrate the financial services regulation and other new responsibilities that have been added to its agenda over the past several years;

- The Pensions Board should continue in its role of providing policy advice to the Minister of Social Protection to ensure a holistic perspective on the national pension system and ensure that the essential need to sustain supplementary sources of retirement savings are fully addressed in national policy analysis and formulation in this area;

- As an independent and dedicated body the Pension Board should continue to assign a high priority to the sustainability of the occupational pension system by providing a source of expertise on the specific issues and operation of this system and a means for the full range of stakeholders (government, schemes sponsors, the industry, members and pensioners) to have access to information and input into the policy and regulatory process;

- When the Central Bank has fully resolved the staffing and other resources considerations attendant to its new responsibilities and clear decision has been reached on the design and implementation of a defined contribution auto enrolment component of the pension system the feasibility and advantages of an integrated regulatory organisation could be reconsidered;

- The Central Bank should, resources permitting, endeavour to increase its consultation and coordination with the Pensions Board to address the emerging need to regulate and supervise investment management and other services provided to occupational pension schemes that now fall within its jurisdiction, including potentially the definition and licensing of pension specific investment products with standards for suitability, selling as well as fees and expenses. This should include the consultation on and consideration of legislative changes that may be required to improve the security of the members of these schemes and efficacy of the overall retirement savings system;

- The governance structure of the Pensions Board should be reformed to distinguish between the operational oversight and policy advisory functions;

- This can be achieved by replacing the current 17 person paid board with two bodies, (1) an operational oversight board comprised of an independent chair and 2 ex officio members of government bodies (2) and a policy advisory council;

- The policy advisory council should be comprised of unpaid members that encompass the balanced representation of the full range of relevant stakeholders, and act as an advisory body to the Minister and the regulator;

- Nominating bodies as set down in the legislation will be removed, and a broader representation will be required of those appointed to these unpaid positions;

- All new positions will be advertised under the Public Appointments System;

- The policy advisory council will report to the Minister/Department of Social Protection;

- The Pensions Board should be renamed the Pensions Authority to ensure public awareness and clarity of its role and functions and distinguish it from the policy advisory activities and obviate the current perception of regulatory capture;

- The Pensions Authority will be the supervisor of schemes; and

- The Central Bank should have a permanent appointment on the policy advisory council.

6.3 Amalgamation of the Pensions Ombudsman and the Financial Services Ombudsman

The Pensions Ombudsman and the Financial Services Ombudsman should be merged to form a single entity. This will not result in any material cost savings in the near future but can potentially enhance the quality and efficiency of service delivery to clients.

The Group recommends that the Pension Ombudsman be merged with the larger Financial Services Ombudsman to establish a single entity that can undertake both types of services. The Steering Committee recognizes that this merged entity will by necessity perform two different functions resulting from the variances in the underlying legal authorities and nature of the issues that are addressed that will make any

costs savings that might accrue from such a merger minimal. The functions of the two organisations, however, are sufficiently similar to provide opportunities for improvements in the quality of services to make such a merger desirable over the longer term.

As with the regulatory authority the review of the two Ombudsman concluded that the level of demand for services in both the area of pension related disputes and financial services continues to be high in the current environment and is not expected to decline in the foreseeable future. The relatively small size of the existing staff within the two makes it highly unlikely that the level of demand for services can be met at a lower level of resources. Combining the two organisations offers the possibility of modest cost savings over the longer term as it will allow for the consolidation of administrative and management support.

The primary factor guiding this recommendation is the potential for improvements in the quality of customer services. This determination is not in any manner derived from an assessment in the deficiency of services provided by the current organisations but rather from the judgement that the convergence of issues associated with the continuing evolution of the pension system in favour of defined contribution schemes and the anticipated introduction of a national auto enrolment system.

As the pension system becomes increasingly defined contribution based the focus of consumer protections and disputes will continue to move in the direction of issues related to investment management products. This will result in pension related issue becoming far similar in nature to those now relevant to financial services. Although there is not currently any evidence of significant confusion among consumers regarding the division of jurisdiction the potential exists for it to become a problem as the pension system matures. This is especially a concern if an individual account auto enrolment system is established in which the role of employers is limited to the forwarding of payroll withholdings and facilitation of the exercise of choice investment options. Combining the two Ombudsmen to provide clarity of authority and a “one stop” means for members to address both types of issues that emerge as the focus in these kinds of arrangements (the integrity of contribution flows and quality of investment products) can proactively address any potential customer confusion regarding the appropriate authority to assist in resolving complaints.

