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THE 'DEFAULT' REGULATIONS TO THE PENSION FUNDS ACT

The Minister of Finance issued the final 'default' regulations to the Pension Funds Act ('regulations') on 25 August 2017, effective on 1 September 2017.

The regulations have three components, (i) a default investment strategy, (ii) a default preservation strategy, as well as (iii) a fund annuity strategy (which is not a default as such).

The 'default' regulations to the Pension Funds Act are meant to improve the outcomes for members by ensuring that they get good value for their savings and retire comfortably. Member defaults should be relatively simple, cost-effective and transparent. Trustees are required to help members in the accumulation and retirement phases of their membership of a fund (it is noted that the regulations do not apply to funds in liquidation).

Members must receive retirement benefit counselling namely, the disclosure and explanation, in clear and understandable language, of a fund's investment portfolios, annuity strategy and how preserved benefits are handled (the risks, costs and charges of these options must be explained).

DEFAULT INVESTMENT PORTFOLIO(S)

The regulations require trustees to offer a default investment portfolio(s) to contributing members who do not exercise any choice as to how their contributions should be invested.

The regulation applies to occupational defined contribution funds, alternatively the defined contribution category of a fund. Currently this particular regulation does not apply to retirement annuity and preservation funds.

The default investment portfolio(s) may differ from member to member, depending on the age or likely retirement date of the member; the value of the retirement benefit, the actual or expected contributions to the fund and other reasonable factors the trustees consider to be appropriate.

When designing the default portfolio(s) trustees should consider the objective, asset allocation, fees, charges, risks and returns of the portfolio. The investment portfolio(s) that members are defaulted into must be appropriate, reasonably priced, well communicated to members and offer good value for money.

Trustees must consider active and passive options and are required to monitor investment portfolios regularly.

Whilst performance fees will be allowed, they are subject to a standard to be issued by the Financial Services Board and a regulatory or policy review. Loyalty bonuses are not permitted. Members must be allowed to switch out of the default portfolio, at least once every 12 months.

DEFAULT PRESERVATION

The regulations require trustees to offer a default in-fund preservation arrangement to members who leave the service of the participating employer before retirement. Currently this regulation does not apply to retirement annuity and preservation funds.

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Fund rules will have to be amended to allow for resigning employees to automatically leave their accumulated retirement savings in the fund. However, members will have the right to opt out of the fund and withdraw their fund credit in cash or to transfer to any other fund. Employees must obtain retirement benefits counselling before they make a decision to take cash or transfer the benefit.

A fund must issue paid-up membership certificates 2 months after the fund becomes aware that the member has left the employer's service. The certificate must set out all the details for the fund, the fund's administrator; the name, address, ID number, tax number and most recent contact details of the member; the date the member became paid-up; date the certificate was issued; the value of the fund benefit when the member became paid-up; investment portfolio(s) in which the benefit is invested; and any other prescribed information.

Investment fees for default portfolios must be the same for paid-up and active members. Administration fees charged to paid-up members must be reasonable and commensurate to the admin fees charged for active members. No initial once-off charge may be levied when members become paid-up.

Funds must allow for transfers in from other funds. When individuals join an occupational fund, the fund must within 4 months ask that member for a list of all paid-up membership certificates he/she has. The fund must then ask the member if he/she wants to transfer any savings into the fund. The fund must then arrange the transfer and cannot levy a charge on the transfer amounts.

Fund rules must state that paid-up members cannot pay contributions to the fund, that there will be no deductions made for risk benefits, members who have a defined benefit amount must have their benefit converted to a defined contribution amount and finally, that the members must be eligible to receive their fund credit on death, retirement and early retirement as per the fund rules.

ANNUITY STRATEGY

In respect of retiring members, a fund should have an annuity strategy with annuity options, either an in-fund or out-of-fund annuity or annuities (the annuity can be in the name of the fund or the member).
As a life annuity, once chosen or defaulted into, becomes irreversible, retiring members can only move into an annuity with their consent.

Pension, pension preservation and retirement annuity funds are required to establish an annuity strategy. Provident and provident preservation funds must only establish an annuity strategy if the fund enables the member to elect an annuity. This does not mean that members of provident funds are compelled by these regulations to purchase an annuity upon retirement.

The annuity should be appropriate for members, well communicated and offer good value for money. In as far as it is possible, trustees must ascertain the level of income payable to members, the investment, inflation and other risks in the annuity and the level of income payable to beneficiaries.

Members should have access to retirement benefits counselling no less than 3 months before their normal retirement date and trustees must review the annuity strategy at least annually. Living annuities can be provided by the fund or a fund-owned policy or from an external provider. The investment choice must be limited to 4 portfolios. Where the living annuity is paid by the fund or through a fund-owned policy, the fund must monitor the sustainability of income drawn down. Fund rules can allow for the fund itself to pay annuities, other than living annuities. Annuities provided by a long-term insurer can be part of the annuity strategy.