More significantly it will facilitate the sharing of expertise and more efficient management and allocation of staff resources. Combining the two entities will allow staff to be cross trained in the issues and legal authorities and seamlessly move between the two functions. While it is recognized that a combined Ombudsman would necessarily operate within two divisions and that aggregate staffing and resources would need to remain at current levels to address demand, the relatively small size of the combined entity would be enhanced by the capacity to readily move staff across the functions leading to some operational efficiency gains.

The knowledge base and experience required for the Pension Ombudsman and the Financial Services Ombudsman are sufficiently similar to allow one individual to fulfil both functions. The transfer of knowledge and skills among the two functions offers the potential for meaningful qualitative improvements.

Combining the two bodies will present some administrative challenges that include aligning the employment status of the staff (In the FSO, the staff are public servants and in the OPO the staff are civil servants), harmonizing the financing of the combined entity and integrating the legal authority. Adopting the view that without compelling evidence of the infeasibility or negative consequences of amalgamation, the potential to improve the quality of service to the public should outweigh other considerations, the group agreed that the default position should be to recommend a merger. In contrast to the concerns regarding the amalgamation of regulatory authority derived from the need to support the sustainability of the occupational pension schemes with specialised policy experience and sensitivity to the pressure on scheme sponsor, the resolution of disputes was not perceived to be of the same import to sustaining the system.

A portion of the levy applied to the pensions industry should be used to finance the pension related activities of a merged Ombudsman to align the financing structure.

The merger would require some reconsideration of the financing of the two separate bodies and a potential harmonization of the legal authority, especially in regard to the authority to impose quasi-judicial settlement of cases. The levy which the Governance Board of the FSO sets on the industry covers the costs of the FSO that is 100% funded by this levy. If this is used to cover the cost of the two offices the FSO stakeholders would be underwriting a function not directly related to the products and services that they provide. The Office of the Pension Ombudsman is funded by the Department of Social Protection. If these activities were funded through the fees now paid by the pensions industry to fund the Pensions Board the costs to the exchequer would decrease by approximately €1 million. This would involve a cost shift to the industry.

The legal authority of the two Ombudsmen should be reconsidered in due course through industry and public consultation to bring better align the differing authority and provide a foundation able to address the evolving needs of the pension system.

A merger of the two Ombudsman Offices would be greater enhanced by a closer alignment of the legal authorities. The current framework for pensions was developed in consideration of the needs of the older defined benefit schemes and requires updating to address the somewhat different concerns in the current environment and to establish a clear integration with the authority applicable to financial services. Merger of the two offices would provide an opportunity and be well served by the harmonization of the two areas of law. This would enhance the clarity to scheme members and efficacy of the service that a merged entity could provide. It is recognized in the recommendation that some distinction in standards and remedies will need to

remain that recognize the differences in the operation of voluntary employer sponsored schemes for which punitive or compensatory remedies should be limited and the activities of financial service providers that operate on a profit making basis and should not have a different standard solely on the basis of providing these to a voluntary occupational scheme. The issues that must be addressed to update and integrate these bodies of law are well beyond the remit of the Group and should be addressed through a structured and comprehensive process that includes consultation with the industry and other stakeholders

6.3.1 Summary of recommendations on merger of the Pensions Ombudsman and the Financial Services Ombudsman:

- The Pensions Ombudsman and the Financial Services Ombudsman should be merged to form a single entity that can undertake both types of service.

- Staff will be cross trained and move seamlessly between the two functions

- A portion of the fees paid by the pensions industry to the Pensions Board should be used to finance the pension related activities of a merged Ombudsman to align the financing structure.

- The legal authority of the two Ombudsmen should be reconsidered in due course through industry and public consultation to bring better alignment to the differing authorities and provide a foundation able to address the evolving needs of the pension system.

Appendix 1

Membership of the Critical Review Steering Group

- Mr Richard Hinz (Chairperson), Pension Policy Advisor, Human Development Network, The World Bank
- Dr Orlaigh Quinn, Assistant Secretary, Department of Social Protection
- Mr Matthew Elderfield, Deputy Governor of the Central Bank
- Ms Patricia Maloney – Head of Consumer Protection, Insurance, Investment and Intermediaries Central Bank
- Mr Brendan Kennedy, CEO Pensions Board
- Mr Paul Kenny, Pension Ombudsman
- Mr William Prasifka, Financial Services Ombudsman
- Mr Rónán Hession, Principal, Department of Finance
- Ms Joan Daly, Principal, Department of Finance
- Mr John Conlon, Principal, Department of Public Expenditure and Reform

Secretary to the Steering Group: Ms Vera McGrath, Assistant Principal, Department of Social Protection

Secretariat: Ms Veronica Scanlan, HEO, Pensions Policy Unit, Department of Social Protection

Ms Siobhan Doyle, AO, Pensions Policy Unit, Department of Social Protection.

Appendix 2

Public Consultation Notice

Department of Social Protection
Áras Mhíc Dhiarmada
Store St
Dublin 1

14th August 2012

Re: Consultation Process for the Critical Review of the Pensions Board and the Pensions Ombudsman

Dear

I am writing to you as part of a consultation process on the Office of the Pensions Ombudsman and the Pensions Board.

The Public Service Reform Plan provides for the rationalisation of State agencies on the basis that there will be increased efficiency, a less crowded administrative landscape, less duplication of effort and clearer lines of responsibility for citizens. The Public Service Reform Plan recommends that a Critical Review be undertaken on two agencies under the aegis of the Department of Social Protection, the Pensions Board and the Pensions Ombudsman.

The purpose of the Critical Review is to consider and make a recommendation on the following:

- **i.** Pensions Board: integrate regulatory function with the Financial Regulator
- **ii.** Pensions Ombudsman: merge functions with the Financial Services Ombudsman

A Steering Group has been established to carry out the Critical Reviews and I am the Chairperson of this Group. The Steering Group comprises representatives from the following organisations; the Department of Social Protection, Central Bank, Pensions Board, Pension Ombudsman’s Office, Financial Services Ombudsman

Office, Department of Finance and the Department of Public Expenditure and Reform. In addition, the OECD, who are currently carrying out a review on the direction of pensions policy in Ireland, will input into the review.

The first meeting of the Steering Group took place in early July and a programme of work has been agreed. The group is expected to report by year end.

As part of the work plan for the Critical Reviews, it was agreed that consultation with the relevant bodies would be an essential part of the process. It is in this context that you are invited to make a written submission by responding to the questions paper below by September 7th 2012.

An oral consultation has been organised for September 14th 2012 in Farmleigh in Dublin and further details in relation to this event will issue in due course.

Further information in relation to the Pensions Board and the Pensions Ombudsman is available at the following:

www.pensionsboard.ie ;

www.pensionsombudsman.ie.

All written submission to be forwarded to CriticalReview@welfare.ie .

Yours Sincerely

Consultation Paper on the Critical Reviews on the Pensions Ombudsman and the Pensions Board

Introduction

The Public Service Reform Plan provides for the rationalisation of state agencies on the basis that there will be increased efficiency, a less crowded administrative landscape, less duplication of effort and clearer lines of responsibility for citizens. Specifically, the Public Service Reform plan recommends that two Critical Reviews be undertaken on two agencies under the aegis of the Department of Social Protection, the Pensions Board and the Pensions Ombudsman.

The purpose of the two Critical Reviews is to consider and make a recommendation on the following:

i. Pensions Board: integrate regulatory function with the Financial Regulator

ii. Pensions Ombudsman: merge functions with the Financial Services Ombudsman

Questions for Response

A. General

1. Do the current regulatory system and the institutional arrangements and organisational structure for occupational pensions and individual pensions arrangements serve (i) members (ii) employers (iii) the financial sector well?

2. What do you perceive to be the strengths and weaknesses of the current institutional structure?

3. Are there any gaps in the structure of regulatory and supervision system or issues that will need to be addressed to meet anticipated future needs?

4. What are they and how can they best be addressed

5. If you consider that the current arrangements are not appropriate, please outline your view of an appropriate regulatory framework and supporting institutional structure that can best address the long term needs of the overall Irish Pension System.

6. In the context of proposals to move towards participation in a national employment pension savings scheme what changes would be required to best meet the needs of such a system?

B. Proposal to Merge the Pension Ombudsman with the Financial Services Ombudsman

7. Are the needs of customers being met by the Pension and Financial Services Ombudsmen? How might any currently unfulfilled or anticipated requirements best be addressed?

8. What would you consider are the strengths and weakness of the current Ombudsman structure from the customer's viewpoint?

9. What are your views on the interaction of the Pensions Ombudsman and the Financial Services Ombudsman with the industry? Do you have any suggestions regarding how they could they be improved, if necessary

10. What do you see as the advantages or disadvantages of the proposal to integrate the Pensions Ombudsman with the Financial Services Ombudsman?

11. In your view, would the role of either the Pensions Ombudsman's Office or the Financial Services Ombudsman be improved or compromised in the event of an amalgamation?

C. Pensions Board: Integrate Regulatory Function with the Central Bank

12. Does the current regulatory and supervisory structure for pensions address current or anticipated future needs?

13. What will need to change to address anticipated future requirements?

14. What would you consider are the current strengths and weaknesses of the Pensions Board in its regulation of occupational pensions?

15. Do you perceive any benefits from the Pensions Board having a role in the provision of policy analysis and advice on pension issues?

16. In view of the fact that employer sponsored pension schemes differ from pension products sold by financial institutions such as banks, investment companies and life insurance companies, should the regulation of these products be maintained under a separate regulatory structure or an integrated structure?

17. In your view, would the regulatory role of the Pensions Board be improved or compromised in the event of integration with the Central Bank?

18. If the regulatory role is integrated is there any further need for a Pensions Board?

D. Any other comments

19. Please provide any further comment you may wish to make on the proposals.

Appendix 3

Review of Literature on Integration of Financial Services and Pension Supervision

These questions are considered in a number of documents, which look at the issue of integration from the financial services perspective initially and then from the specific perspective of merging pensions.

In the IMF Working Paper "*Is one Watchdog Better than Three*? "[5] the paper reviews the international experience with integrated supervision in relation to the shift from the traditional sector by sector approach towards integrated financial supervision. In its review of literature, it concludes that the question of the most appropriate structure for regulation and supervision is to a large extent a practical one and the answer depends on an interaction of a number of factors that, moreover, evolve over time. Therefore, there is no strong theoretical argument for any particular organisation of supervision, there are only potential advantages and disadvantages of various setups, the importance of which depends on the conditions in place in a given jurisdiction. It states that the most important arguments for unified supervision are related to efficiency, effectiveness, and issues stemming from the creation of financial conglomerates. Merging multiple supervisors should increase efficiency, even if only by eliminating duplicated support functions, not to mention broader synergies. Blurring of demarcation lines among financial sectors and the creation of conglomerates in many industrialized countries have created an added incentive to unify supervision to avoid regulatory gaps and to ensure competitive neutrality.

[5] IMF Working Paper Is One Watchdog Better than Three International Experience with Integrated Financial Sector Supervision Martin CiHak and Richard Podpiera 2008

Summary of Pros and Cons of Integrating Financial Sector Supervision

Potential Pros	**Potential Cons**
Easier to achieve efficiency in supervising financial Conglomerates	If objectives not clearly specified, may be less effective than sectoral supervisors
Possible economies of scale	Possible diseconomies of scale if too large an organisation that is difficult to manage
Possibly improved accountability	If objectives not clearly communicated, possibility to extend moral hazard problems across the whole financial sector
Easier to eliminate duplicities, turf wars	Process of integration may lead to politically or special interest motivated changes in supervisory framework
Easier to ensure level playing field across market segments	Process of integration, if not managed properly, may lead to loss of key staff or to other problems

Moral hazard in this context refers to the participants of financial markets believing that all creditors of all institutions will receive the same treatment.

The authors conclude that integrated supervision may be associated with substantial benefits, particularly in terms of increased supervisory consistency and quality.

Another paper is *A Review of the Pros and Cons of Integrating Pension Supervision with that of Other Financial Activities and Services*[6]. This paper looks at the integration of financial supervision but also focuses on the issue of incorporating pension supervision in to an integrated supervisory structure. Given its relevance to the discussion, this useful paper is quoted in some detail below. A number of the point it makes have also been made during the consultation process.

It outlines in particular, the case for and against integrating pensions. In some countries private pension schemes are financed with vehicles that have characteristics in common with life insurance; that is, the liabilities of both life insurers and many pension funding vehicles have long time horizons, and both the life insurance and pensions business are often conducted via products employing mutual funds as investment instruments. Insurers are also major providers of personal pension products or act as managers of funds in some jurisdictions and, partly as a result, pension funds and insurers in a number of jurisdictions are overseen by the same supervisory body.

Private pension schemes face a different ranking of financial risks, however, some of which are common for all pension systems while others are particular to private plans. They include the risk of the fund becoming insolvent, the investment portfolio risk for the employer in defined benefit plans and for employees in defined contribution schemes, and more generally interest-rate and inflation risks in funded schemes. In practice, the structure of oversight regimes for pension schemes is quite complex, reflecting the variety of schemes in practice, and the varied nature in which such schemes are financed and managed. The various distinctions in the types of pension schemes result in a number of basic institutional modalities that may call for different supervisory approaches. The authors make the point that to date, however, only a single article has tried to actually assess the pros and cons of incorporating the supervisory and regulatory agency for pensions into a financial sector mega-agency. An empirical analysis of the net benefits of incorporating pension supervision with an integrated agency for Latin American countries was done by Demaestri and Ferro (2004). The conclusion of this analysis was that the only hazard of incorporating the pension agency into the integrated financial sector regulator and supervisor would be creating an agency that is so powerful that it becomes detached from the industry that it regulates with the associated loss of efficacy and efficiency in the pursuit of its objectives. The study concludes that the integrated approach to financial supervision is better than the specialised one even if one considers aspects specific to the pension supervisor.

[6] IOPS (International Organisation of Pensions Supervisors) A Review of Pros and Cons of Integrating Pensions Supervision with that of Other Financial Activities and Services 2007

The paper also points out that there is no literature specifically outlining the case against integrating pension supervision with other financial sectors. In the particular case of pension supervision, the potential benefits of maintaining a specialised agency are related to the expertise that a specialised agency can provide in an area with unique risks, tax treatment, public guarantees, and deeper welfare implications than many other financial services. The particular characteristics of this financial service naturally limit the benefits and augment the hazards of integrating pension supervision with the rest of the financial system.

The case against integrating the supervision of pension funds with that of other financial sectors stems from the unique nature of pensions themselves – though it should be noted that how distinctive pension products and pension fund managing companies are depends on the nature of the pension system examined. These arguably distinct characteristics include:

- the long-term nature of the contract involved, and the subsequent requirement for incentives or even compulsion to overcome individuals "myopia" towards long-term savings;
- their coverage of a wider social and economic range of the population than other savings products (particularly where incentives or compulsion are applied), meaning that vulnerable consumers, those with low incomes and often limited education levels, are involved;
- the fact that investors in pension funds often have a low risk tolerance, especially where private pensions represent subsistence rather than discretionary savings;
- the complexity of these products, involving tax issues, assumptions over future salaries and longevity, difficulties in the valuation of assets and liabilities etc. – a complexity which is beyond the financial literacy of most investors and which gives rise to asymmetrical information between pension providers or financial intermediaries and consumers;
- the frequent involvement of employers and sometimes trade unions, and the possible relevance for supervisory purposes of some aspects of their agreements,such as the commitment to pay contributions to a certain pension fund;
- the large number of pension funds in some countries limits the extent of supervisory oversight, and means a greater dispersion of fiduciary talent and expertise in pension fund administration;
- the non-profit nature of pension funds in some countries, which may require different supervison to profit-making, commercial institutions;

- the "social" as well as financial role of pensions, which is becoming more important as reforms in many countries have given an increasing role to private

  pensions – placing greater responsibility with individuals;

- the potential impact of pension assets on financial market and economic stability given their increasing size relative to financial markets and countries' GDP makes

- it important for the economy as a whole that saving is at a stable and adequate level and that pension assets are invested wisely.

In coming to their conclusion, the authors state that social welfare considerations and extensive government involvement in the pension system make pension funds fundamentally different from other financial services. The assets in pension funds represent a greater portion of household wealth of the average participant than other types of financial assets, and reach more deeply through socioeconomic strata than other types of financial intermediaries. Preferential tax treatment for pension savings and explicit compensation guarantees make the government a major stakeholder in the pension system. Furthermore, a major financial crisis that reduces the value of assets in pension funds could ultimately lead to budgetary assistance to the elderly as there are implicit guarantees for pension funds given the social implications of ensuring an adequate living standard for the workers who will receive a pension. Pension funds do not suffer from systemic runs and/or bankruptcies. Nevertheless, a systemic crisis may temporarily affect pension funds through a reduction in the value of their assets. If defined benefits are offered, this process may cause financial stress for the pension plan sponsor, a private corporation, or the government. If the system is based on defined contributions the effect of a reduction in the pension funds assets would be borne primarily by those workers that reach retirement age at that point in time.

The specific requirements that must be met to ensure adequate consumer protection depend in part on the particularities of the pension industry. Pension funds must be supervised to ensure that they will be able to fulfil their obligations to retirees and that they will treat customers in a satisfactory manner. Information considerations are very important in pensions; the complex and long-term nature of the products creates asymmetries whereby the customer is less informed than the service provider. Regulation and strict supervision can force pension funds to disclose more comparative information on private pensions' administrative charges and returns to compensate for this information problem. These functions should be well aligned to enhance competition and to make it more effective. Given the growing share of total financial sector assets managed by the pension fund sector, protection for pension savings and savers is taking on added importance within the broader financial system.

In this sense, there is some overlap between the objectives of consumer protection and the efficiency of the pension system. If consumer protection emphasizes information disclosure in order to create a more competitive industry it will generate efficiency and lower costs for the consumer. The importance of the cost efficiency of the pension industry can make a large difference in the replacement rates that will be obtained for millions of individuals.

Systemic considerations have to be taken into account if the rest of the financial sector can be affected by pension funds' manager decisions during a financial downturn, given the relative size and importance of the pension fund sector. As traditional long-term investors, pension funds, like other institutional forms of saving, can serve as providers of liquidity and stability to the financial system as a whole. However, the sheer size of the sector in some economies means that there can be adverse effects on broader asset prices associated with the portfolio rebalancing activities of pension fund managers. The possibility of spill overs of this form means that efforts to preserve systemic stability should take into account the possible reaction of pension fund managers operating under stress scenarios, taking into consideration those regulations which could promote herd behaviour in portfolio choice.

The specific nature and circumstances of pensions – particularly the high level of consumer protection required - may therefore be used to argue for a specialised supervisory approach. Though, as noted previously, the exceptionality of pension products and pension fund managing companies may not be appropriate arguments for some systems depending on their particular structure.

Those in favour of the establishment of integrated supervisory agencies suggest that such entities have a greater potential for delivering a consistent approach across a range of institutional types, including the different components of financial groups, than a collection of separate sector-based agencies. In some jurisdictions, arguments of this sort provided support for the combination of once separate sector-specific agencies into integrated, prudential supervisory authorities. Many other jurisdictions have opted to continue with an established system of functional regulation comprising separate sectoral supervisory agencies. Supporters of sector-based structures of financial supervision argue that most financial services groups are not true conglomerates in the sense of having activities equally split between two or more sectors. Rather, most existing financial groups are characterised by a predominance of either the banking, or the insurance or the securities business, which is often reflected in the group's corporate culture, its governance and its risk management practices.

Thus, it is argued that the "best" approach to supervision is "specialised supervision�", which would enable supervisory personnel to take into better account the specific features of each kind of institution for prudential oversight and conduct of business purposes and perceived differences in the risk profiles of service providers for the prevention of systemic risk.

Many of the same arguments can be applied to supervision of the pension fund sector.

The conclusion of this paper is that the initial question it tried to ask – whether the pros of integrating pension supervision with other financial sectors outweigh the cons – could be argued to be irrelevant – or rather that there is no one single way to respond, as it depends on the context. In addition the benefits of specialization may be achieved via an integrated authority (through having a specialist pensions division within the agency).

Indeed, in practice, while a supervisory agency may have an integrated structure, many have separate operational units which focus on particular types of institutions. Likewise many of the benefits of integration may still be achieved by a specialist pension authority if strong communication links with other supervisory institutions are established. Some argue that an integrated structure makes the process of supervision easier in general and perhaps better in the case of smaller countries where it may be more difficult to find sufficient personnel with the necessary skill set to staff multiple agencies, but as noted before, integration alone is not a sufficient condition for effective and efficient supervision.